



British Nationality (Hong Kong) Act 1990

1990 CHAPTER 34

An Act to provide for the acquisition of British citizenship by selected Hong Kong residents, their spouses and minor children. [26th July 1990]

WE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Acquisition of British citizenship

- (1) Subject to the provisions of this section, the Secretary of State shall register as British citizens up to 50,000 persons recommended to him for that purpose by the Governor of Hong Kong under a scheme or schemes made and approved in accordance with Schedule 1 to this Act.
- (2) No person shall be registered under subsection (1) above after 30th June 1997.
- (3) The Secretary of State may direct the Governor to make not more than a specified proportion of his recommendations in a period or periods specified in the direction; and any such direction may make different provision in relation to recommendations in respect of persons of different classes or descriptions.
- (4) Schedule 2 to this Act shall have effect for enabling the spouse and minor children of a person registered under subsection (1) above to acquire British citizenship by registration; and no spouse or minor child to whom Schedule 2 to this Act applies shall be registered under subsection (1) above.
- (5) Neither the Secretary of State nor the Governor shall be required to give any reason for any decision made by him in the exercise of a discretion vested in him by or under this Act and no such decision shall be subject to appeal or liable to be questioned in any court.

2 Consequential nationality provisions

- (1) A person who is registered as a British citizen by virtue of section 1(1) above shall be treated for the purposes of the British Nationality Act 1981 (in this Act referred to as “the principal Act”) as a British citizen otherwise than by descent; and a person who is registered as a British citizen by virtue of Schedule 2 to this Act shall be treated for the purposes of that Act as a British citizen by descent.
- (2) A British Dependent Territories citizen shall cease to be such a citizen if he becomes, or has before the coming into force of this subsection become, a British citizen by virtue of this Act.
- (3) The following provisions of the principal Act shall have effect as if this Act were included in that Act—
 - section 37 (Commonwealth citizenship)
 - section 40 (deprivation of citizenship)
 - section 41 (regulations) other than subsection (2)
 - section 42 (general provisions about registration etc.)
 - section 44(1) (discretions to be exercised without regard to race, colour or religion)
 - section 45 (evidence)
 - section 46 (offences)
 - section 47 (legitimated children)
 - section 48 (posthumous children)
 - section 50 (interpretation).

3 Procedure

- (1) The Governor of Hong Kong may by regulations make provision—
 - (a) with respect to the manner in which applications are to be made to him under any scheme made for the purposes of section 1(1) above or under Schedule 2 to this Act and generally with respect to the procedure to be followed in Hong Kong in connection with any such scheme or that Schedule; and
 - (b) for the payment, at such times as may be specified, of fees in respect of such applications and in respect of the registration of any person by virtue of this Act.
- (2) Regulations under subsection (1) above may make different provision for different cases.
- (3) The Governor—
 - (a) shall appoint a committee to advise him on such matters arising under any scheme made for the purposes of section 1(1) above or under Schedule 2 to this Act as he may determine; and
 - (b) may authorise such public officers in Hong Kong as he may determine to exercise on his behalf such functions in respect of applications under any such scheme or that Schedule as he may direct,but no recommendation shall be made under this Act except by the Governor.
- (4) Section 1(5) above shall apply to a decision made by a public officer by virtue of subsection (3)(b) above as it applies to a decision made by the Governor.

4 Governor's annual report

The Governor of Hong Kong shall submit to the Secretary of State an annual report on the discharge by the Governor of his functions under this Act.

5 Expenses and receipts

- (1) There shall be paid out of money provided by Parliament any administrative expenses incurred by the Secretary of State under this Act.
- (2) The Governor of Hong Kong shall pay to the Secretary of State such sums as the Secretary of State may determine in respect of the expenses mentioned in subsection (1) above and any such sums shall be paid into the Consolidated Fund.

6 Short title, savings, commencement and extent

- (1) This Act may be cited as the British Nationality (Hong Kong) Act 1990.
- (2) A person shall not under this Act be recommended for registration as a British citizen by the Governor of Hong Kong or registered as such a citizen by the Secretary of State if the Governor or, as the case may be, the Secretary of State has reason to believe that he is not of good character.
- (3) Nothing in this Act shall entitle a person to be registered as a British citizen pursuant to a recommendation made for the purposes of section 1(1) above if the Secretary of State has reason to believe that he has ceased to satisfy the requirements of paragraph 4 of Schedule 1 to this Act after the recommendation was made.
- (4) This Act shall come into force on such day as the Secretary of State may appoint by an order made by statutory instrument and different days may be appointed for different provisions or different purposes.
- (5) This Act has the same extent as the provisions of the principal Act mentioned in section 2(3) above.

SCHEDULES

SCHEDULE 1

Section 1(1).

SELECTION SCHEMES

- 1 Effect shall be given to any scheme for the purposes of section 1(1) of this Act by an Order in Council setting out the terms of the scheme; and no such Order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- 2 The scheme set out in an Order in Council under this Schedule shall—
- (a) in the case of the first Order to be made under this Schedule, be a scheme submitted to the Secretary of State by the Governor of Hong Kong with such modifications (if any) as the Secretary of State may think necessary or expedient; and
 - (b) in the case of any subsequent Order, be a scheme which amends, supplements or replaces a previous scheme and is either such a scheme as is mentioned in paragraph (a) above or a scheme made by the Secretary of State after consulting the Governor.
- 3 A scheme under this Schedule shall make provision for the selection by the Governor of persons to be recommended by him under section 1(1) of this Act.
- 4 (1) Any such scheme shall apply to persons who are settled in Hong Kong and who—
- (a) are British Dependent Territories citizens by virtue of a connection with Hong Kong or have before the passing of this Act applied for registration or naturalisation as such citizens by virtue of such a connection and whose applications would have been successful in the absence of registration under this Act; or
 - (b) are British Nationals (Overseas), British Overseas citizens, British subjects by virtue of Part IV of the principal Act or British protected persons.
- (2) Directions under section 1(3) of this Act may include provisions specifying for the purposes of sub-paragraph (1)(a) above a date or dates later than the passing of this Act.
- (3) References in this paragraph to a connection with Hong Kong shall be construed in accordance with Article 2 of the Hong Kong (British Nationality) Order 1986.
- 5 (1) Without prejudice to the provisions that may be made in a scheme by virtue of paragraph 3 above, a scheme may in particular—
- (a) prescribe different criteria or quotas for persons of different classes or descriptions;
 - (b) specify different methods of selection as between persons of different classes or descriptions;
 - (c) authorise the Governor to decide at his discretion between persons equally qualified under the scheme; and
 - (d) make provision for incidental and supplementary matters.

- (2) A scheme may also in particular include provisions authorising the Governor to make a recommendation in respect of any person who, having regard to such matters as are specified in the scheme, he considers should be recommended in view of his special contribution to the economy of Hong Kong.

SCHEDULE 2

Section 1(4).

REGISTRATION OF SPOUSES AND MINOR CHILDREN

- 1 The Secretary of State shall register as a British citizen—
 (a) the spouse of a person registered under section 1(1) of this Act; and
 (b) any minor child of any such person,
if the spouse or child is recommended to the Secretary of State for that purpose by the Governor of Hong Kong.
- 2 No such recommendation shall be made by the Governor except in pursuance of an application made to him by or on behalf of the spouse or child in question before such date, if any, as he may specify.
- 3 This Schedule applies to a spouse whether the marriage took place before or after the registration of the person mentioned in paragraph 1(a) above except that if it took place after that registration this Schedule applies only if that person was at the time of the marriage settled in Hong Kong.
- 4 (1) References in this Schedule to a minor child of a person registered under section 1(1) of this Act are to a person who is his child on the date of registration and is a minor on the date of the application under paragraph 2 above.
- (2) Subject to sub-paragraph (1) above, references in this Schedule to a child include—
 (a) an adopted child if the order authorising the adoption was made by a court in Hong Kong; and
 (b) where the person mentioned in that sub-paragraph is a woman, an illegitimate child of that person.
- 5 For the purposes of this Schedule it is immaterial whether the spouse or child in question is settled in Hong Kong or has any citizenship or nationality otherwise than under the principal Act.