

## **Annex A: List of categories of pre-1949 British protected persons and their status after 28 January 1949**

1. Persons not possessing any other nationality belonging to those British protectorates or to United Kingdom mandated or trust territories (other than Palestine and Transjordan) listed in the Schedule to the British Protected Persons Order 1934.

1.1 Persons in this category were:

- persons born in those territories before, on or after 14 May 1934;
- persons born outside those territories before, on or after 14 May 1934 whose fathers were born in the territories, and were regarded as belonging to the territories;
- wives of persons regarded as belonging to the territories who had, with the permission of the Governors concerned, become resident in the territories with their husbands, and who possessed no other nationality.

1.2 Under the terms of the Order, the following persons ceased to belong to a territory:

- those who became British subjects or naturalised in a foreign state;
- the wives and minor children of those who ceased to be British protected persons on being naturalised in a foreign state, if they too acquired a foreign nationality;
- the wives of foreign nationals, if they acquired their husbands' nationality.

## **Position after 1949**

1.3 The 1949 Order was generally wider in its application to persons connected with protectorates and UK trust (formerly mandated) territories than the 1934 Order: i.e.:

- possession of British subject status or foreign nationality no longer prevented people from being British protected persons, and many of those who had ceased to be British protected persons on acquiring foreign nationality had British protected person status restored to them;
- a person became a British protected person if his or her father was born in a protectorate or trust territory, even if he did not "belong" to that territory;
- the wife of a British protected person could, herself, become a British protected person by registration without the need to establish residence in the protectorate or territory with which her husband was connected.

1.4 However, under the 1949 Order, the wives of British protected persons did not acquire British protected person status automatically, and none of those who had previously been British protected persons were such under the 1949 Order. This meant that unless the wife of a British protected person registered as a BPP herself,

she would not be a statutory BPP for the purposes of the British Nationality Act 1948 although, if she had been a BPP before 28 January 1949, she would be accorded recognition under the Royal Prerogative.

## 2. Citizens of Palestine under the Palestinian Citizenship Orders 1925-1942.

2.1 British protected person status was lost by those who ceased to be citizens of Palestine during the period of the mandate.

### **Position after 1949**

2.2 The British Mandate in Palestine had been terminated in 1948 and the country had been partitioned - the larger part becoming the State of Israel, the remainder joined to the Hashemite Kingdom of Jordan (formerly Transjordan). Until it enacted its own legislation in 1952, Israel continued the provisions of the Palestinian Citizenship Orders 1925-1942, but it is doubtful whether Israel regarded the Orders as applying to those who had left the Jewish part of Palestine (particularly Arab refugees). Jordanian nationality law provides for Arabs born in what is now Jordan or Israel to apply for Jordanian nationality if they are resident outside Israel.

2.3 Palestine was not mentioned in the 1949 Order, and no one is a statutory BPP by virtue of a connection with Palestine. Statelessness and former possession of Palestinian citizenship do not constitute grounds for treating a person as a British protected person.

## 3. Nationals of Transjordan under the Transjordan Nationality Law 1928.

3.1 A person who ceased to be a national of Transjordan automatically lost British protected person status.

### **Position after 1949**

3.2 The British Mandate ceased in 1946 when Transjordan was proclaimed the Hashemite Kingdom of Jordan by a Treaty concluded with the UK. The Nationality Law of 1928 continued in force and Jordan became internationally responsible for everyone who was a national under it.

## 4. Certain nationals of Iraq under the Nationality Law 1924 wherever the Iraqi Government has no separate representation.

4.1 An Iraqi national under British protection automatically ceased to be a British protected person on losing Iraqi nationality.

### **Position after 1949**

4.2 The British Mandate ended on 3 October 1932 when Iraq became a member of the League of Nations. Under Article 8 of the new Treaty of Alliance, which came into effect on that date, the Kingdom of Iraq assumed responsibility for the protection of all Iraqi nationals.

## 5. Persons belonging to mandated or trust territories administered by Commonwealth countries other than the UK where the countries had no separate representation.

5.1 The territories concerned consisted mainly of Nauru, New Guinea, South West Africa (Namibia) and Western Samoa.

## **Position after 1949**

5.2 Some of the persons in this category became citizens of the countries concerned. The remainder continued to have UK protection in places where those countries had no separate representation. The position with regard to South West Africa is obscure, and enquiries about eligibility to UK protection of persons belonging to that country should be referred to the Foreign and Commonwealth Office.

6. Subjects of the Rulers of British protected states (including the Indian native states).

6.1 Whether a person was a subject was determined by reference to either:

- that state's legislation or customary law; or
- where there was none, by administrative decision based on the likely position if the Ruler in question had legislated.

6.2 British protected person status was lost automatically on ceasing to be a subject of the Ruler or, where no statute or customary law existed, on becoming naturalised in a foreign state.

## **Position after 1949**

6.3 The provisions of the 1949 Order were more precise. The following persons connected with protected states became statutory BPPs under that Order:

- nationals of protected states which had nationality or citizenship laws;
- persons, or whose fathers, were born in protected states which did not have nationality or citizenship laws.

6.4 BPP status was restored to those persons who had been British protected persons by virtue of a connection with a state which had no legislation or customary law relating to nationality, but who had lost that status by becoming naturalised in a foreign state.

6.5 However, no Indian native states were included in Schedule 2 to the 1949 Order, and no persons belonging to them were covered by the Order. By the time its Constitution had come into effect on 26 January 1950, the majority of the states had acceded to the Republic of India. On its adoption, those states became fully incorporated into the Republic of India, and their British protected persons who were inhabitants of India apparently became citizens of India under the Constitution, ceasing to be eligible for treatment as British protected persons. Those who were not inhabitants of India on 26 January 1950 also ceased to be eligible for BPP status by analogy with the pre-accession rule under which a person who ceased to be a subject of the Ruler of his or her State ceased to be a BPP.

6.6 Ten of the native states (Amb, Bahawalpur, Chitral, Dir, Kalat, Khaipur, Kharan, Las Bela, Mekram and Swat) acceded to Pakistan and, since they were inhabitants of Pakistan, most British protected persons of those states appear to have become

citizens of Pakistan, and therefore ceased to be eligible for treatment as British protected persons. Those who did not become citizens of Pakistan also lost BPP status by analogy with the pre-accession rule.

6.7 The only states whose accession to India or Pakistan is in doubt are Jammu and Kashmir, Sikkim, and Bhutan. Those who were British protected persons by virtue of a connection with those states are, in practice, accorded protection by India or Pakistan, and many have become citizens of those countries. Upon India or Pakistan assuming responsibility for the protection of these persons, their claim to BPP status ceased. Those who are denied the citizenship or protection of India or Pakistan are no longer eligible for treatment as British protected persons by analogy with the pre-accession rule.

7. Persons who had become British protected persons by virtue of a connection with a territory (e.g. Jubaland), which was subsequently ceded by the Crown to another Power, but continued to be British protected persons under the cessation arrangements on leaving the territory within the time stipulated.

### **Position after 1949**

7.1 Those who were British protected persons immediately before the 1949 Order came into effect did not lose that status simply because they were not covered by the Order.

8. Persons holding "local" certificates of naturalisation (i.e. certificates giving them the status of British subjects only within the territory where granted).

### **Position after 1949**

8.1 Of the countries originally included in s.1(3) of the British Nationality Act 1948, only Ceylon, India and Pakistan did not confer their citizenship automatically on those who had been locally naturalised there as British subjects.

8.2 In Ceylon, such a person's only avenue to citizenship was by registration, subject to a small annual quota.

8.3 In India, neither the Indian Constitution nor the Indian Citizenship Act 1955 took any account of certificates of naturalisation granted in British India, although those naturalised may have acquired citizenship under Article 5 of the Constitution or may have become Indian citizens by registration.

8.4 As regards Pakistan, the Indian Naturalisation Act 1926, amended, and renamed, the Naturalisation Act 1926, conferred citizenship on some of those locally naturalised in former British India under the 1926 Act or its predecessor, the Indian Naturalisation Act 1852.

8.5 The position of those locally naturalised in Ceylon, India and Pakistan, who have not acquired citizenship of those countries, is unclear, and there may be grounds for continuing to treat them as British protected persons.

9. Sudanese, holding Anglo-Egyptian Sudan passports (not Egyptian ones).

### **Position after 1949**

9.1 All persons in this category became the responsibility of the Republic of Egypt, which was set up in 1955 on the termination of the condominium.

10. Persons who, or whose fathers, had been treated erroneously as British subjects but from whom it was not wished to withdraw protection altogether - after the inclusion of their names in a register kept by the consulate of the district where they were resident.

#### **Position after 1949**

10.1 See paragraph 11 below.

Persons granted British protection in countries where the Crown exercised extra-territorial jurisdiction over British subjects - the names of such persons were included in a register kept by the consulate of the district where they were resident.

#### **Position after 1949**

11.1 It was realised in 1949 that persons who belonged in categories 10 and 11 immediately before 28 January 1949 would not be covered by the 1949 Order, and it was decided that recognition would have to continue under the Royal Prerogative. Persons falling into either of these categories were, for a few years from 1949, known as "British registered persons" (see paragraph 54.2.5).

11.2 It was customary for details to be included in the register of the minor children of those regarded as British protected persons under categories 10 and 11, but that their protection should last only until they reached the age of 21. However, many such minors continued to be treated as British protected persons through oversight after reaching that age and, thus, became British protected persons in their own right.