

## **The Pakistan Act 1973**

### **1. General**

1.1 The Pakistan Act 1973, which was passed as a result of Pakistan's departure from the Commonwealth, came into force on 1 September 1973. The general effect and intention of the Act was to give Pakistanis a last chance to be registered as CUKCs, either by entitlement or, if they had no such entitlement, by discretionary registration under s.5A(2) of the BNA 1948. If they could not be regarded as having been ordinarily resident here immediately before 14 May 1973, they could acquire citizenship of the United Kingdom and Colonies only by naturalisation. Any unresolved application needs to be determined and advice may be sought from INPD(L) in case of doubt.

### **2. Amendments to existing nationality legislation**

2.1 Section 1 and Schedule 1 amended the BNA 1948 and the BNA 1965.

#### **Amendments to the BNA 1948**

2.2 Section 1 removed Pakistan from the list of countries contained in s.1(3) of the 1948 Act, with the effect that any persons who were British subjects by virtue only of their citizenship of Pakistan ceased to be British subjects on 1 September 1973.

2.3 Schedule 1 added the words "or Pakistan" after "Eire" in s.13(1).

2.4 A proviso was added to paragraph 3 of the Third Schedule: "Provided that this paragraph shall not apply where the father was at the commencement of this Act potentially a citizen of Pakistan and becomes a citizen of the United Kingdom and Colonies by registration at a time when the child is a citizen of Pakistan."

#### **Amendment to the BNA 1965**

2.5 The insertion of a new s.2(2A): "A woman to whom this section applies by virtue of her marriage to a man who, at the commencement of the principal Act, was potentially a citizen of Pakistan shall cease to be a British subject by virtue of section 1 of this Act if she becomes a citizen of Pakistan."

2.6 The purpose of the amendments to s.13(1) of the BNA 1948 and to the BNA 1965 was to ensure that persons who were BSWCs under the BNA 1948 because of their potential citizenship of Pakistan, or women who had been registered under the BNA 1965 as British subjects on the strength of marriage to such persons, ceased to be British subjects if they became citizens of Pakistan. The addition to paragraph 3 of the Third Schedule prevented the automatic acquisition of citizenship of the United Kingdom and Colonies by Pakistani children of BSWCs who were potentially citizens of Pakistan and who were registered as citizens of the United Kingdom and Colonies.

### **3. Transitional provisions for the registration of citizens of Pakistan**

3.1 These were contained in paragraph 2 of the Second Schedule to the 1973 Act. Generally speaking, those persons who were citizens of Pakistan on 14 May 1973 (the date on which the Pakistan Bill was first introduced) and who were qualified, on the date of commencement of the 1973 Act, for registration under the existing provisions of the BNA 1948 were able, until 1 September 1974, to apply for registration under these provisions as if they were still Commonwealth citizens.

Persons who were citizens of Pakistan on 14 May 1973 and who had been ordinarily resident in the United Kingdom and/or in relevant employment (see paragraph 5 below) since before that date, but who were not qualified for registration on 1 September 1973, were given a period of 12 months after they became so qualified in which to apply for registration. In all cases, the application had to be received in the Home Office before the appropriate deadline. The Secretary of State had discretion, in the special circumstances of any particular case, to accept an application made outside the normal time limits.

3.2 The registration provisions of paragraph 2 of the Second Schedule applied to any citizen of Pakistan who was such a citizen on 14 May 1973 and was ordinarily resident in the United Kingdom or in relevant employment, or partly the one or partly the other, throughout the period beginning immediately before that date and ending when the application was received.

3.3 Citizens of Pakistan who had been ordinarily resident in the United Kingdom without any restrictions on their stay since immediately before 1 January 1973 (the date on which the Immigration Act 1971 came fully into force) but had not on 1 September 1973, completed 5 years' ordinary residence free of restrictions, could apply for registration under s.5A or, when qualified, s.6(1) (as modified) of the BNA 1948, up to either the date 12 months after becoming qualified for registration under s.6(1), or 1 September 1979, whichever was the earlier.

3.4 Citizens of Pakistan who had been ordinarily resident in the United Kingdom, but with a restriction on their stay, and/or in relevant employment overseas, since immediately before 1 January 1973 but had not, on 1 September 1973, completed 5 years' ordinary residence free from restrictions or 5 years in relevant employment overseas, or partly the one and partly the other, could apply for registration under s.5A of the BNA 1948 up to the date 12 months after completing a period of 5 years' ordinary residence and/or relevant employment (which must have been continuous since before 14 May 1973).

3.5 The Secretary of State had discretion in the cases described above to accept an application made outside the normal time limits, but this discretion was exercised only in exceptional circumstances (eg in cases of great hardship where applicants were prevented from applying within the normal time limit due to circumstances completely beyond their control).

3.6 The following categories of people were not eligible to benefit from the transitional provisions:

- Persons who became citizens of Pakistan after 14 May 1973, or who arrived in the United Kingdom on or after that date
- Citizens of Pakistan who were illegal entrants, and who did not have their stay regularised before 14 May 1973
- Citizens of Pakistan who were either overstayers on 14 May 1973, or overstayers at any time in the period between 14 May 1973 and the date of their application

#### **4. Consideration of applications under sections 5A and 6(1) (as modified)**

**4.1 In addition to the normal criteria (see Volume 1 Chapter 14), it was necessary to confirm that an applicant:**

- was a citizen of Pakistan on 14 May 1973; and
- was ordinarily resident in the United Kingdom, or in relevant employment, before that date and had remained so up to the date of the application; and
- made the application within the time limits laid down (ie the application was received before the appropriate date)

#### **5. Meaning of "relevant employment"**

**5.1 "Relevant employment" meant:**

- Crown service under the UK Government
- Service under an international organisation of which the UK Government was a member
- Service in the employment of a society, company or body of persons established in the United Kingdom