

PART I: BRITISH CITIZENSHIP

CHAPTER 17: REGISTRATION FOLLOWING RENUNCIATION OF BRITISH CITIZENSHIP

SECTION 13 BRITISH NATIONALITY ACT 1981

17.1 The Law

17.1.1 **Section 13** of the British Nationality Act 1981 explains how British citizens who have lost that status as a result of making a declaration of renunciation can regain it.

17.1.2 Under **s.13(1)**, persons are entitled to be registered as British citizens if:

- they are of full capacity; and
- (in the case of a person aged 10 or over on the date of application, this being a date on or after 4 December 2006) that the Secretary of State is satisfied that they are of good character (see Chapter 18, Annexes D and H and, where the applicant is still a minor, Chapter 9, Annex B); and
- they have made a declaration of renunciation of British citizenship; and
- renunciation was necessary to enable them to retain or acquire some other citizenship or nationality

17.1.3 **Section 13(2)** explains that a person cannot be registered under **s.13(1)** more than once. This means that a person who is registered under **s.13(1)**, and then renounces British citizenship again can be registered only under **s.13(3)**.

17.1.4 **Section 13(3)** gives the Home Secretary discretion to register persons as British citizens if:

- they are of full capacity; and
- (in the case of a person 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 the applicant is of good character (see Chapter 18, Annexes D and H and, where the applicant is still a minor, Chapter 9, Annex B); and
- they have for any reason made a declaration of renunciation of British citizenship.

17.1.5 A person who would have become a British citizen on 1 January 1983 but for having renounced citizenship of the United Kingdom and Colonies cannot be registered under **s.13**, but may be eligible for registration under **s.10** (see **Chapter 16**).

17.1.6 "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 Annex A to **Chapter 18**.

17.1.7 A person who was a British citizen by descent when renouncing British citizenship will become a British citizen by descent on registration under **s.13**. All other persons registered under **s.13** will become British citizens otherwise than by descent. (See **Chapter 20**)

17.2 **Application form**

17.2.1 An application should normally be made on a Form RS1.

17.3 **Evidence to be supplied**

17.3.1 All applications should be supported by evidence as follows:

- passport/travel document or the relevant certificates of birth, marriage, death, adoption, registration, or naturalisation to establish the applicant's current nationality/citizenship; and
- the declaration of renunciation of British citizenship (see 17.3.5 below)

- 17.3.2 Applications under **s.13(1)** should also be supported by a letter from the authorities of the country concerned (unless it is the United Kingdom or a British overseas territory) stating that the applicant's renunciation of British citizenship was necessary in order to acquire or retain that country's citizenship.
- 17.3.3 Applications under **s.13(3)** should also, when necessary, be supported by evidence as set out in 17.3.2 above and/or evidence to support any other reasons for the renunciation of British citizenship and the wish to re-acquire it (see 17.5 below).
- 17.3.4 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.
- 17.3.5 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 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 is needed.
- 17.3.6 All declarations of renunciation of British citizenship are registered at the Home Office, and this will be recorded on the file together with any

information and documentary evidence provided at the time. If the applicant is unable to produce the declaration of renunciation, the details given at item 6 of the Form RS1 should be checked with the information on the file.

17.4 **Checking the application**

17.4.1 **Checking the validity of the renunciation**

17.4.1.1 British citizenship was lost on registration of the declaration if the person then had another nationality or citizenship.

17.4.1.2 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 British citizen. But unless the evidence or information available indicates that the other nationality or citizenship was not acquired, it should be assumed that the renunciation was valid and that British citizenship was lost.

17.4.1.3 If the renunciation was void and British citizenship was not lost, we should:

- follow the procedure in **Chapter 19.7**; and
- write and explain that the person is still a British citizen and that registration is not necessary. Any fee submitted with the application should be refunded in full (see **Chapter 6**)

17.4.2 **Checking the reason for renunciation**

17.4.2.1 In order for a person to be entitled to registration under **s.13(1)**, the renunciation of British citizenship must have been necessary in order to retain or acquire another nationality or

citizenship.

17.4.2.2 If renunciation of British citizenship was unnecessary, or was for any other reason, the application must be considered under **s.13(3)** (see 17.5 below).

17.4.3 Checking for previous registration

17.4.3.1 If the person has previously been registered as a British citizen under **s.13(1)**, he or she cannot be registered again under this provision. The application should therefore be considered under **s.13(3)** (see 17.5 below).

17.5 Exercise of discretion

17.5.1 **Section 13(3)** gives the Home Secretary discretion to register as a British citizen, if he thinks fit, any person who has ceased to be such a citizen as a result of making a declaration of renunciation.

17.5.2 This discretion is intended primarily to benefit those who renounced British citizenship:

- in order to acquire the nationality or citizenship of their spouse or civil partner; or
- to assist them in their careers; and
- the marriage, civil partnership or the career has now ended; and
- they wish to remain in or return to the United Kingdom for settlement

17.5.3 We may therefore normally register under **s.13(3)** if the conditions in 17.5.2 above are met, and we are satisfied that the applicant's future is likely to lie here if registered.

17.5.4 If:

- renunciation of British citizenship was not necessary in order to retain or acquire another nationality or citizenship; or
- the applicant renounced British citizenship in order to apply for a repatriation grant to return to his/her country of origin (in such cases, discretion to register under **s.13(3)** should only be exercised in exceptional circumstances); or
- renunciation of British citizenship was not for either of the reasons given in 17.5.2 above; or
- the person has already been registered under **s.13(1)**,

the application should be considered on its merits, taking into account the reasons given for the renunciation and the reasons for wishing to re-acquire British citizenship. If no reasons have been given, they should be requested.

17.5.5 In exercising his discretion under **s.13(3)**, the Home Secretary has to have regard to the character of the applicant and his 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.

17.5.6 If, therefore, the applicant is eligible for registration under **s.13(3)**, normal internal enquiries may be needed.

17.6 **Oath and pledge**

17.6.1 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**)

17.6.2 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**).