

PART II: BRITISH OVERSEAS TERRITORIES CITIZENSHIP

CHAPTER 35: RENUNCIATION

SECTION 24 BRITISH NATIONALITY ACT 1981

NB. In relation to 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.

35.1 Introduction

35.1.1 This Chapter explains:

- how, and in what circumstances, a British overseas territories citizen may renounce that status; and
- how to proceed if a British overseas territories citizen also has another form of British nationality

35.1.2 The procedure for renunciation by British nationals who are not British overseas territories citizens is explained in **Chapters 19, 41, 48 and 52.**

35.2 The Law

35.2.1 **Section 24** of the British Nationality Act 1981 makes provision for loss of British overseas territories citizenship by renunciation. It does this by providing that the provisions of **s.12** shall apply in relation to British overseas territories citizens and British overseas territories citizenship as they apply in relation to British citizens and British citizenship.

35.2.2 A British overseas territories citizen may make a declaration of renunciation of that status under **s.12**, as modified by **s.24**, of the British Nationality Act 1981 if:

- of full age; and
- of full capacity

NB. A minor who has been married/in a civil partnership is

regarded as being of full age.

35.2.3 "Of full capacity" is defined in **s.50(11)(a)** as meaning that the 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**.

35.2.4 Subject to 35.2.7 below, the declaration of renunciation must be registered if nationality caseworkers are satisfied that, after registration, the person concerned will:

- have another citizenship or nationality; or
- acquire another citizenship or nationality

35.2.5 The person making the declaration ceases to be a British overseas territories citizen when it is registered.

35.2.6 Where a declaration is registered:

- in the belief that another citizenship or nationality will be acquired; and
- this does not happen within 6 months of the registration,

the declarant will be, and be regarded as having remained, a British overseas territories citizen.

35.2.7 There is no obligation to register a declaration of renunciation if it is made during a war in which the United Kingdom is engaged.

35.2.8 A declaration has to be made in writing and has to give certain particulars.

35.3 **Registration authority**

35.3.1 Under **s.43** of the British Nationality Act 1981, the Home Secretary has made arrangements for his power to register declarations of renunciation of British overseas territories citizenship to be exercised in the British overseas territories by the Governors.

35.3.2 This means that, although the Home Secretary has the power to register such declarations, he would not normally do so because this may cause problems if and when the British overseas territory, with which the declarant is connected, achieves independence.

35.4 **Form of declaration**

34.4.1 A declaration should normally be made on Form RN2.

35.5 **Fees**

35.5.1 The **British Nationality (Fees) Regulations** provide that the fee for the registration of a declaration of renunciation shall be payable on submission of the declaration. This means that a declaration of renunciation cannot be registered until the fee has been paid.

35.5.2 The fee for the registration of a declaration of renunciation in the United Kingdom is set out in the Table of Fees in the **Schedule** to the **Fees Regulations**. If more than one citizenship or status is being renounced at the same time, only one fee is payable.

35.5.3 If it is intended to register the declaration in the United Kingdom (see 35.8.5 below), and no fee, or only a part fee, has been paid, the procedure in **Chapter 21.6** should be followed.

35.5.4 If the declaration is to be transferred to the Governor of the relevant British overseas territory to register, the fee payable is the appropriate one (if any) levied in that territory. Information on the fees levied in each territory, and the Sterling equivalent, is kept by the Finance Section, who should advise on the amount the applicant must be asked to pay and how this is to be transmitted to the territory concerned.

35.6 **Evidence to be supplied**

35.6.1 Declarations should be supported by evidence as follows:

Identity:

- To guard against the possibility of fraud, we should expect to see evidence of identity over and above that required to establish eligibility for renunciation. It should be remembered, in particular, that a birth certificate is evidence not of identity, but of an event.

Full age:

- Birth certificate and, if a minor who has been married/in a civil partnership, the marriage/civil partnership certificate

Full capacity (i.e. not of unsound mind):

- See 35.8.6 below

British overseas territories citizenship:

- A passport describing the holder as a British Dependent Territories citizen or a British overseas territories citizen; or
- (if born before 1 January 1983) a British overseas territories birth certificate showing parents' details; or
- (if born on or after 1 January 1983) a British overseas territories birth certificate showing parents' details and evidence that, at the time of the birth, either parent was a British overseas territories citizen or settled in a British overseas territory; or
- A certificate of registration or naturalisation, issued in a British overseas territory, describing the holder as a British Dependent Territories citizen or a British overseas territories citizen; or
- The relevant certificates of birth, adoption, marriage, death, registration, naturalisation necessary to establish a claim to British overseas territories citizenship

NB: If the evidence shows whether the declarant is a British overseas territories citizen by descent or otherwise by

descent, this information should be noted on the file as it will be helpful if there is a later application to resume British overseas territories citizenship under **s.13** (see **Chapter 33**).

Citizenship of another country:

- A current passport describing the holder as a citizen or national of the country concerned; or
- A statement confirming citizenship from the authorities of the country concerned (**NB.** A copy should be kept on the file)

Potential citizenship of another country:

- A statement from the authorities of the country concerned confirming the declarant will become a citizen or national of that country (**NB.** a copy should be kept on the file)

35.6.2 Declarations received from abroad will normally come to the Home Office or Governor via a British Diplomatic Post, accompanied by a letter:

- giving details of the evidence as set out in 35.6.1; and
- confirming what documents have been seen; and
- where available, enclosing photocopies of the documents

35.6.3 If the declaration has to be registered by a certain date, (see 35.8.5 below) the letter will state this prominently and may be sent to the Home Office/Governor without waiting to see some or all of the evidence.

35.6.4 Defective declarations

35.6.4.1 To be valid in law, declarations of renunciation must be made locally (e.g. to the Lieutenant-Governor in the Channel Islands or Isle of Man, the Governor in a British overseas territory, the High Commissioner in a Commonwealth country or a consular officer elsewhere). A declaration which is received

direct in the Home Office or a British overseas territory from abroad will not therefore have been "made" as required by **s.50(8)** of the 1981 Act. The defect can be remedied by sending a copy of the form direct to the relevant receiving authority, with a suitable explanatory letter, so that it will then be "made" in accordance with the Act and Regulations. The declaration may then be processed without waiting for confirmation that it has been received by the relevant authority.

35.7 Holders of an additional form of British nationality

IMPORTANT NOTE: Where an apparent claim or entitlement derives from a personal or ancestral connection with St Christopher and Nevis, it is necessary to consider the effects of the **Saint Christopher and Nevis Modification of Enactments Order 1983**. Where an apparent claim or entitlement derives from such a connection with Hong Kong, it is necessary to consider the effects of the **Hong Kong (British Nationality) Order 1986** and the **Hong Kong (British Nationality) (Amendment) Order 1993** (see **Chapter 21.4**). Where an apparent claim or entitlement derives from a personal or ancestral connection with the British Indian Ocean Territory, it is necessary to consider the effects of the **British Overseas Territories Act 2002**.

A person who, immediately before 21 May 2002, was a British overseas territories citizen by connection with a qualifying territory (i.e. a British overseas territory other than the Sovereign Base Areas of Akrotiri and Dhekelia) will have become a British citizen automatically on that date under the **British Overseas Territories Act 2002**.

35.7.1 In addition to being a British overseas territories citizen, a person may also be a British citizen, a British National (Overseas), a British Overseas citizen or a British subject under the BNA 1981. **Section 12** applies directly to British citizenship, and **s.29** and **34** of the BNA 1981, and **Article 7(10)** of the **Hong Kong (British Nationality) Order 1986**, apply the provisions of **s.12** of the 1981 Act to each of the other citizenships and statuses.

35.7.2 Such a person is able to renounce any one (or more) of these other citizenships or statuses on the grounds that he/she will remain a British overseas territories citizen. But where persons renounce British overseas territories citizenship in

order to acquire or retain citizenship of another country (normally because that country does not allow dual nationality) they are likely to want to renounce any other form of British nationality they may hold as well.

35.7.3 Declarants who are also British citizens, British Overseas citizens and/or British subjects

35.7.3.1 British citizenship, British Overseas citizenship and British subject status cannot be renounced using Form RN2. A separate Form RN1 should normally be used.

35.7.3.2 If declarants have not indicated that they are a British citizen, British Overseas citizen or a British subject, but information is available which suggests that is the case, nationality caseworkers should, if time permits (see 35.8.5), send them a blank Form RN1 with an explanatory letter asking them if they wish also to renounce the other citizenship or status.

35.7.3.3 The reason for sending a blank Form RN1 is to ensure that there is a clear record of the citizenship or statuses renounced. If the fresh form is not completed, but the declarant still wishes to renounce British overseas territories citizenship only, the original declaration may be registered.

35.7.3.4 A British overseas territories citizen who is also a British subject under **s.30, 32 or 33** of the BNA 1981 will automatically lose the latter status under **s.35** of the Act on acquiring another citizenship or nationality. In these circumstances, renunciation of British subject status is unnecessary if it is being done because another citizenship is to be acquired. But if the authorities of the other country require a formal declaration to be made before their citizenship or nationality can be acquired, the declaration should be processed in the normal way. No attempt should be made to persuade the declarant, or the authorities of the country concerned, that renunciation of British subject status is unnecessary.

35.7.3.5 If nationality caseworkers are aware that the declarant holds British citizenship and/or British Overseas citizenship and/or British subject status, in addition to British overseas territories citizenship and it is not intended to take the action described in 35.7.3.2 above, the following paragraph should be added either to the letter to be sent to the declarant (see 35.8.1 below) or to the appropriate stock letter when the declaration is registered.

"It appears that you/your client/the declarant hold(s) British citizenship [and/or British Overseas citizenship and/or British subject status] in addition to the British overseas territories citizenship you/he/she is about to renounce/you have/he/she has now renounced. If you wish/he/she wishes also to renounce British citizenship [and/or British Overseas citizenship and/or British subject status], you/he/she should make a declaration on the Form RN1 enclosed and send it to appropriate address on page 7 of the Guide RN1."

35.7.4 Declarants who are also British Nationals (Overseas)

35.7.4.1 If, before 1 July 1997, the person renounced British Dependent Territories citizenship, he or she will automatically have lost British National (Overseas) status and would not have been in need, nor capable, of renouncing that status (see **Chapters 52.7** and **53**).

35.7.4.2 British National (Overseas) status cannot now be renounced using Form RN1 or RN2. A separate Form RN3 should normally be used.

35.7.4.3 If nationality caseworkers are aware that the declarant holds British National (Overseas) status in addition to British overseas territories citizenship, and it is intended to take the action described in 35.7.3.2 above, the following paragraph should be added to the letter to be sent to the declarant.

"It appears that you/your client/the declarant hold(s) British National (Overseas) status in addition to the citizenship(s) you/he/she is about to renounce. If you wish/he/she wishes to renounce British National (Overseas) status, you/he/she should make a declaration to this effect on the enclosed Form RN3."

35.7.4.4 If it is not intended to take the action described in paragraph 35.7.3.2 above, the paragraph in 35.7.4.3 should be added to the stock letter sent when the declaration of renunciation of British overseas territories citizenship is registered.

35.7.4.5 The procedure for dealing with a declaration of renunciation of British National (Overseas) status received in the Home Office is explained in **Chapter 52**.

35.8 Consideration of declarations

35.8.1 Except in the circumstances described below, if a declaration received at the Home Office is in order, the Form RN2, the fee and photocopies or details of relevant documents should be sent to the appropriate Governor with a covering letter. A letter should be sent to the declarant explaining what is happening and returning any original documents (unless they are required in order to consider any separate declaration of renunciation). The file should then be almanacked to await the Governor's decision, which will be conveyed to the declarant via the Home Office.

35.8.2 If it has been decided to register the declaration in the UK, it should be given priority consideration at all stages. The declaration should be examined to check the eligibility for renunciation. If the declaration appears to be in order, relevant documents and/or a fee should be requested, as appropriate. The procedure described in Annex A should then be followed.

35.8.3 Declarations more than 6 months old

35.8.3.1 A declaration that was made more than 6 months

before the date of consideration can be accepted if it is accompanied by current evidence that the declarant:

- is a citizen or national of another country; or
- is about to become a citizen or national of another country

35.8.3.2 If such evidence is not available, the nationality caseworker should:

- return the declaration; and
- advise that if the declarant still wishes to renounce it will be necessary to:
 - i. re-date the declaration; and
 - ii. sign it again; and
 - iii. re-submit it with that evidence.

35.8.4 Declarations made other than to retain or acquire another citizenship

35.8.4.1 If any information (either supplied by the declarant or otherwise) is available which suggests the declarant has misunderstood the need for, or consequence of, renunciation, the nationality caseworker should explain and ask if the declarant still wishes the declaration to be registered.

35.8.5 Declarations to be registered by a given date

35.8.5.1 Where the authorities of another country have given a date by which the declarant must renounce British overseas territories citizenship, the declaration may, exceptionally, be registered in the UK. In these circumstances, it is very important to give the declaration sufficient priority to enable it to be registered before the due date. Otherwise, the declarant may lose citizenship of that country. If

sufficient evidence of British overseas territories citizenship has not been submitted, it should not be called for if this will delay registration of the declaration.

- 35.8.5.2 If the declaration cannot be registered on or before the date given by the other country, and as a result the declarant may have lost citizenship of that country, the declaration should not be registered. Instead, a letter of explanation should be sent to the declarant.

35.8.6 Checking "full capacity"

- 35.8.6.1 The nationality caseworker should be satisfied that the declarant is of full capacity (i.e. he or she has some understanding of the meaning and consequences of renunciation). The declarant should have explained on the form RN2 why he/she wishes to renounce British overseas territories citizenship and the form should have been countersigned by an adult who has confirmed personal knowledge of the declarant and that he/she is of full capacity. Alternatively, reasons should be given as to why it would be in the declarant's best interests for the full capacity requirement to be waived in his or her case

- 35.8.6.2 A declarant should be assumed to be of full capacity unless there is clear evidence to the contrary. The nationality caseworker should initially consider whether the declarant meets this requirement on the basis of the reasons given and the countersignatory's signed statement. In cases of doubt, enquiries of the declarant, the declarant's agent or the person who has countersigned the declaration may clarify matters. If the nationality caseworker is still in doubt, it may be necessary to obtain a professional opinion.

- 35.8.6.3 Further guidance on the full capacity requirement is at Annex A to **Chapter 18**.

35.8.7 Registration procedure

35.8.7.1 When it has been decided to register the declaration, the procedure in Annex A should be followed.

35.9 Voided renunciations

35.9.1 A declaration will be void if the declarant:

- has no other citizenship; and
- having made the declaration to acquire another nationality, fails to do so within 6 months of the date of registration

35.9.2 A declaration may be void if evidence comes to light that the declarant lost his other citizenship before his renunciation was registered. Such cases should be referred to NPSCU Policy Section for advice.

35.9.3 The procedure for noting a voided declaration is set out in Annex B.

35.10 Position after renunciation

35.10.1 Persons who enquire about access to travel documents after renunciation should be advised as follows:

- If they have changed their mind and wish to travel urgently or otherwise on a British passport, they should be told of the procedure for resumption of citizenship. This is explained in **Chapter 33**.
- If, for the time being at least, they do not have any citizenship or nationality and wish to travel, they may be eligible for a Home Office Travel Document as a stateless person. Enquiries should be referred to the Travel Document Section.