

## PART III: BRITISH OVERSEAS CITIZENSHIP

### CHAPTER 41: RENUNCIATION

#### SECTION 29 BRITISH NATIONALITY ACT 1981

#### 41.1 Introduction

41.1.1 This Chapter explains:

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

41.1.2 The procedure for renunciation by British nationals who are not British Overseas citizens is explained in **Chapters 19, 35, 48** and **52**.

#### 41.2 The Law

41.2.1 **Section 29** of the British Nationality Act 1981 makes provision for loss of British Overseas citizenship by renunciation. It does this by providing that the provisions of **s.12** shall apply in relation to British Overseas citizens and British Overseas citizenship as they apply in relation to British citizens and British citizenship.

41.2.2 A British Overseas citizen may make a declaration of renunciation of that status under **s.12** as modified by **s.29** 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.

41.2.3 "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**.

41.2.4 Subject to 41.2.7 below, the declaration of renunciation must be registered if we are satisfied that, after registration, the person concerned:

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

41.2.5 The person making the declaration ceases to be a British Overseas citizen when it is registered.

41.2.6 Where a declaration is registered:

- in the belief that another citizenship or nationality would 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 citizen.

41.2.7 We are not obliged to register a declaration of renunciation if it is made during a war in which the United Kingdom is engaged.

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

#### 41.3 **Form of declaration**

41.3.1 A declaration should normally be made on Form RN1.

#### 41.4 **Fees**

41.4.1 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.

41.4.2 The fee for the registration of a declaration of renunciation

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.

41.4.3 If no fee or only a part fee has been paid, the procedure in **Chapter 6.5** should be followed.

#### 41.5 Evidence to be supplied

41.5.1 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 (i.e. aged 18 or more):

- 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 41.7.4 below

##### British Overseas citizenship:

- A passport describing the holder as a British Overseas citizen; or
- A certificate of registration describing the holder as a British Overseas citizen; or
- The relevant documents related to his and/or their parents', grandparents', spouse's birth, adoption, marriage, death, registration or naturalisation, which establish that the declarant was a citizen of the United Kingdom and Colonies who did not, on 1 January 1983, become either a British citizen (see **Chapter 2**) or a British Dependent Territories

citizen (see **Chapter 22**)

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)

41.5.2 Declarations received from abroad will normally come to us via a British Diplomatic Post, accompanied by a letter:

- giving details of the evidence as set out in 41.5.1; and
- confirming what documents have been seen; and
- where available, enclosing photocopies of the documents

41.5.3 If the declaration has to be registered by a certain date, (see 41.7.3 below) the letter will state this prominently, and may be sent to us without waiting to see some or all of the evidence.

41.5.4 Defective declarations

41.5.4.1 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 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.

#### 41.6 Holders of an additional form of British nationality

41.6.1 In addition to being a British Overseas citizen, a person may also be a British citizen, a British National (Overseas), a British overseas territories citizen or a British subject under the BNA 1981. **Section 12** applies directly to British citizenship, and **s.24** 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.

41.6.2 Such a person is able to renounce any one (or more) of these other citizenships or statuses on the grounds that he or she will remain a British Overseas citizen. But persons who renounce British Overseas citizenship in order to acquire, or not to lose citizenship, of another country (normally because that country does not allow dual nationality) are likely to want to renounce any other form of British nationality they may hold as well.

#### 41.6.3 Declarants who are also British citizens and/or British subjects

41.6.3.1 Declarants should state, at part 2 of the Form RN1, whether they are also British citizens or British subjects and, at part 6, which citizenship or status they wish to renounce.

41.6.3.2 If a declarant has not indicated that he or she is also a British citizen or a British subject, but we have information which suggests that, we should, if time permits (see 41.7.3), send a blank Form RN1 with an explanatory letter asking if the declarant wishes also to renounce the other citizenship or status (see also 41.6.4.2 below). We should not send the original form back for correction.

41.6.3.3 The reason for sending a blank Form RN1, rather than the original, is to ensure that we end up with 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 citizenship only, the original declaration may be registered.

41.6.3.4 A British Overseas citizen, who is also a British subject under **s.30, 32 or 33** of the BNA 1981, will automatically lose that status under **s.35** of the Act on acquiring another citizenship or nationality. In these circumstances, renunciation of that 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.

41.6.3.5 No attempt should be made to dissuade the declarant or the authorities of the country concerned that renunciation of British subject status is unnecessary. After completion of action, the file should be sent to NPSCU Policy Section to note.

41.6.4 Declarants who are also British overseas territories citizens

Note: A person who, before 21 May 2002, was a British overseas territories citizen by connection with a British overseas territory other than the Sovereign Base Areas of Akrotiri and Dhekelia will have acquired British citizenship automatically on that date, and the procedure in 41.6.3 should also therefore be followed.

41.6.4.1 British overseas territories citizenship cannot be renounced using Form RN1. A separate Form RN2 should normally be used.

41.6.4.2 If:

- we are aware that the declarant holds British overseas territories citizenship in addition to

British citizenship, and/or British National (Overseas) status, and/or British Overseas citizenship, and/or British subject status; and

- we intend taking the action described in 41.6.3.2 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 overseas territories citizenship in addition to the citizenship(s) and/or status you/he/she is about to renounce/ you have/he/she has now renounced. If you wish/he/she wishes also to renounce British overseas territories citizenship, you/he/she should make a declaration on the Form RN2 enclosed and send it to appropriate address on page 7 of the Guide RN2. It will then be forwarded to the Governor of (the relevant British overseas territory), for consideration."

41.6.4.3 If we are not taking the action described in 41.6.3.2 above, the paragraph in 41.6.4.2 should be added to the appropriate stock letter sent when the declaration of renunciation of British Overseas citizenship is registered.

41.6.4.4 The procedure for dealing with a declaration of renunciation of British overseas territories citizenship received in the Home Office is explained in **Chapter 35**.

**NB.** Persons who were British Dependent Territories citizens only by connection with Hong Kong immediately before 1 July 1997 automatically ceased to be British Dependent Territories citizens on that date. They would not therefore have become British overseas territories citizens on 26 February 2002, and are not in need of, or capable of, renouncing that status.

41.6.5 Declarants who are also British Nationals (Overseas)

41.6.5.1 British National (Overseas) status cannot be renounced using Form RN1. A separate Form RN3 should normally be used.

41.6.5.2 If:

- we are aware that the declarant holds British National (Overseas) status in addition to British Overseas citizenship; and
- we intend taking the action described in 41.6.3.2 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) and/or status you/he/she is about to renounce/ you have/he/she has now renounced. If you wish/he/she wishes also to renounce British National (Overseas) status, you/he/she should make a declaration to this effect on the enclosed Form RN3."

41.6.5.3 If we are not taking the action described in 41.6.3.2 above, the paragraph in 41.6.5.2 should be added to the stock letter sent when the declaration of renunciation of British Overseas citizenship is registered.

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

**NB.** Persons who renounced British Dependent Territories citizenship by connection with Hong Kong before 1 July 1997 will have automatically lost British National (Overseas) status, and will not be in need, or capable, of renouncing that status (see **Chapters 52.7** and **53**).



#### 41.7 Consideration of declarations

##### 41.7.1 Declarations more than 6 months old

41.7.1.1 A declaration that was made more than 6 months before the date of consideration can be accepted if 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

41.7.1.2 If we do not have such evidence, we should:

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

##### 41.7.2 Declarations made other than to retain or acquire another citizenship

41.7.2.1 If we have any information (either supplied by declarants or otherwise) which suggests declarants have misunderstood the need for, or consequences of, renunciation, we should explain the position and ask if the declarant still wishes the declaration to be registered.

##### 41.7.3 Declarations to be registered by a given date

41.7.3.1 Where the authorities of another country have given a date by which the declarant must renounce British Overseas citizenship, it is very important to give the declaration sufficient priority to enable it to

be registered before that date. Otherwise, the declarant may lose citizenship of that country. If sufficient evidence of British Overseas citizenship has not been submitted, it should not be called for if this will delay registration of the declaration.

- 41.7.3.2 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.

#### 41.7.4 Checking "full capacity"

- 41.7.4.1 We 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 RN1 why he/she wishes to renounce British Overseas 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.

- 41.7.4.2 A declarant should be assumed to be of full capacity unless there is clear evidence to the contrary. We 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 we are still in doubt, it may be necessary to obtain a professional opinion.

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

#### 41.7.5 Registration procedure

41.7.5.1 The declaration should be examined to confirm eligibility for renunciation. If the declaration appears to be in order, the relevant documents and/or fee should be requested. The procedure described in Annex A should then be followed.

#### 41.8 Voided renunciations

41.8.1 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

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

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

#### 41.9 Position after renunciation

41.9.1 There is no provision for resumption of British Overseas citizenship, and a person who, for the time being at least, does not have any citizenship or nationality, and who wishes to travel, may be eligible for a Home Office Travel Document as a stateless person. Enquiries should be referred to Travel Document Section.