

PART II: BRITISH OVERSEAS TERRITORIES CITIZENSHIP

CHAPTER 33:REGISTRATION FOLLOWING RENUNCIATION OF BRITISH DEPENDENT TERRITORIES CITIZENSHIP OR BRITISH OVERSEAS TERRITORIES CITIZENSHIP

SECTION 24 BRITISH NATIONALITY ACT 1981

NB. As regards any time before 26 February 2002, references in this Chapter to British overseas territories citizenship and the British overseas territories should be read as references to British Dependent Territories citizenship and the British dependent territories.

33.1 **The Law**

33.1.1 **Section 24** of the British Nationality Act 1981 provides for British overseas territories citizens who have lost that status as a result of making a declaration of renunciation to regain it by registration. It does this by providing that the provisions of **s.13** shall apply in relation to British overseas territories citizens and British overseas territories citizenship as it applies in relation to British citizens and British citizenship.

33.1.2 Under **s.13(1)**, as modified by **s.24**, persons are entitled to be registered as British overseas territories 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 (or the Governor acting on his behalf) 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 Dependent Territories citizenship or British overseas territories citizenship; and

- the renunciation was necessary to enable them to retain or acquire some other citizenship or nationality
- 33.1.3 **Section 13(2)** explains that a person cannot be registered under **s.13(1)** more than once. This means that a person who has been registered as a British Dependent Territories citizen or British overseas territories citizen under **s.24/s.13(1)**, and has again renounced British Dependent Territories citizenship or British overseas territories citizenship, can be registered only under **s.24/s.13(3)**.
- 33.1.4 **Section 13(3)**, as modified by **s.24**, gives the Home Secretary/Governor discretion to register persons as British overseas territories 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 (or the Governor acting on his behalf) 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 for any reason made a declaration of renunciation of British overseas territories citizenship
- 33.1.5 A person who would have become a British Dependent Territories citizen on 1 January 1983 but for having renounced citizenship of the United Kingdom and Colonies cannot be registered under **s.24**, but may be eligible for registration under **s.22** (see **Chapter 32**).
- 33.1.6 "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.

33.1.7 A person who was a British Dependent Territories citizen/British overseas territories citizen by descent before renouncing that citizenship will become a British overseas territories citizen by descent on registration under **s.24**. All other persons registered under **s.24** will become British overseas territories citizens otherwise than by descent (see **Chapter 36**).

33.2 **Application form**

33.2.1 See **Chapter 21**.

33.3 **Evidence to be supplied**

33.3.1 All applications should be supported by evidence as follows:

- passport/travel document or the relevant certificates of birth, marriage, death, adoption, registration, naturalisation to establish the applicant's current nationality/citizenship; and
- the declaration of renunciation of British Dependent Territories citizenship/British overseas territories citizenship (see 33.3.5 below)

33.3.2 Applications under **s.24/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 renunciation was necessary in order to acquire or retain that country's citizenship.

33.3.3 Applications under **s.24/s.13(3)** should also, when necessary, be supported by evidence as set out in 33.3.2 above and/or evidence to support any other reasons for the renunciation and the wish to re-acquire British overseas territories citizenship (see 33.5 below).

33.3.4 To guard against the possibility of fraud, nationality caseworkers should expect to see evidence of identity over and above that required to establish an entitlement or avenue to registration. It should be remembered, in particular,

that a birth certificate is evidence not of identity, but of an event.

33.3.5 Nationality caseworkers should take into account any evidence already available. If documents have been examined in the past it is unnecessary to ask to see them again. If a particular marriage or parent and child relationship has been accepted as valid by an Entry Clearance Office, Immigration Office, Home Office or British overseas territories official, or any Tribunal or Court in the United Kingdom or a British overseas territory it is not necessary 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.

33.3.6 Except in the circumstances described in **Chapter 35.8**, all declarations of renunciation of British overseas territories citizenship are registered in the British overseas territory concerned. If the applicant is unable to produce a copy of the declaration of renunciation, the details given on the application form should be checked either with the information on the file or with the authorities of the territory concerned.

33.4 **Checking the application**

33.4.1 Checking the validity of the renunciation

33.4.1.1 British Dependent Territories citizenship/British overseas territories citizenship was lost on registration of the declaration if the person then had another nationality or citizenship.

33.4.1.2 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 will have been void and the person will have remained a British Dependent Territories citizen/British

overseas territories 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 the person ceased to be a British Dependent Territories citizen/British overseas territories citizen.

33.4.1.3 If the renunciation was void, nationality caseworkers should:

- follow the procedure in **Chapter 35.8**; and
- write and explain that the person is still a British overseas territories citizen and that registration is not necessary; and
- refund in full any fee submitted with the application (see **Chapter 21**)

33.4.2 Checking the reason for renunciation

33.4.2.1 In order for a person to be entitled to registration under **s.24/s.13(1)**, the renunciation must have been necessary in order to retain or acquire another nationality or citizenship.

33.4.2.2 If the renunciation was:

- unnecessary; or
- for any other reason,

the application must be considered under **s.24/s.13(3)** (see 33.5 below).

33.4.3 Checking for previous registration

33.4.3.1 If the person has previously been registered under **s.24/s.13(1)**,

he or she cannot be registered again under this provision. The application should therefore be considered under **s.24/s.13(3)** (see 33.5 below).

33.5 **Exercise of discretion**

33.5.1 **Section 13(3)**, as modified by **s.24**, gives the Home Secretary discretion to register as a British overseas territories citizen, if he thinks fit, any person who has ceased to be such a citizen as a result of making a declaration of renunciation.

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

- in order to acquire the nationality or citizenship of their spouse/civil partner; or
- to assist them in their careers; and
- the marriage or the career has now ended; and
- they wish to remain in or return to a British overseas territory for settlement

33.5.3 Therefore, registration under **s.24/s.13(3)** would normally be appropriate if the conditions in 33.5.2 above are met, and nationality caseworkers are satisfied that the applicant's future is likely to lie in a British overseas territory if registered.

33.5.4 If:

- the renunciation was not necessary in order to retain or acquire another nationality or citizenship; or
- the renunciation was not for either of the first two reasons given in 33.5.2

above; or

- the person has already been registered under **s.24/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 overseas territories citizenship. If no reasons have been given, they should be requested.

33.5.5 In exercising his discretion under **s.24/s.13(3)**, the Home Secretary/Governor will normally wish to consider the character of the applicant and suitability for registration. Applicants will not be expected to meet exacting standards, but nationality caseworkers should try to identify those whose activities may suggest registration would not be appropriate and where registration would attract criticism.

33.5.6 If, therefore, the applicant is eligible for registration under **s.24/s.13(3)** further enquiries may be needed.

33.6 **Oath and pledge**

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

- a British 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 21**)

33.6.2 Where the application is made on or after 1 January 2004, the applicant will, before registration, have to make an appropriate citizenship oath and pledge.