

East African Asians

1. General

1.1 CUKCs of Asian descent residing in East African dependencies when those colonies and protectorates became independent mostly retained their citizenship of the UK and Colonies. As UK passport holders, they were thus (deliberately) excluded from the scope of the Commonwealth Immigrants Act 1962.

1.2 During the years that followed, discriminatory treatment caused the British Asians in East Africa to exercise their right of entry into the UK and, as a result, the Commonwealth Immigrants Act 1968 was passed. This restrictively amended the earlier statute by referring to "CUKCs holding UK passports" in terms only of such citizens who were born, adopted, registered or naturalised in the UK, or who had such a parent or grandparent. The British Asians were thereby restricted from entering the UK but were able to benefit from voucher scheme (see below).

1.3 In *East African Asians -v- United Kingdom* [1981] 3 EHRR 76 complaints by 25 applicants that their human rights had been infringed by the operation of the 1968 Act were held by the Commission to be admissible under various articles of the European Convention on Human Rights. Neither the Commission nor the UK government made a reference to the Court, however, and having failed to arrive at the necessary two-thirds majority, the Committee of Ministers removed the case from its agenda without reaching a decision.

2. The special voucher scheme

2.1 The special voucher scheme was a discretionary arrangement facilitating admission to the United Kingdom that dated from the commencement of the Commonwealth Immigrants Act 1968. The scheme applied to BOCs, British subjects and BPPs whose citizenship or status derived from a former East African colony or protectorate (including Aden, now Yemen). The requirements were that applicants had to:

- be a "head of household" - these were men or women over 18 years of age, but in the case of women they had to be single, widowed, divorced or married to a man who was medically incapable fulfilling the role of head of household
- be under pressure to leave - applicants resident in India, Kenya, Malawi, Tanzania, and Zambia were automatically considered to satisfy this requirement. In other cases, the requirement had to be established with reference to the individual applicant's circumstances, e.g. an applicant:
 - i. who was about to be deported, or
 - ii. whose residence permit had expired or been cancelled and there was no possibility of obtaining a further permit, or
 - iii. who had a standard of living substantially below that of the country of residence as a direct result of restrictions imposed on non-citizens in general or UK passport holders in particular
- have nowhere to go other than the United Kingdom

- intend to settle in the United Kingdom. Applicants who had the citizenship of, or the right to reside in, another country were therefore disqualified. Applicants who voluntarily renounced a second citizenship were not eligible under the special voucher scheme, but those who were deprived of a second citizenship (including any who lost a second citizenship by asserting a claim to British nationality, for example by applying for a British passport) were eligible for a special voucher. Many applicants with a Kenyan connection (at least until the 1985 constitutional amendment) possessed that country's citizenship without realising it. Unless that citizenship was renounced, automatic loss could only occur when the citizen attained 23 years of age.

2.2 The issue of vouchers was regulated by means of an annual quota. Dependants were required to apply for entry clearance.

2.3 The special voucher scheme was abolished on 5 March 2002. Most of those who would have been eligible to come to the United Kingdom under the scheme, had it continued, will now be able to do so as British citizens following their registration under s.4B of the British Nationality Act 1981 (see Volume 1, Chapter 12).