

Chapter 14 Annex B

British Nationality (Falkland Islands) act 1983 - procedures, criteria and evidence to be supplied

1. Evidence to be supplied

1.1 An application under s.2(1) had to be supported by evidence that:

- the applicant was a British Dependent Territories citizen under s.23 of the British Nationality Act 1981; and
- the applicant, or one of his or her parents, was settled in the Falkland Islands at the relevant time

1.2 An application under s.2(2) had to be supported by evidence:

- that the applicant had been registered or naturalised as a BDTC in the Falkland Islands; or
- if registered or naturalised as a BDTC elsewhere, to satisfy the Home Secretary that the applicant's registration or naturalisation had been effected wholly or partly by reason of a connection which that person or some other person had with the Falkland Islands

2. Checking a section 2(1) or section 2(2) application

2.1 Applications under s.2(1) or s.2(2) had to be made to the Governor of the Falkland Islands who would confirm the details on which the application was based and give his views on whether the application should be granted.

2.2 Applications under s.2(1) or s.2(2) were therefore normally received from the Governor of the Falkland Islands and accompanied by a report giving:

- particulars of the relevant documentary evidence produced with photocopies where possible and confirmation that the originals had been seen; and
- confirmation of the applicant's eligibility; and
- his views on the application

2.3 If an application under s.2(1) or s.2(2) was received direct in the Home Office, and the applicant appeared to be eligible for registration under either provision, we would write to the Governor of the Falkland Islands, sending a copy of the application, and request a report containing his views on the application, confirmation of the applicant's eligibility and any other necessary information.

2.4 When the application was in order it would be considered in accordance with the criteria set out below.

3. The Governor had to be informed when any application under s.2(1) or s.2(2) was granted. If he had submitted the application, notification took the form of sending him the certificate. In all other cases, we would write to the Governor giving the details which appeared on the certificate.

4. If the applicant was an adult on the date of application and was either ineligible for registration under s.2(1) or s.2(2) or it was decided not to grant the application, we would consider whether the application could be regarded as one for naturalisation.

5. Consent to minors' applications

5.1 We normally expected the consent of both parents to a minor's registration irrespective of where the child or the parents were living, or whether the child was natural or adopted. While it was not a legal requirement for applications under s.2(1) or s.2(2), it was reasonable that the view of both parents should be considered as it was consistent with the assumptions which underlie much of our family law. A detailed explanation of our policy and practice on consent is given in Chapter 9.

6. Criteria for determining applications

A. Section 2(1) applications

6.1 This provision was mainly intended to benefit those people born before 1 January 1983 whose claim to British Dependent Territories citizenship rested on an ancestral link with the Falkland Islands but who did not become British citizens on that date under s.1(1) of the 1983 Act (see Chapter 2).

6.2 An applicant in this category would normally be registered if:

- the Governor recommended registration and confirmed that the settlement requirements were met; and
- there was nothing known to the detriment of the applicant

6.3 An applicant whose claim to British Dependent Territories citizenship did not rest on an ancestral link with the Falkland Islands, but who was resident there, would normally be registered if:

- the Governor recommended registration and confirmed that the applicant:

i. met the settlement requirements; and

ii. had "thrown in his or her lot" with the Falkland Islands; and

- there was nothing known to the detriment of the applicant

NB. Applicants who were settled in the Falkland Islands on 31 December 1982, and

seemed likely to remain there, could be taken to have thrown in their lot with the Falkland Islands.

6.4 An applicant whose claim to British Dependent Territories citizenship did not rest on an ancestral link to the Falkland Islands, and who was not resident there, would normally be registered if:

- the Governor recommended registration and confirmed that the applicant:

i. met the settlement requirements; and

ii. had close connections with the Falkland Islands (e.g. the ownership of property, close relatives living there, recent or frequent visits and previous residence); and

- there was nothing known to the detriment of the applicant

6.5 If the applicant came within paragraph 6.4 above, we would also consider why the applicant wanted to be registered and any connections he or she had with the United Kingdom. But the main connection had to be with the Falkland Islands and if an applicant's connections (if any) with the United Kingdom were insufficient to qualify him for British citizenship under the British Nationality Act 1981, registration under this provision would have depended on the quality of the Governor's recommendation.

6.6 We would normally have refused an application under s.2(1) if the Governor so advised.

B. Section 2(2) applications

6.7 Adult applicants for registration under this provision were normally expected to:

- be of good character; and
- have a sufficient knowledge of English, Welsh or Scottish Gaelic; and
- intend to maintain a principal home in the Falkland Islands

6.8 An adult applicant who was resident in the Falkland Islands would normally be registered if the Governor recommended registration and confirmed that the applicant met the criteria in paragraph 6.7 above.

6.9 An adult applicant who was resident outside the Falkland Islands, would normally be registered if:

- the criteria in paragraph 6.7 above were met; and
- the Governor recommended registration and confirmed the applicant would be admitted to the Falkland Islands for settlement

6.10 Adult applicants who were resident outside the Falkland Islands, and did not intend to make their principal home in the Falkland Islands, would normally be registered if:

- they met the character and language criteria in 6.7 above; and
- they had exceptionally close connections with the Falkland Islands; and
- the Governor recommended registration

6.11 Unless they were the children of British citizens under the 1983 Act and had become BDTCs by registration under either s.17(2) or s.17(5) of the 1981 Act, minors applying for registration under s.2(2) were expected to meet the criteria set out in Chapter 9.15, reading references to the United Kingdom as references to the Falkland Islands.

6.12 Minors applying under this provision, who were the children of British citizens under the 1983 Act and who had been registered as BDTCs under either s.17(2) or s.17(5) of the 1981 Act (see Chapters 29 and 30), would normally be registered as British citizens under s.2(2) without having to meet any criteria other than good character.

6.13 Minors who did not come within paragraph 6.12 above would normally be registered if:

- they met the criteria set out in Chapter 9.15; and
- if neither parent was a BDTC or a BC, there was nothing known to the detriment of the family; and
- the Governor recommended registration

6.14 Those minors who, if their connections had been with the United Kingdom rather than the Falkland Islands - would either have:

- become British citizens automatically at birth; or
- had an entitlement to registration as a British citizen,

could be registered under s.3(1) of the British Nationality Act 1981 if they had no avenue to British citizenship under s.2 of the 1983 Act.

6.15 We would normally have refused an application under s.2(2) if the Governor so advised.

C. All applications

6.16 An application made by a person who met the statutory requirements, but whose reasons for applying did not come within the criteria given in this Annex, was

considered on its merits.

7. Procedure for enquiries

7.1 Because of the need to ensure that applicants under s.2(1) and s.2(2) were of good character and there were no doubts about their loyalty, normal internal enquiries would be made in all cases where the applicant was or had been resident in the United Kingdom.