

PART V: BRITISH NATIONALS (OVERSEAS)

CHAPTER 52: RENUNCIATION

Article 7(10), Hong Kong (British Nationality) Order 1986

52.1 Introduction

52.1.1 This Chapter explains:

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

52.1.2 The procedure for renunciation by British nationals who are not British Nationals (Overseas) is explained in **Chapters 19, 35, 41 and 48**.

52.1.3 **Chapter 53** explains how British National (Overseas) status could be lost automatically before 1 July 1997.

52.2 The Law

52.2.1 **Article 7(10)** of the **Hong Kong (British Nationality) Order 1986** makes provision for loss of the status of British National (Overseas) by renunciation. It does this by providing that the provisions of **s.12** of the British Nationality Act 1981 shall apply in relation to British Nationals (Overseas) and the status of a British National (Overseas) as they apply in relation to British citizens and British citizenship.

52.2.2 A British National (Overseas) may make a declaration of renunciation of that status under **s.12** of the British Nationality Act 1981, as modified by **Article 7(10)** of the **Hong Kong (British Nationality) Order 1986**, 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.

52.2.3 "Of full capacity" is defined by **s.50(11)(a)** of the 1981 Act as meaning that the person is not of unsound mind. A detailed explanation of how this is interpreted for the purposes of the Act/Order, and how the requirement to be of full capacity may be waived in certain circumstances, is given in Annex A to **Chapter 18**.

52.2.4 Subject to 52.2.7 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

52.2.5 The person making the declaration ceases to be a British National (Overseas) when it is registered.

52.2.6 A person whose declaration is registered:

- a. in the belief that another citizenship or nationality would be acquired; and
- b. this is not done within 6 months of the registration,

will be, and be regarded as having remained, a British National (Overseas).

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

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

52.3 **Form of declaration**

52.3.1 A declaration should normally be made on Form RN3.

52.4 **Fees**

52.4.1 No fee is payable for the registration of a declaration of renunciation of British National (Overseas) status. If, however, another form of British nationality is being renounced at the same time, the appropriate fee as set by the **British Nationality (Fees) Regulations** is payable.

52.5 **Evidence to be supplied**

52.5.1 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:

- 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 52.7.5 below

British National (Overseas) status:

- A passport describing the holder as a British National (Overseas)

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)

52.5.2 Declarations received from abroad will normally come to us via a British Diplomatic Post and be accompanied by a letter

- giving details of the evidence as set out in 52.5.1; and
- confirming what documents have been seen; and
- where available, enclosing photocopies of the documents

52.5.3 If the declaration has to be registered by a certain date (see 52.7.4 below), the letter will state this prominently and may be sent to us without waiting to see some or all of the evidence.

52.5.4 Defective declarations

52.5.4.1 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.

52.6 Holders of an additional form of British Nationality

52.6.1 In addition to being a British National (Overseas), a person may also be a British citizen, a British overseas territories

citizen, a British Overseas citizen or a British subject under the BNA 1981. **Section 12** applies directly to British citizenship, and **s.24, 29 and 34** of the BNA 1981 apply the provisions of **s.12** of the 1981 Act to each of the other citizenships and status.

52.6.2 Such a person may renounce any one (or more) of these other citizenships or status on the grounds that he or she will remain a British National (Overseas). But a person who is renouncing British National (Overseas) status in order to acquire, or not lose, citizenship of another country (normally because that country does not allow dual nationality) is likely to want to renounce any other form of British nationality held as well.

52.6.3 **IT IS IMPORTANT**, however, to remember that:

- under **Article 3** of the **Hong Kong (British Nationality) Order 1986**, British Dependent Territories citizenship held by connection with Hong Kong was automatically lost on 1 July 1997 (but see 52.6.5.2 below)
- under **Article 4(3)** of the **Order**, if British Dependent Territories citizenship was lost before 1 July 1997 (i.e. by renunciation or deprivation), British National (Overseas) status was automatically lost at the same time (i.e. without the need for renunciation)

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

52.6.4.1 British citizenship, British Overseas citizenship and British subject status cannot be renounced using Form RN3. A separate Form RN1 should normally be used.

52.6.4.2 If the declarant has not indicated that he or she is a British citizen, British Overseas citizen or a British subject, but we have information which suggests that is the case, we should, if time permits (see 52.7.4), send a Form RN1 with an explanatory letter asking if the person wishes also to renounce the other citizenship or status.

52.6.4.3 If the Form RN1 is not completed, but the declarant still wishes to renounce British National (Overseas) status only, the original declaration may be registered.

52.6.4.4 A British National (Overseas) 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.

52.6.4.5 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.

52.6.4.6 If:

- we are aware that the declarant holds British citizenship, and/or British Overseas citizenship, and/or British subject status, in addition to British National (Overseas) status; and
- we do not intend taking the action described in 52.6.4.2 above,

the following paragraph should be added to the stock letter sent 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 National (Overseas)

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 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."

52.6.5 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 52.6.4 should also therefore be followed.

52.6.5.1 British overseas territories citizenship cannot be renounced using Form RN3. A separate Form RN2 should normally be used.

52.6.5.2 Until 1 July 1997, a British National (Overseas) was also a British Dependent Territories citizen by connection with Hong Kong. On that date, he or she ceased to be a British Dependent Territories citizen, but could subsequently have re-acquired British Dependent Territories citizenship or, on or after 26 February 2002, British overseas territories citizenship by registration or naturalisation in another British overseas territory (NB. A person who acquired British Dependent Territories citizenship before 26 February 2002 will have become a British overseas territories citizen on that date). If the person is also a British citizen/a British Overseas citizen/a British subject, and we intend taking the action in 52.6.4.2 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."

52.6.5.3 If we are not taking the action described in 52.6.4.2 above, the paragraph in 52.6.5.2 should be added to the stock letter sent when the declaration of renunciation of British National (Overseas) status is registered.

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

52.7 **Consideration of declarations**

52.7.1 The declaration should be examined to check the eligibility for renunciation. If it appears to be in order, relevant documents and/or a fee should be requested, as appropriate (see 52.4 and 52.5 above and 52.7.2-52.7.4 below).

52.7.2 Declarations more than 6 months old

52.7.2.1 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

52.7.2.2 If we do not have such evidence, we 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.

52.7.3 Declarations made other than to retain or acquire another citizenship

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

52.7.4 Declarations to be registered by a given date

52.7.4.1 Where the authorities of another country have given a date by which the declarant must renounce British National (Overseas) status, 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 his citizenship of that country. If sufficient evidence of British National (Overseas) status has not been submitted, it should not be called for if this will delay registration of the declaration.

52.7.4.2 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.

52.7.5 Checking "full capacity"

52.7.5.1 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 RN3 why he/she wishes to renounce

British National (Overseas) status 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.

52.7.5.2 We should initially consider whether the declarant meets this requirement on the basis of the reasons given and the countersignatory's signed declaration. 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.

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

52.7.6 Registration procedure

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

52.8 Voided renunciations

52.8.1 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

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

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

52.9 Position after renunciation

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

- There is no provision for resumption of British National (Overseas) status
- 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 Travel Document Section.