British Nationality (Hong Kong) Act 1997

1997 CHAPTER 20

An Act to provide for the acquisition of British citizenship by certain British nationals in Hong Kong. [19th March 1997]

Be 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:—

Commencement Information
I1 Act wholly in force at Royal Assent.

1 Acquisition of British citizenship.

(1) Subject to the provisions of this section, the Secretary of State shall, on an application made for the purpose, register as a British citizen any person who—
  (a) is ordinarily resident in Hong Kong at the time of the application; and
  (b) satisfies the requirements of subsection (2) or (3) below.

(2) The requirements of this subsection are that, immediately before 4th February 1997 ("the relevant date"), the person—
  (a) was ordinarily resident in Hong Kong;
  (b) was a British Dependent Territories citizen by virtue only of his having a connection with Hong Kong (within the meaning given by the Schedule to this Act); and
  (c) would have been a stateless person if he had not been such a citizen, or such a citizen and a British National (Overseas).

(3) The requirements of this subsection are that, immediately before the relevant date, the person—
  (a) was ordinarily resident in Hong Kong;

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(b) was a British Overseas citizen, a British subject or a British protected person; and

(c) would have been a stateless person if he had not been such a citizen, subject or person.

(4) Subsections (2) and (3) above shall each have effect, in relation to a person who is or was born at any time on or after the relevant date, as if the reference to immediately before that date were a reference to that time.

(5) Paragraphs (b) and (c) of each of those subsections shall have effect, in relation to a person who, at any time on or after the relevant date, becomes or became—

(a) in the case of subsection (2) above, a British Dependent Territories citizen; or

(b) in the case of subsection (3) above, a British Overseas citizen, a British subject or a British protected person,

as if the reference to immediately before that date were a reference to that time.

(6) A person shall not be registered under subsection (1) above if, on or after the relevant date, he renounces or renounced, or otherwise gives or gave up of his own volition, the status of a national or citizen of a country or territory outside the United Kingdom.

(7) A person shall not be registered under subsection (1) above before 1st July 1997.

(8) In this section expressions which are also used in the [M1]British Nationality Act 1981 ("the principal Act") have the same meanings as in that Act.

Marginal Citations

M1 1981 c. 61.

2 Supplementary.

(1) A person who is registered as a British citizen under subsection (1) of section 1 above, and satisfies the requirements of subsection (2) of that section, shall be treated for the purposes of the principal Act as—

(a) a British citizen by descent; or

(b) a British citizen otherwise than by descent,

according as, immediately before becoming a British citizen, he was for the purposes of that Act a British Dependent Territories citizen by descent or a British Dependent Territories citizen otherwise than by descent.

(2) A person who is registered as a British citizen under subsection (1) of section 1 above, and satisfies the requirements of subsection (3) of that section, shall be treated for the purposes of the principal Act as a British citizen by descent.

(3) The following provisions of the principal Act shall have effect as if this Act were included in that Act, namely—

section 37 (Commonwealth citizenship);

section 40 (deprivation of citizenship);

section 41 (regulations);

section 42 (general provisions about registration etc.);

section 45 (evidence);

section 46 (offences);

section 47 (legitimated children);
section 48 (posthumous children);
section 50 (interpretation);
section 51(3) (meaning of "citizen of the United Kingdom and Colonies" in other Acts and instruments).

3 Short title and extent.

(1) This Act may be cited as the British Nationality (Hong Kong) Act 1997.

(2) This Act has the same extent as the provisions of the principal Act mentioned in section 2(3) above.

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SCHEDULE

Section 1(2).

PERSONS HAVING A CONNECTION WITH HONG KONG

1 (1) A person shall be taken to have a connection with Hong Kong for the purposes of section 1(2) of this Act if—

(a) subject to paragraph 2 below, he, his father or his mother was born, naturalised or registered in Hong Kong or found abandoned there as a new-born infant;

(b) he, his father or his mother was adopted (whether or not in Hong Kong) and the adopter or, in the case of a joint adoption, one of the adopters was at the time of the adoption a British Dependent Territories citizen by virtue of his having a connection with Hong Kong as specified in this Schedule;

(c) he, his father or his mother ("the registered person") was registered outside Hong Kong on an application based (wholly or partly) on any of the following—

(i) residence in Hong Kong;

(ii) descent from a person born in Hong Kong;

(iii) descent from a person naturalised, registered or settled in Hong Kong (whether before or after the birth of the registered person);

(iv) descent from a person adopted (whether or not in Hong Kong) in the circumstances specified in sub-paragraph (b) above;

(v) marriage to a person who is a British Dependent Territories citizen by virtue of his having a connection with Hong Kong as specified in this Schedule or would, but for his death or renunciation of citizenship, be such a citizen by virtue of his having such a connection;

(vi) Crown service under the government of Hong Kong;

(vii) where the registered person had previously renounced citizenship of the United Kingdom and Colonies, or British Dependent Territories citizenship, birth, naturalisation or registration in Hong Kong;

(d) at the time of his birth his father or mother was settled in Hong Kong;

(e) his father or mother was born to a parent who at the time of the birth was a citizen of the United Kingdom and Colonies by virtue of his having a connection with Hong Kong as specified in this Schedule; or

(f) being a woman, she was married before 1st January 1983 to a man who is a British Dependent Territories citizen by virtue of his having a connection with Hong Kong as specified in this Schedule or would, but for his death or renunciation of citizenship, be such a citizen by virtue of his having such a connection.

(2) In sub-paragraph (1) above "registered" means registered—

(a) as a British Dependent Territories citizen, or

(b) before 1st January 1983, as a citizen of the United Kingdom and Colonies;

and "registration" shall be construed accordingly.

2 A person born in Hong Kong on or after 1st January 1983 shall not be taken to have a connection with Hong Kong as specified in paragraph 1(1)(a) above by virtue of his birth there unless, at the time of his birth, one of his parents was—

(a) settled in Hong Kong; or

(b) a British Dependent Territories citizen by virtue of his having a connection with Hong Kong as specified in this Schedule.

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