

## PART I: BRITISH CITIZENSHIP

### CHAPTER 16: REGISTRATION FOLLOWING RENUNCIATION OF CITIZENSHIP OF THE UNITED KINGDOM AND COLONIES

#### SECTION 10 BRITISH NATIONALITY ACT 1981

##### 16.1 The Law

16.1.1 **Section 10** of the British Nationality Act 1981 explains how certain citizens of the United Kingdom and Colonies, who lost that status before 1 January 1983 as a result of making a declaration of renunciation, may be registered as British citizens.

16.1.2 Under **s.10(1)**, persons are entitled to registration as British citizens if, before 1 January 1983:

- they are of full capacity; and
- (in the case of an application made 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
- they had ceased to be citizens of the United Kingdom and Colonies as a result of making a declaration of renunciation; and
- at the time of making the declaration, they were or were about to become citizens of a country listed in Annex A; and
- they could not have remained or become such citizens unless they renounced citizenship of the United Kingdom and Colonies; or
- they reasonably believed they would be deprived of citizenship of such

countries unless they renounced citizenship of the United Kingdom and Colonies; and either

- on the date of application they had a qualifying connection with the United Kingdom (see 16.1.5); or
- had been married to a person who had, or would but for his or her death have had, such a connection (but see also 16.1.8 below)

16.1.3 Under **s.10(2)**, persons may be registered as British citizens at the Home Secretary's discretion if:

- they are of full capacity; and
- (and in the case of an application made 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)
- before 1 January 1983, they had ceased to be citizens of the United Kingdom and Colonies as a result of making a declaration of renunciation; and
- on the date of application, they had a qualifying connection with the United Kingdom; or
- had, at any time before the date of application, been married to or has been the civil partner of a person who had, or would but for his or her death have had, such a connection (but see also 16.1.8 below)

16.1.4 **Section 10(3)** explains that a person cannot be registered under **s.10(1)** more than once. This means that a person who has been registered under **s.10(1)**, and who then renounces British citizenship, can be registered only under **s.10(2)** or under **s.13** (see **Chapter 17**).

16.1.5 **Section 10(4)** explains the qualifying connections with the United Kingdom required under **s.10(1)** and **s.10(2)**. These are that the person or his or her father or father's father:

- was born in the United Kingdom; or
- is, or was, a person naturalised in the United Kingdom (as defined in **s.50(6)**); or
- was registered as a citizen of the United Kingdom and Colonies either:
  - i. in the United Kingdom; or
  - ii. in a country which, at the time, was included in **s.1(3)** of the **British Nationality Act 1948** (see Annex B)

16.1.6 "Of full capacity" is defined in **s.50(11)(a)** as meaning that a person is not of unsound mind. A detailed explanation of how this is interpreted for the purposes of the Act, and how the requirement to be of full capacity may be waived in certain circumstances, is given in **Chapter 18** Annex A.

16.1.7 The reference to the term "father" does not include the father of an illegitimate child, but an illegitimate child may be legitimated by the subsequent marriage of the parents.

16.1.8 Before 7 November 2002, it was only possible for women to qualify for registration on the basis of marriage to a man who had an appropriate qualifying connection. The **Nationality, Immigration and Asylum Act 2002** extended this requirement to include men who were married to CUKCs as regards applications made either:

- on or after 7 November 2002; or

- before 7 November 2002 but still undetermined on that date

16.1.9 Registration under **s.10** gives British citizenship otherwise than by descent unless, had the person not renounced citizenship of the United Kingdom and Colonies, he or she would, on 1 January 1983, have become a British citizen by descent under **s.14(1)(b)**. In such cases, registration gives British citizenship by descent. (See **Chapter 20**)

## 16.2 **Application form**

16.2.1 An application should normally be made on Form RS1.

## 16.3 **Evidence to be supplied**

16.3.1 All applications should be supported by evidence as follows:

- passport/travel document and the relevant certificates of birth, marriage, civil partnership, death, adoption, registration, or naturalisation to establish the applicant's:

i. current nationality/citizenship; and

ii. qualifying connection with the United Kingdom; and

- the declaration of renunciation of citizenship of the United Kingdom and Colonies (see 16.3.7 and 16.3.8 below)

16.3.2 Applications under **s.10(1)** should also be supported by evidence as follows:

- a letter from the authorities of a country listed in Annex A stating that the applicant's renunciation of citizenship of the United Kingdom and Colonies was:

- i. necessary in order to acquire or retain that country's citizenship; or
  - ii. in the reasonable belief that the applicant would otherwise have been deprived of citizenship of that country (NB. Other evidence to show a reasonable belief is acceptable).
- 16.3.3 Applications under **s.10(2)** should also, when necessary, be supported by evidence as set out in 16.3.2 above and/or evidence to support any other reasons for the renunciation of citizenship of the United Kingdom and Colonies and the wish to acquire British citizenship (see 16.5 below).
- 16.3.4 To guard against the possibility of fraud, we should expect to see evidence of identity over and above that required to establish eligibility for registration. It should be remembered, in particular, that a birth certificate is evidence not of identity, but of an event.
- 16.3.5 We should take into account any evidence already on file. If documents have been examined in the past we do not need to ask to see them again. If a particular marriage, civil partnership or parent and child relationship has been accepted as valid by an Entry Clearance Officer, Immigration Officer, Home Office official, or any Tribunal or Court in the United Kingdom we do not need to ask for any further evidence except where later information provides reasonable grounds to doubt the previously accepted position. It should be noted, however, that on occasions a subsisting relationship is accepted for immigration purposes whereas for nationality purposes a valid marriage/civil partnership is needed.
- 16.3.6 In the absence of some or all of the documentary evidence required to establish a qualifying connection with the United Kingdom as set out in 16.3.1 above, secondary evidence may be acceptable.

16.3.7 If the declaration of renunciation was registered at the Home Office, this will be recorded on the file together with any information and documentary evidence provided at the time. Nationality General Enquiries have details of all renunciations of citizenship of the United Kingdom and Colonies whether registered here or abroad.

16.3.8 If the applicant is unable to produce the declaration of renunciation, the details given at item 6 of the Form RS1 should be checked either with the information on the file or held in Nationality General Enquiries.

#### 16.4 **Checking the application**

##### 16.4.1 **Checking the validity of the renunciation**

16.4.1.1 Citizenship of the United Kingdom and Colonies was lost on registration of the declaration if the person then had another nationality or citizenship.

16.4.1.2 If the declaration was made in order to acquire another nationality or citizenship, and no such nationality or citizenship was acquired within 6 months of the date of registration of the declaration, the renunciation was void and the person remained a citizen of the United Kingdom and Colonies. But unless the evidence or information available indicates that the other nationality or citizenship was not acquired within the 6 month period, it should be assumed that the renunciation was valid and that citizenship of the United Kingdom and Colonies was lost.

16.4.1.3 If the renunciation was void and citizenship of the United Kingdom and Colonies was retained, we should:

- a. follow the procedure in **Chapter 19.7**; and

b. consult **Chapters 2, 22 and 37** and determine whether the person is:

- a British citizen under **s.11**; and/or
- a British overseas territories citizen under **s.23**; or
- a British Overseas citizen under **s.26**

16.4.1.4 If the person is a British citizen, we should write to say so and explain that registration is not necessary (using the procedure in **Chapter 2**) and refund in full any fee submitted with the application (see **Chapter 6**).

16.4.1.5 If the person is not a British citizen, but is a British overseas territories citizen or a British Overseas citizen, we should write to say so and:

- explain that registration as a British citizen under **s.10** could not be effected because the person did not cease to be a citizen of the United Kingdom and Colonies as a result of the declaration of renunciation; and
- explain the avenue to British citizenship (e.g. by registration under **s.4** or **s.5** or naturalisation under **s.6**) (see **Chapters 12, 13, and 18**); and
- refund the application fee (see **Chapter 6**)

NB. A person who was a British overseas territories citizen before 21 May 2002 by connection with a qualifying territory will have become a British citizen automatically

on that date under the **British Overseas Territories Act 2002**. The qualifying territories are the British overseas territories other than the Sovereign Base Areas of Akrotiri and Dhekelia).

#### 16.4.2 Checking the reason for renunciation

16.4.2.1 In order for a person to be entitled to registration under **s.10(1)**, the renunciation of citizenship of the United Kingdom and Colonies must have been:

- necessary in order to retain or acquire citizenship of a country listed in Annex A; or
- made in the reasonable belief that he or she would otherwise be deprived of the citizenship of such a country

16.4.2.2 If:

- renunciation of citizenship of the United Kingdom and Colonies was unnecessary; or
- the person's belief about deprivation was unreasonable; or
- it was for any other reason,

the application must be considered under **s.10(2)** (see 16.5 below).

#### 16.4.3 Checking the qualifying connection

16.4.3.1 If the person does not have a qualifying connection with the United Kingdom, but has a qualifying connection with a British



overseas territory, he or she may be able to be registered as a British overseas territories citizen under **s.22** of the British Nationality Act 1981. (See **Chapter 32**)

16.4.3.2 In refusing the application under **s.10**, we should explain the possibility of registration as a British overseas territories citizen under **s.22** and send an application Form RS2.

16.4.4 Checking for previous registration

16.4.4.1 If the person has previously been registered as a British citizen under **s.10(1)**, he or she cannot be registered again under this provision. The application should therefore be considered either:

- under **s.10(2)** (see 16.5 below); or
- under **s.13** (see **Chapter 17**)

16.5 Exercise of discretion

16.5.1 **Section 10(2)** gives the Home Secretary discretion to register as a British citizen, if he thinks fit, any person who ceased to be a citizen of the United Kingdom and Colonies as a result of making a declaration of renunciation, provided they have a qualifying connection with the United Kingdom.

16.5.2 This discretion is intended primarily to benefit those:

- whose renunciation of citizenship of the United Kingdom and Colonies was necessary in order to retain or acquire the citizenship of a country not listed in Annex A; or
- who reasonably believed they would be deprived of such citizenship if

they did not renounce citizenship of the United Kingdom and Colonies

16.5.3 We may therefore normally grant applications under **s.10(2)** if applicants renounced citizenship of the United Kingdom and Colonies because:

- they could not otherwise have remained or become citizens of any country not listed in Annex A; or
- they reasonably believed they would be deprived of the citizenship of such a country if they did not renounce citizenship of the United Kingdom and Colonies

16.5.4 If:

- renunciation of citizenship of the United Kingdom and Colonies was not necessary in order to retain or acquire the citizenship of another country (including those listed in Annex A); or
- the person had no reason to believe that renunciation of citizenship of the United Kingdom and Colonies was necessary to prevent him or her being deprived of the citizenship of another country (including those listed in Annex A); or
- the person has already been registered as a British citizen under **s.10(1)**,

the application should be considered under **s.10(2)** on its merits, taking into account the reasons given for the renunciation and/or the reasons for wishing to become a British citizen. If no reasons have been given, they should be requested.

16.5.4.1 Examples of the circumstances in which it may be appropriate to register are:

- renunciation was in order to acquire the citizenship of a spouse, and the marriage has now ended; or
- renunciation was in order to acquire another citizenship to assist in a career; and
- the person now wishes to return or come to the United Kingdom for settlement, and we are satisfied that his or her future is likely to lie here if registered

16.5.5 In exercising his discretion under **s.10(2)**, the Home Secretary has to have regard to the character of the applicant and suitability for registration. Applicants will not be expected to meet exacting standards, but it is necessary to try to identify those whose activities may suggest registration would not be appropriate and would attract criticism.

16.5.6 If, therefore, the applicant is eligible for registration under **s.10(2)**, further enquiries may be needed.

## 16.6 **Oath and pledge**

16.6.1 Where the application is made before 1 January 2004, the applicant will have to take an oath of allegiance before registration unless:

- a British overseas territories citizen; or
- a British National (Overseas); or
- a British Overseas citizen; or
- a British subject under the 1981 Act; or
- a citizen of any country of which Her Majesty is Queen (see **Chapter 6**)

16.6.2 Where the application is made on or after 1 January 2004, the applicant will, before registration, have to attend a citizenship ceremony and make an appropriate oath of allegiance and pledge (see **Chapter 6**).