

PART VI: BRITISH PROTECTED PERSONS

CHAPTER 54: GENERAL INFORMATION

54.1 Derivation and definition

54.1.1 The term "British protected person" emerged during the 1800s as a result of the extending of Imperial protection to people and places outside the Crown's dominions.

54.1.2 Imperial protection was a political, rather than a nationality, device. Consequently, British protected persons were not mentioned in nationality legislation until the **British Nationality Act 1948** and, until that time, the status was derived solely from the Royal Prerogative (see 54.2 below).

54.1.3 The places given Imperial protection fell into one of four categories:

- Protectorates
- Protected States
- Mandated Territories
- Trust Territories

54.1.4 Persons connected with these places, and others who are/were British protected persons, are described in 54.2 and 54.3 below.

54.2 Royal Prerogative British protected persons

A. Before 1949

54.2.1 Before 28 January 1949 (see 54.3 below), the status of British protected person was regulated entirely by the Royal Prerogative. A British protected person was a person who belonged to a category to which it was the practice to accord protection or who was granted protection in his own right. No attempt was made to define exactly what these categories were, but an approximate list is given in Annex A.

B. On and after 1949

54.2.2 Not all persons previously recognised as British protected persons under the Royal Prerogative became statutory British protected persons on 28 January 1949 (see 54.3 below). The United Kingdom remained internationally responsible for such persons and, thus, the status of British protected person under the Royal Prerogative had to continue alongside the statutory status.

54.2.3 The categories of those who did, or did not, remain British protected persons under the Royal Prerogative are given in Annex A.

C. First-time recognition

54.2.4 It is unlikely that we will receive any requests for first time recognition of someone as a British protected person under the Royal Prerogative. If any such requests are received, caseworkers should contact Nationality Policy Team, who will consult with the Foreign & Commonwealth Office. No person will be considered for recognition under the Royal Prerogative if he or she:

- holds, or has held, a travel document issued by any authority other than a United Kingdom or Colonial passport-issuing officer (or an

officer in a self-governing Dominion before 1949); or

- can obtain such a document; or
- has any prospect of becoming a national of the country in which he or she is settled

54.2.5 Even when an applicant is not ruled out by any of these stipulations, it is by no means certain that recognition will be authorised. Persons who have had passport facilities as "British registered persons" (the name formerly given to those residual Royal Prerogative British protected persons (described in categories 10 and 11 in Annex A) to distinguish them from statutory British protected persons under the **1949 Order**) may be regarded as having already been recognised as post-1949 British protected persons.

D. Loss of status

54.2.6 The status of British protected person under the Royal Prerogative may be withdrawn at will, although regard would have to be had to the United Kingdom's international obligations and to humanitarian considerations before any decision to withdraw protection was taken. The acquisition of any citizenship or status under the BNA 1981 by a British protected person under the Royal Prerogative should clearly result in the loss of the latter status and, in most cases, the acquisition of the nationality or citizenship of another country, Commonwealth or foreign, would be regarded as justifying the withdrawal of recognition as a British protected person under the Royal Prerogative. Recognition must never be withdrawn without reference to the Foreign & Commonwealth Office, Consular Directorate.

54.3 Statutory BPPs

A. From 28 January 1949 to 31 December 1982

54.3.1 **Section 30(1)** of the **British Nationality Act 1948** stated that His Majesty may by Order in Council declare which places were, at any given time, to be regarded as protectorates or protected states for the purposes of the Act.

54.3.2 **Section 32(1)** of the **British Nationality Act 1948** stated that, for the purposes of the Act, a British protected person was a member of a class of persons declared by Order in Council, made in relation to any protectorate, protected state, mandated or trust territory, to be British protected persons by virtue of their connection with that protectorate, protected state or territory.

54.3.3 The **British Protectorates, Protected States and Protected Persons Order in Council**, made on 28 January 1949 under **s.30(1)** and **s.32(1)** of the **1948 Act**, declared the following classes of persons to be British protected persons:

- a. Persons born before, on or after 28 January 1949 in a protectorate, or United Kingdom trust territory listed in the **Schedules** to the **Order**, or in a protected state so listed and having no citizenship or nationality law. The Protectorate of Zanzibar, although included in **Schedule 1** to the **1949 Order**, was treated as a protected state for the purpose of determining which persons connected with it were to be British protected persons (Zanzibar had had a nationality law since 1911).
- b. Persons, born before 28 January 1949, whose fathers were born

in one of the territories specified in a. above.

- c. Persons, born on or after 28 January 1949, whose fathers were born in one of the territories specified in a. above and were British protected persons at the time of the persons' births. A posthumous child was treated as if, at the time of its birth, its father possessed the status which he possessed at the time of his death, or would have done had he died after the commencement of the **Order**.
- d. Citizens or nationals of a protected state which has a citizenship or nationality law, or of Zanzibar (see a. above).
- e. Persons, born in Canton Island before 28 January 1949, whose fathers were born in a protectorate, or protected state or United Kingdom trust territory listed in the **Schedules** to the **Order**.
- f. Persons, born in Canton Island on or after 28 January 1949, whose fathers were British subjects or British protected persons at the time. A posthumous child was treated as if, at the time of its birth, its father possessed the status which he possessed at the time of his death, or would have done had he died after the commencement of the **Order**.

54.3.4 **Article 3** of the **Order** contained a special provision affecting the interpretation of the term 'father', as used above, in relation to legitimated persons. Apart from the reference to enemy aliens in **Article 13(2)**, there was nothing in the **1949 Order** to prevent a person possessing a nationality (British or foreign) from becoming a statutory British protected person.

54.3.5 The **1949 Order** also provided for the acquisition by registration of the status of British protected person by women who had been married to British protected persons other than those in 54.3.3.d. above.

54.3.6 The **1949 Order** made provision for renunciation of the status of British protected person by persons other than those in 54.3.3.d. above, and by women acquiring the status by registration as in 54.3.5 above, provided they also possessed a foreign nationality.

54.3.7 The **1949 Order** was amended 7 times, and was replaced, on 29 October 1965, by the **British Protectorates, Protected States and Protected Persons Order 1965**. Nobody who was, at that time, a statutory British protected person under the **1949 Order** ceased to possess that status, but additional persons became, or could become, statutory British protected persons under the **1965 Order**.

- **Article 12(2)** conferred the status on certain persons whose fathers had been born in a former protectorate or a trust territory
- **Article 14** introduced provision for the registration as British protected persons of certain categories of stateless persons
- **Article 15** introduced provision for the registration of certain classes of married women

These new provisions were carried forward into subsequent Orders.

54.3.8 **Section 3** of the **Botswana Independence Act 1966** provided for the British Nationality Acts to have effect, from 30 September 1966, as if the Bechuanaland Protectorate were omitted from the **Schedule of Protectorates** in the **1965 Order**. From the same date, the territory

was to be treated as a 'former protectorate' for the purposes of the **Order**.

54.3.9 The **1965 Order** was amended twice, but was replaced on 1.1.70 by the **1969 Order**. It took account of changes in the status of certain territories scheduled in the **1965 Order** and, in particular, made provision for qualified persons to be British protected persons by virtue of a connection with a former Arabian protectorate.

54.3.10 The **1974 Order** came into operation on 1 January 1975 and replaced the **1969 Order**. It took account of changes in the status of certain territories scheduled in the **1969 Order**. An additional stipulation was introduced for acquisition of the status of British protected person by virtue of a connection with the Solomon Islands, the sole remaining protectorate at that time. The **Order** also made revised provisions in relation to Brunei and the New Hebrides; and omitted reference to Canton Island (which was part of the Gilbert and Ellice Islands Colony).

54.3.11 The **1978 Order** came into operation on 16 August 1978 and replaced the **1974 Order**. The **Order**, among other things:

- revised the provision for the acquisition of British protected person status by virtue of a connection with the Solomon Islands
- for the first time, made provision for the automatic loss of status by certain British protected persons on the acquisition of any nationality or citizenship (including CUKC) on or after 16 August 1978
- omitted the New Hebrides, thus making it a foreign country,

instead of a protected state, for nationality purposes

B. From 1 January 1983

54.3.12 The British Nationality Act 1981 repealed the **British Nationality Act 1948** on 1 January 1983 and, with it, the **British Protectorates, Protected States and Protected Persons Order in Council 1978**. On that date, the provisions of the **British Protectorates, Protected States and Protected Persons Order 1982** came into operation. The **Order**, made under **s.38(1)** of the British Nationality Act 1981, declared the following categories of persons to be British protected persons under the Act:

- Citizens or nationals of Brunei under any law providing for citizenship or nationality in force in Brunei
- Persons who, immediately before 1 January 1983, were British protected persons by virtue of the **1978 Order**
- Persons who would otherwise be born stateless, on or after 1 January 1983, in the United Kingdom or a dependent territory if, at the time of the birth, their mother or father is a British protected person

54.3.13 **Article 7(2)** of the **Order** provides for the registration of a person as a British protected person if:

- he or she is, and always has been, stateless; and
- he or she was born outside the United Kingdom and the dependent territories; and

- at the time of the birth, his or her father or mother was a British protected person

There is no provision for the registration as a British protected person in any other circumstances.

54.3.14 Applications are considered by UKBA. Form P1 is available for this purpose. Any applications received should be forwarded to the Deputy Chief Caseworker.

54.3.15 **Article 10** provides for the automatic loss of status by certain British protected persons on the acquisition of any nationality or citizenship (including British citizenship, British overseas territories citizenship, and British Overseas citizenship).

54.3.16 **Article 11** provides for the renunciation of the status of British protected person by persons, other than those connected with Brunei (as described in 54.3.12 above), provided:

- they have some other citizenship or nationality, including British citizenship, British overseas territories citizenship and British Overseas citizenship; or
- satisfy the Secretary of State that they will acquire some other citizenship or nationality

C. Loss of status at independence

54.3.17 Independence legislation for places under protection normally provided for the automatic loss of the status of statutory British

protected person upon such a person becoming a citizen, either at independence or subsequently, of the newly-independent country or the country of which the territory forms part (e.g. Botswana, The Gambia, Ghana, Kenya, Malawi, Malaysia, Nigeria, Sierra Leone, Solomon Islands, Swaziland, Tanzania, Uganda, and Zambia).

54.3.18 The status of British protected person, lost automatically at or after independence, was NOT regained if subsequent legislation in the country concerned had the effect of retrospectively withdrawing a person's new citizenship from the date of independence.

54.3.19 Territories which, on becoming independent, were removed from the **Schedules** to the **Orders**, without being included in countries mentioned in **s.1(3)** of the **British Nationality Act 1948**, are as follows:

- **Somaliland Protectorate**

The status of British protected person was lost automatically by all persons who possessed it by reason of connection with the Protectorate. No special provision had been made for anyone to retain it after removal of the territory from the **Schedule** to the **1949 Order**.

- **Persian Gulf States**

As for the Somaliland Protectorate, the status was lost automatically.

- **Cameroons under United Kingdom trusteeship**

Although no immediate action was taken to remove this territory from **Schedule 3** to the **1949 Order**, the termination of the trusteeship had the same effect, as the territory named in the **Schedule** ceased to exist as such. The Southern Region joined the Republic of

Cameroon; the Northern Region became part of Nigeria. **Schedule 3** to the **Order** was later deleted entirely by the **Tanganyika Independence Act 1961**.

- **Maldivé Islands**

By an agreement signed at Colombo on 26 July 1965, the UK Government ceased to be responsible for the international affairs of the Maldivé Islands. The exclusion of the Maldivé Islands from **Schedule 3** to the **1965 Order** placed, on a statutory basis, the loss of the status of British protected person by all who possessed it by virtue only of a connection with the Maldivé Islands. The Republic of Maldives was a foreign country, for nationality purposes, from 27 July 1965 to 10 March 1985 inclusive. On 11 March 1985, it joined the Commonwealth and was included in **Schedule 3** to the British Nationality Act 1981.

- **Protectorate of South Arabia, Kamaran**

Provision was made in the **1969 Order** for the restoration of the status of British protected person to persons belonging to these territories who had not become nationals of the Peoples Democratic Republic of Yemen (which the territories then formed).

- **Brunei**

Although it ceased to be a protected state on 1.1.75, **Article 7(1)** of the **1974 Order** continued to provide that persons who were citizens or nationals of Brunei, under any law providing for citizenship or nationality in force in Brunei, would be British protected persons by virtue of their connection with Brunei. This was continued in the **1978 Order (Article 6(1))** and the **1982 Order (Article 5(1))**. On 1 January 1984, Brunei joined the Commonwealth and was included in **Schedule 3** to the BNA 1981. **Article 5(1)** of the **1982 Order** was

revoked and, consequently, all Brunei's statutory British protected persons lost that status. Royal Prerogative British protected persons also lost that status on 1.1.84 under the terms of the Treaty & Exchange of Notes (Cmnd 7496), dated 7.1.79, which established Brunei as a fully responsible sovereign state.

- 54.3.20 The former Anglo-French condominium of the New Hebrides (now the independent Republic of Vanuatu) was never included in the **Schedules** to the **1949 Order**. Consequently, no one was a British protected person by connection with that territory, but **Article 6** of the **1949 Order** directed that the provisions of the **British Nationality Act 1948** should apply to the New Hebrides as if it were a protected state. This direction was continued in the **1965, 1969 and 1974 Orders** and was relevant for the purposes of **s.5(1)(a)** of the **British Nationality Act 1948**. Other specific provisions in relation to the New Hebrides were made by **Article 7** of the **1949 Order**, and were modified in 1958, 1965 and 1969; they were omitted from the **1974 Order**. The New Hebrides was omitted from the **1978 Order** and, from 16 August 1978, was regarded as a foreign country for nationality purposes. On 30 July 1980, Vanuatu joined the Commonwealth and was included in **s.1(3)** of the **British Nationality Act 1948**.

D. Loss of status generally before 1983

- 54.3.21 Persons, whose status as British protected persons was derived from a connection with a former protectorate or trust territory, lost the status automatically if:
- at any time, they acquired the citizenship of a country mentioned in **s.1(3)** of the **1948 Act** of which the former protectorate or trust territory formed part; or

- at any time after 15 August 1978, they became a citizen of the United Kingdom and Colonies or acquired another nationality

54.3.22 Persons who were British protected persons by virtue of their connection with a former Arabian protectorate ceased to be such if:

- they became nationals of the People's Democratic Republic of Yemen; or
- at any time after 15 August 1978, they became citizens of the United Kingdom and Colonies; or
- at any time after 15 August 1978, they acquired another nationality

A woman, however, did not lose her status unless her husband did so.

54.3.23 Persons whose British protected person status was derived from a connection with a protected state having a nationality law lost the status automatically if they ceased to be nationals of that protected state, even though the territory remained under British protection.

54.3.24 A protected state which had no nationality law was treated as a protectorate for the purpose of deciding which persons connected with it were British protected persons, with the result that all persons born in the territory, and most persons whose fathers were born there, were British protected persons. If such a territory later enacted a nationality law which did not cover all the persons in question, only the persons covered by that nationality law were, thereafter, British protected persons, and the remainder ceased to be British protected persons under the **Order**. This happened in Brunei, whose first nationality law

came into force on 1 January 1962. It was then decided that those former British protected persons of Brunei who had not become nationals of Brunei under that law should be accorded protection, as necessary, under the Royal Prerogative. Before such recognition can be accorded for the first time, however, the instructions in 54.2 C. must be followed.

E. Loss of status generally after 1982

54.3.25 Those who are British protected persons by virtue of:

- a connection with a former protectorate, a former trust territory or a former Arabian protectorate; or
- registration under **Article 7** of the **1978 Order** (former Solomon Islands protectorate); or
- registration under **Article 10** of the **1978 Order** (former stateless persons); or
- registration under **Article 7** of the **1982 Order** (former stateless persons),

lose the status automatically if, at any time, they become a British citizen, or a British overseas territories citizen, or a British Overseas citizen, or acquire another citizenship or nationality.

F. Loss of status by renunciation

54.3.26 **Article 13** of the **1949 Order** contained provision for British protected persons to renounce that status if they were:

- of full age and capacity; and
- nationals of a foreign country

54.3.27 This provision was extended in the **1965 Order** to include persons who possessed, or expected, within 6 months, to obtain citizenship of:

- a country mentioned in **s.1(3)** of the **British Nationality Act 1948**; or
- the Republic of Ireland; or
- a foreign country

54.3.28 This extended provision was continued in subsequent **Orders**. **Article 11** of the **1982 Order** extends the provision still further to include also persons who:

- are British citizens; or
- British overseas territories citizens; or
- British Overseas citizens; or
- have another nationality; or
- expect to acquire such a citizenship or nationality within 6 months (see 54.3.16)

NB. Marriage is not an alternative to the requirement to be of full age

for the purposes of renunciation of BPP status.

54.3.29 Applications for the renunciation of British protected person status, and for the acquisition of that status by registration under **Article 7** of the **1982 Order** are determined by UKBA. Any applications submitted to the Nationality Group should be forwarded to the Deputy Chief Caseworker.

G. Deprivation

54.3.30 Under **s.40** of the British Nationality Act 1981, as substituted by **s.4** of the **Nationality, Immigration and Asylum Act 2002** with effect from 1 April 2003, British protected persons may be deprived of that status if the Secretary of State is satisfied that either:

- the person has done anything seriously prejudicial to the vital interests of the United Kingdom or a British overseas territory; or
- (if the person acquired British protected person status by registration) that status was obtained by means of fraud, false representation or the concealment of a material fact (see **Chapter 55**)

54.4 **Status under United Kingdom and international law**

A. Status under United Kingdom law

54.4.1 For nationality purposes, Royal Prerogative British protected persons:

- were/are aliens

- could become British subjects normally only by naturalisation under pre-1949 legislation
- could become citizens of the United Kingdom and Colonies normally only by naturalisation under **s.10**, read with **paragraphs 1 and 2 not 3** of **Schedule 1**, to the **British Nationality Act 1948**
- can become British citizens normally only by naturalisation under **s.6**, read with **Schedule 1**, to the British Nationality Act 1981
- cannot be registered as British citizens under **s.4** of the British Nationality Act 1981
- had/have to take an oath of allegiance to become a British subject/citizen or the United Kingdom and Colonies/British citizen

54.4.2 For nationality purposes, statutory British protected persons:

- were/are not aliens
- were/are not Commonwealth citizens
- could become CUKCs normally only by naturalisation under **s.10**, read with **paragraph 3** of **Schedule 1**, to the **British Nationality Act 1948**
- can be naturalised as British citizens under **s.6**, read with **Schedule 1**, to the British Nationality Act 1981
- can be registered as British citizens under **s.4** of the British Nationality Act 1981

- had/have to take an oath of allegiance to become a British subject/citizen of the United Kingdom and Colonies/British citizen

54.4.3 For immigration purposes, British protected persons:

- were subject to control as aliens until 31 March 1953
- were not subject to control from 1 April 1954 to 30 June 1962 (**Article 24(2), The Aliens Order 1953**)
- were subject to control as Commonwealth citizens from 1 July 1962 to 31 December 1972 (**s.1(4), Commonwealth Immigrants Act 1962**)
- have, since 1.1.73, been subject to control under the **Immigration Act 1971** as persons not having the right of abode

54.4.4 British protected persons:

- can hold British passports in that status
- are ineligible to vote
- are ineligible to hold some public offices

B. Status under international law

54.4.5 British protected persons:

- are regarded as British nationals

- can receive consular assistance and protection from United Kingdom representatives abroad
- are not United Kingdom nationals for EC purposes