

PART I: BRITISH CITIZENSHIP

CHAPTER 14: REGISTRATION AND NATURALISATION UNDER LEGISLATION OTHER THAN THE BRITISH NATIONALITY ACT 1981

A: SECTIONS 5A, 6, 7, AND 10 BRITISH NATIONALITY ACT 1948

B: SECTION 2 BRITISH NATIONALITY (FALKLAND ISLANDS) ACT 1983

C: BRITISH NATIONALITY (HONG KONG) ACT 1990

D: SECTION 1 HONG KONG (WAR WIVES AND WIDOWS) ACT 1996

E: SECTION 1 BRITISH NATIONALITY (HONG KONG) ACT 1997

14.1 Introduction - How to use this Chapter

14.1.1 Most citizenship applications received in the Home Office are made under the British Nationality Act 1981. However, we may receive applications or enquiries relating to another Nationality Act.

14.1.2 For example, we may need to resume consideration of an undetermined application for registration or naturalisation made under the **British Nationality Act 1948** or to treat a passport application, for example, as a citizenship application made under the **1948 Act** (see **Chapter 6**).

14.1.3 This Chapter is therefore organised into 5 sections, each one dealing with a particular Act, and providing guidance, if appropriate, on the law, application forms, evidence to be supplied, checking the application, registration criteria, parental consent etc.

A. BRITISH NATIONALITY ACT 1948

14.2 The Law

14.2.1 Section 6(1)

14.2.1.1 A person who applied before 1 January 1973 had an entitlement to be registered as a citizen of the United Kingdom and Colonies under **s.6(1)** if:

- of full age (NB. The age of majority was reduced from 21 to 18 with effect from 1.1.70); and
- of full capacity; and
- a citizen either of a country mentioned in **s.1(3)** of the **1948 Act** or of Eire and either:
 - i. in Crown service under the Government of the United Kingdom, or
 - ii ordinarily resident in the United Kingdom both on the date of application and throughout the period of 12 months immediately preceding the date of application.

14.2.1.2 As regards the requirement to have been ordinarily resident for 12 months prior to the date of application, the Home Secretary had discretion to allow shorter periods in the special circumstances of any particular case.

14.2.1.3 Persons who had previously renounced or been deprived of

CUKC under the **1948 Act** did not have an entitlement to registration under **s.6(1)**, but could be registered with the approval of the Secretary of State.

14.2.1.4 **Section 6(1)** was amended on 1 January 1973 by **Schedule 1** to the **Immigration Act 1971**, which largely replaced this entitlement with separate registration provisions (see 14.2.4.1-14.2.4.5 below). Persons who applied for registration on or after 1 January 1973 could only be registered under **s.6(1)** if they:

- would, but for the **Immigration Act 1971**, have been entitled to registration under **s.6(1)**; and
- had been ordinarily resident in the United Kingdom throughout either the period of 5 years immediately prior to the date of application or the period since 1 January 1973, whichever was the longer, without being subject to any restriction on the period for which they might remain; and
- were not the subject of a recommendation for deportation, and had not been given notice of a decision to make a deportation order against them (unless, before the date of the application, any appeal had been determined in their favour, or they had been notified that a deportation order would not be made)

14.2.2 Section 6(2)

14.2.2.1 A woman was entitled to registration as a CUKC under **s.6(2)** if:

- a. she had, at any time, been married to a CUKC; and
- b. she had not previously renounced or been deprived of CUKC; and
- c. the husband, on whom the application depends, did not lose (or would not, but for his death, have lost) CUKC under independence legislation

14.2.2.2 There was no requirement under **s.6(2)** that the applicant should be of full age or capacity.

14.2.2.3 Women who had previously renounced or been deprived of CUKC under the **1948 Act** did not have an entitlement to registration under **s.6(2)**, but could be registered with the approval of the Secretary of State.

14.2.2.4 The requirement described in 14.2.2.1.c. above was not a requirement under the **1948 Act**, but was instead a standard provision contained in the independence legislation of the former colonies. (See [Annex A](#) for further guidance)

14.2.3 Section 7

14.2.3.1 The Secretary of State had discretion under **s.7(1)** to register as a CUKC the minor child of any CUKC where an application was made by a parent or guardian of the child. In

addition, the Secretary of State had discretion under **s.7(2)** to register any minor as a CUKC.

NB. The reference to "parent" does not include the father of an illegitimate child, but an illegitimate child may have been legitimated by the subsequent marriage of the parents. The reference to "minor" includes, for applications made on or before 31.12.69, persons under 21 years of age.

14.2.4 Section 5A

14.2.4.1 Commonwealth citizens (see 14.2.4.4 below) were entitled to registration as a CUKC under **s.5A(1)** if they:

- a. were of full age (NB. The age of majority was reduced from 21 to 18 with effect from 1.1.70); and
- b. were of full capacity; and
- c. were patrilial either under **s.2(1)(d)** of the **Immigration Act 1971** or, if a woman, under **s.2(2)** of the **1971 Act** (on the strength of her marriage to a man who was patrilial under **s.2(1)(d)**); and
- d. had, throughout the period of 5 years, or such shorter period as the Secretary of State might accept in the special circumstances of any particular case, immediately prior to the date of application, been either:
 - ordinarily resident in the United Kingdom, or

- engaged in relevant employment (see 14.2.4.4-14.2.4.5 below), or
- partly one and partly the other

14.2.4.2 Persons who had previously renounced CUKC did not have an entitlement to registration under **s.5A(1)**, but could be registered with the approval of the Secretary of State.

14.2.4.3 Commonwealth citizens (see 14.2.4.4 below) and citizens of Eire could be registered at the discretion of the Secretary of State under **s.5A(2)** provided they:

- were of full age (NB. The age of majority was reduced from 21 to 18 with effect from 1.1.70); and
- were of full capacity; and
- were of good character; and
- had sufficient knowledge of the English or Welsh language; and
- satisfied the requirement relating to ordinary residence or relevant employment outlined in 14.2.4.1.d above; and
- intended, if registered, to reside in the UK, or a colony, or a protectorate, or to enter into or continue in relevant employment

14.2.4.4 For the purposes of registration under **s.5A(1)** or **(2)**,

a. "Commonwealth citizens" included:

- citizens of countries mentioned in **s.1(3)** of the **1948 Act**; and
- British subjects without citizenship under **s.13** or **s.16** of the **1948 Act**; and
- women who were British subjects under **s.1** of the **British Nationality Act 1965**

b. "Relevant employment" meant:

- Crown service under Her Majesty's Government in the United Kingdom; or
- service under an international organisation of which Her Majesty's Government was a member; or
- service in the employment of a society, company or body of persons established in the UK

14.2.4.5 A person would not be registered on the basis of service other than Crown service as described in 14.2.4.4.b unless the Secretary of State saw fit by reason of the person's close connection with the UK or, in the case of an application under **s.5A(2)**, the UK and Colonies.

14.2.5 Section 10

14.2.5.1 Aliens could be granted a certificate of naturalisation under **s.10** if they:

- a. were of full age and capacity; and
- b. were of good character; and
- c. had sufficient knowledge of the English language; and
- d. had, throughout the period of 12 months immediately prior to the date of application, either resided in the UK, or been in Crown service under His Majesty's Government in the United Kingdom, or partly one and partly the other; and
- e. had, in the 7 years immediately preceding this 12 month period, either resided in the UK, or a colony, or a protectorate, or a UK mandated territory, or a UK trust territory, or been in Crown service (as described in d. above), or partly one and partly the other, for an aggregate period of at least 4 years; and
- f. intended, if naturalised, either:
 - to reside in the UK, or a colony, or protectorate, or UK trust territory, or in the Anglo-Egyptian Sudan, or

- enter or continue in:
 - i. Crown service under the Government of the United Kingdom or Anglo-Egyptian Sudan; or
 - ii. service under an international organisation of which His Majesty's Government in the UK was a member; or
 - iii. service in the employment of a society, company or body of persons established in the UK or colony, protectorate or UK trust territory.

14.2.5.2 The Secretary of State had discretion to vary the residence and service requirements for aliens if he thought fit in the special circumstances of any particular case.

14.2.5.3 British protected persons could originally be granted a certificate of naturalisation if they:

- satisfied the requirements outlined in 14.2.5.1.a-c and f. above; and
- were either:
 - i. ordinarily resident in the United Kingdom, and had been so resident throughout the period of 12 months immediately before the date of application (or a shorter period allowed by the Secretary of State in

the special circumstances of a particular case), or

- ii. in Crown service under His Majesty's Government in the United Kingdom

14.2.5.4 The residence requirements were subsequently amended by the **Commonwealth Immigrants Act 1962** with effect from 31 May 1962 so as to require:

- ordinary residence in the United Kingdom; or
- Crown service under Her Majesty's Government in the United Kingdom; or
- partly one and partly the other,

throughout the period of 5 years ending with the date of application (or such shorter period as the Secretary of State might allow in the special circumstances of any particular case).

14.3 **Application forms**

14.3.1 A list of the forms used for applications for naturalisation and registration made under the **1948 Act** can be found in [Annex C to Chapter 6](#).

14.4 **Fees**

14.4.1 The fees payable for registration or naturalisation under the **1948 Act**

will depend on the date the application is made. Full details of the fees prescribed under the **1948 Act** can be found in [Annex D to Chapter 6](#).

14.5 **Status acquired**

14.5.1 See [Chapter 20](#).

14.6 For guidance on Home Office procedures and the evidence required to establish a person's eligibility for registration or naturalisation under the **1948 Act**, see [Annex A](#).

B. BRITISH NATIONALITY (FALKLAND ISLANDS) ACT 1983

14.7 **The Law**

14.7.1 Before 21 May 2002, adults or minors could be registered as British citizens at the Home Secretary's discretion under **s.2(1)** of the **British Nationality (Falkland Islands) Act 1983** if:

- a British Dependent Territories citizen under **s.23** of the British Nationality Act 1981 (see [Chapter 22](#)); and
- settled in the Falkland Islands immediately before 1 January 1983;
or
- born to a parent who was settled in the Falkland Islands immediately before 1 January 1983 or immediately before the parent's death, whichever was the earlier

NB. The reference to "parents" does not include the father of an

illegitimate child but an illegitimate child may have been legitimated by the subsequent marriage of the parents.

14.7.2 Also, before 21 May 2002, adults or minors could be registered as British citizens at the Home Secretary's discretion under **s.2(2)** of the **British Nationality (Falkland Islands) Act 1983** if:

- they were British Dependent Territories citizens by registration or naturalisation under the British Nationality Act 1981 (see **Chapters 26-34**); and either:
 - i. the registration or naturalisation was effected in the Falkland Islands; or
 - ii. the Home Secretary is satisfied that the registration or naturalisation was effected wholly or partly by reason of a connection which those persons or some other person had with the Falkland Islands

14.7.3 The **British Overseas Territories Act 2002** repealed these registration provisions on 21 May 2002. Since that date, it has not been possible for a person to apply for registration under the **1983 Act**.

14.8 **Application forms**

14.8.1 Applications were normally made:

- on Form F1 under **s.2(1)**; or
- on Form F1 under **s.2(2)** (if resident outside the Falkland Islands); or

- on Form F2 under **s.2(2)** (if resident in the Falkland Islands); or
- by being included in a parent's application for citizenship

14.8.2 Under **Regulation 3** of the **British Nationality (Falkland Islands) Regulations 1983**, an application under **s.2(1)** or **s.2(2)** had to be made to the Governor of the Falkland Islands regardless of where the applicant was living.

NB. These Regulations actually refer to the Civil Commissioner, who replaced the Governor following the Falklands conflict. Although the office of Governor was later reinstated, the Regulations were never amended.

14.9 **Fees**

14.9.1 No application or registration fee was payable for applications under **s.2(1)** or **s.2(2)**, and any fee submitted was refunded, whether the application was granted or not.

14.9.2 If the application was for a minor, and was being considered under **s.3(1)** (see [Annex B](#)), the current application and registration fee was payable. If the application was granted, the entire fee was refunded as an ex gratia payment (see **Chapter 56**) if the applicant would, but for the connections with the Falkland Islands, have had an automatic claim to British citizenship.

14.10 **Status acquired**

14.10.1 See [Chapter 20](#).

14.11 Further information about the Home Office procedures, criteria and evidence required to establish a person's eligibility for registration under the **1983 Act** is contained in [Annex B](#).

C. BRITISH NATIONALITY (HONG KONG) ACT 1990

14.12 The Law

14.12.1 **Section 1(1)** of the **1990 Act** required the Secretary of State to register up to 50,000 persons as British citizens who were recommended by the Governor of Hong Kong. Registration had to be effected before 30 June 1997, and it is therefore no longer possible for a person to be registered as a British citizen under the **1990 Act**. Detailed guidance on the **1990 Act** is contained in "[BRITISH NATIONALITY \(HONG KONG\) ACT 1990](#)" in Volume 2.

D. HONG KONG (WAR WIVES AND WIDOWS) ACT 1996

14.13 The Law

14.13.1 The Secretary of State may register a woman as a British citizen under **s.1(1)** of the **1996 Act** provided:

- She has her residence, or principal residence, in Hong Kong; and
- She was, before the passing of the **1996 Act** (i.e. 18 July 1996), the actual or intended recipient of a letter from the Home Secretary confirming her eligibility to settle in the UK in recognition of her

husband's (or late of former husband's) service in defence of Hong Kong during the Second World War; and

- (if no longer married to the serviceman concerned) she has not re-married; and
- (in the case of an application made on or after 4 December 2006) the Secretary of State is satisfied that she is of good character (but see **Annex C**).

14.13.2 The **1996 Act** does not define "residence" or "principal residence".

14.14 **Application form**

14.14.1 An application should be normally be made on a Form WW (but see **Chapter 6.3**).

14.15 **Fees**

14.15.1 There is no fee for registration as a British citizen under the **1996 Act**.

14.16 **Status acquired**

14.16.1 See [Chapter 20](#).

14.17 For further guidance on Home Office procedures and the evidence required to establish whether a woman is eligible for registration under the **1996 Act**, see [Annex C](#).

E. BRITISH NATIONALITY (HONG KONG) ACT 1997

14.18 The Law

14.18.1 Under **s.1(1)**, a person will be entitled to registration as a British citizen if:

- they are ordinarily resident in Hong Kong at the time of the application; and
- they satisfy the requirements of **s.1(2)** or **s.1(3)**; and
- (if aged 10 or over on the date of application, this being a date on or after 4 December 2006) the Secretary of State is satisfied that they are of good character (see **Chapter 18** Annexes D and H and, in relation to applicants who are still minors, **Chapter 9** Annex B).

14.18.2 **Section 1(2)** applies to any person who, immediately before 4 February 1997 ("the relevant date"):

- was ordinarily resident in Hong Kong; and
- was a British Dependent Territories citizen by virtue only of a connection with Hong Kong (as defined in the **Schedule** to the **1997 Act** - see [Annex F](#)); and
- would have been stateless if not:
 - i. a British Dependent Territories citizen; or

- ii. a British Dependent Territories citizen and a British National (Overseas)

14.18.3 The requirements of **s.1(3)** are the same as **s.1(2)** except that references to British Dependent Territories citizens and British Nationals (Overseas) should be read as references to British Overseas citizens, British subjects and British protected persons.

14.18.4 The "relevant date" includes:

- the date of birth, if the applicant was born on or after 4 February 1997 (**s.1(4)**)
- the date of registration/naturalisation as a British national, if the applicant only acquired the citizenship or status concerned by registration or naturalisation on or after 4 February 1997 (**s.1(5)**)

14.18.5 **Section 1(6)** provides that persons will not be registered under **s.1(1)** if, on or after the "relevant date", they have renounced, or otherwise voluntarily relinquished, the nationality or citizenship of another country or territory. However, the fact that the applicant has acquired another nationality or citizenship on or after the relevant date is not, on its own, a basis on which the application may be refused.

14.19 **Application form**

14.19.1 The application should normally be made on a Form EM (but see **Chapter 6.3**).

14.20 **Fees**

14.20.1 See **Chapter 6** Annex D.

14.21 **Status acquired**

14.21.1 See [Chapter 20](#).

14.21.2 For further guidance on the evidence required to establish whether a person is eligible for registration under the **1997 Act**, see [Annex D](#).