

Independence

1. The position before 1983

1.1 When a former British colony, associated state, protectorate etc, achieved independence within the Commonwealth, and made its own citizenship laws, a corresponding Independence Act was passed in the United Kingdom to deal with the consequences, e.g.:

- To include the name of the newly independent country in s.1(3) of the BNA 1948; and, if necessary
- To remove it from the list of protectorates etc in the current British Protectorates, Protected States and Protected Persons Order; and
- To withdraw citizenship of the United Kingdom and Colonies from certain people who became citizens of the new country

1.2 Independence Acts of that period tended to follow a regular pattern and included, besides the provisions already mentioned,

- the removal of entitlement to registration as a citizen of the United Kingdom and Colonies under s.6(2) of the BNA 1948 from the wife of a man who ceased to be a citizen of the United Kingdom and Colonies on becoming a citizen of the new country
- provision for residence in that country before independence to continue to count, for the purposes of naturalisation, under paragraph 1(b) of the Second Schedule to the 1948 Act
- arrangements for the exercise in the new country of the Secretary of State's function of registration

2. Withdrawal of citizenship of the United Kingdom and Colonies

2.1 The provisions for the withdrawal of citizenship of the United Kingdom and Colonies ensured that nobody who held that citizenship immediately before the date of independence would be rendered stateless on that date.

2.2 If citizens of the United Kingdom and Colonies had a connection with the new country but did not acquire its citizenship they remained, with certain exceptions, citizens of the United Kingdom and Colonies. The exceptions are to be found in the independence arrangements for the Bahamas, Belize, Cyprus, Kiribati, Sierra Leone and the Solomon Islands.

2.3 People who had a specific connection with the United Kingdom and its dependencies were also excepted from loss (see EXCEPTIONS TO LOSS). These specified connections are usually shown in the relevant legislation passed in the United Kingdom in connection with the independence of the country concerned (e.g. the Kenya Independence Act 1963). However, the Ghana retention provisions are in s.2 of the BNA 1958.

3. Territories becoming independent after 1982

3.1 It was decided that when any of the dependent territories achieved independence within the Commonwealth, people who held British Dependent Territories citizenship solely by virtue of a connection with that territory would lose their British Dependent Territories citizenship as part of an independence settlement unless they had close connections with a remaining dependency. However, British citizenship would not be lost in such circumstances. St Christopher and Nevis (St Kitts) achieved independence in 1983.

4. Procedure to work through on independence

4.1 Was the person a CUKC or a BPP before independence? If not, the person did not become a citizen of the newly independent country.

4.2 Did the person become a citizen of the new country? If not, the person was unaffected by independence and remained a CUKC.

4.3 Did the person have any exception to loss? If not, the person lost CUKC on the date of independence.

4.4 Was the person affected by a subsequent Independence Act? If the person was, then follow the same procedure through again.

5. Summary of normal exceptions to loss

5.1 See "EXCEPTIONS TO LOSS".

6. Specific independence provisions to note

6.1 Aden (South Yemen)

6.1.1 Although the People's Republic of Southern Yemen was formed on 30 November 1967, citizenship of the United Kingdom and Colonies was not withdrawn from any of its citizens until 14 August 1968.

6.1.2 There was an unusual exception to loss of citizenship of the United Kingdom and Colonies in that a person did not cease to be a CUKC if ordinarily resident in the United Kingdom, a Colony, Protectorate or Trust Territory on 14 August 1968. This did not apply to British protected persons, who automatically lost that status on becoming Yemeni citizens.

6.1.3 Acquisition of Yemeni citizenship depended upon being of "Arab stock".

6.2 Burma

6.2.1 Burma was formerly an Indian province which became an independent foreign country on 4 January 1948 and, therefore, the status of British subject was lost rather than citizenship of the United Kingdom and Colonies.

6.2.2 Some people who became Burmese made declarations to remain British subjects ('Burma Declarations') and became citizens of the United Kingdom and Colonies under s.12(4) of the BNA 1948.

6.2.3 Some British subjects who did not become Burmese became citizens of the United Kingdom and Colonies under s.12(4) if not a potential or actual citizen of a s.1(3) country, e.g.:

PGF	F	APP
b India	b Burma	b Burma
1880	1910	1940
BS - Born BSWC	BS - Born BSWC	BS - Born CUKC - s.12(4)

6.3 Cyprus

6.3.1 Cyprus was annexed by the British in 1914. It became an independent Commonwealth country on 16 August 1960 - except for the sovereign bases of Dhekelia and Akrotiri which were still treated as colonies and are dependent territories under the British Nationality Act 1981.

6.3.2 Citizenship of the United Kingdom and Colonies was not lost until a nationality law was formulated on 16 February 1961. There was an additional exception to loss for those who were ordinarily resident in any area of the Commonwealth (except Cyprus) immediately before 16 August 1960. Loss of citizenship of the United Kingdom and Colonies did not necessarily depend on the acquisition of citizenship of Cyprus.

6.4 Ireland

6.4.1 Under s.2 of the BNA 1948, those persons born before 1 January 1949 in Eire could claim to remain British subjects (this right is continued in s.31 of the BNA 1981).

6.4.2 Some Irish citizens could become citizens of the United Kingdom and Colonies under s.12(4) of the BNA 1948 if they were born before 6 December 1922 and left Ireland before that date.

6.5 Malaysia

6.5.1 The Federation of Malaya was formed on 31 August 1957 of 9 Malay States (Protected States) and the colonies of Penang and Malacca. British protected persons lost that status on independence but there was no provision for the loss of citizenship of the United Kingdom and Colonies.

6.5.2 North Borneo, Sarawak and Singapore joined with those states to form the Federation of Malaysia on 16 September 1963. The Malaysia Act withdrew citizenship of the United Kingdom and Colonies on basically normal grounds but did not affect existing citizens of the Federation.

6.5.3 Therefore there was no provision for loss of CUKC for people who acquired that status by their birth or connection with Penang and Malacca before 31 August 1957. A person born there or legally descended from a father born there may have had an automatic claim to citizenship of the United Kingdom and Colonies - now they are mainly British Overseas citizens.

6.6 Federation of Rhodesia and Nyasaland

6.6.1 This Federation was formed on 1 March 1958 and was made up of the Colony of Southern Rhodesia and the Protectorates of Northern Rhodesia and Nyasaland.

6.6.2 The Federation was dissolved on 31 December 1963, and those Federation citizens who did not become Southern Rhodesian on that date became citizens of the United Kingdom and Colonies under s.74(2) of Order in Council. Most - but not all - of these were connected with Nyasaland or Northern Rhodesia and ceased to be citizens of the United Kingdom and Colonies when these countries became independent (as Malawi and Zambia).

6.7 Antigua and Barbuda/Belize

6.7.1 An additional exception to loss of citizenship of the United Kingdom and Colonies was for those citizens of the United Kingdom and Colonies who became citizens of the newly independent country but possessed Right of Abode immediately prior to independence. The most usual claims arise from those who had right of abode under s.2(1)(c) of the Immigration Act 1971 on the basis of 5 years residence in the United Kingdom or women married to men with the right of abode. Antigua and Barbuda achieved independence on 1 November 1981; Belize on 21 September 1981.

6.8 St Christopher and Nevis

6.8.1 St Christopher (aka St Kitts) and Nevis became independent Commonwealth countries on 19 September 1983. British citizenship was not lost by anyone who became a citizen of these countries on that date. British Dependent Territories citizenship was however lost unless there was a connection with a remaining dependent territory.

6.9 Dominica, Kiribati, St Lucia, St Vincent & the Grenadines, Solomon Islands & Tuvalu

6.9.1 Under the independence legislation of these countries, a woman who had acquired citizenship of the UK and Colonies under s.6(2) of the BNA 1948 lost CUKC if her husband ceased to be a CUKC at independence.

7. Explaining the position in individual cases

7.1 It is sometimes necessary to explain the impact of independence on a person's nationality status. In all cases our explanation should cover the person's position under current legislation.

Where we already have sufficient information about the enquirer's parent or parents

7.2 In most cases the likelihood of the enquirer's having a grandparent born etc in the United Kingdom will be remote, and it will not be worthwhile enquiring specifically about this. Nevertheless when explaining the position a letter should be sent on the lines of the example below, quoting all the categories of people who were excepted from loss of British nationality, so that a person who might benefit from an unexpected connection will be encouraged to establish it. A definite statement should only be made in cases where the possibility of exception has been fully explored.

NB. This version of the letter applies to a person born before, and to a territory acquiring independence before, 1 January 1983. It should be suitably amended in cases where either of these events took place on or after that date.

"Dear

Thank you for your letter of, in which you raised the question of your nationality status.

It is true that by reasons of [your birth] in the former colony of you were a citizen of the United Kingdom and Colonies.

However, when became an independent country within the Commonwealth, you would have automatically become a citizen of under that country's citizenship legislation. The Independence Act, in common with other legislation enacted by the United Kingdom Parliament on the independence of a former dependent territory, provided that persons who derived their citizenship of the United Kingdom and Colonies from their connection with that territory should, with certain exceptions, lose that citizenship if they became citizens of the new country on independence.

The exceptions covered any person who Unless you came into any of these categories (and on present information this does not appear to be the case) you ceased to be a citizen of the United Kingdom and Colonies on acquiring citizenship of You would not therefore have become a British citizen, a British Dependent Territories citizen or a British Overseas citizen under the British Nationality Act 1981.

If, on further investigation, you are able to claim the benefit of one of the exceptions, you should inform the Home Office at once. Otherwise it may be possible for you to seek British citizenship by applying for naturalisation under section of the British Nationality Act 1981 if and when you can satisfy the requirements set out in the enclosed leaflet BN

Yours sincerely"

Where we have insufficient information about the enquirer's ancestors etc

7.3 Where we have insufficient information about the enquirer's ancestors etc to write a helpful letter along the lines of the draft above, stock letter FURTHER PARTICULARS 3 (ICD 455) should be sent. When the questionnaire has been completed and returned it should in most cases be possible to decide the effect, if any, of independence legislation. A suitable letter should then be sent giving a more definitive assessment of the enquirer's citizenship status and, where applicable, advising him how he may seek to [re] acquire our citizenship.