

CHAPTER 1: LEVELS OF DECISION-TAKING

HIGH PROFILE CASES/PRESS ENQUIRIES

For information on how to deal with high profile cases or applications that receive press enquiries please see section 17 of this chapter. Detailed guidance is given in Volume 2 Section 1 - H of the instructions.

1. AUTOMATIC CLAIMS TO BRITISH NATIONALITY

NB. These arise when a caseworker notices that an applicant for naturalisation or registration already appears to hold the citizenship applied for. The level at which action is initiated will be the level at which the consideration process begins. Therefore only the level of decision taking can be prescribed. The grade referred to as decision making refers to the minimum grade. Within Nationality, Senior Caseworkers are at HEO level.

<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>
Accepting or rejecting claim where evidence is doubtful	N/A	EO
Accepting or rejecting claim in all other cases	N/A	EO
Illegitimate minors born on or after 1.7.06 - Accept or reject evidence of paternity (except birth certificate)	N/A	SCW

2. REGISTRATION OF MINORS AS BRITISH CITIZENS - ENTITLEMENT PROVISIONS

<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>
Refusal - deception (where 10 year bar is proposed)	AO	Chief Caseworker
Section 1(3) , grant/refusal (in other cases)	AO	AO
Section 1(4) , grant or refusal - no discretion involved	AO	AO
Section 1(4) , grant - discretion exercised in applicant's favour	AO	AO
Section 1(4) , refusal - discretion <u>not</u> exercised in applicant's favour	AO	EO
Section 3(2) , grant - no discretion involved	AO	AO
Section 3(2) , grant - discretion over time limit exercised in applicant's favour	AO	AO
Section 3(2) , refusal - discretion <u>not</u> exercised in applicant's favour	AO	EO
Section 3(5) , grant/refusal (in other cases)	AO	AO
Section 3(5) - invite re-declaration of application form where applicant/parent(s) not in UK/qualifying	AO	EO

territories on start date

Illegitimate minors born on or after 1.7.06 - Accept or reject evidence of paternity (except birth certificate) AO SCW

(Note: All applications in respect of allegedly stateless minors are dealt with in a designated team)

3. **REGISTRATION OF MINORS - DISCRETIONARY PROVISIONS**

<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>
Refusal on grounds of deception (where 10 year bar is proposed)	AO	Chief Caseworker
Section 3(1) , grant where minor adopted abroad - no reservations	AO	AO
Section 3(1) , grant where minor adopted abroad - reservations exist	AO	EO
Section 3(1) , refusal where minor adopted abroad	AO	EO

(Note: All applications in respect of adopted children are dealt with in a designated team)

Section 3(1) , grant or refusal where a parent objects to registration	AO	EO
Section 3(1) , grant or refusal of Hong Kong "split families" application	AO	EO
Section 3(1) - applicant born before 1.1.83 to BC mother born, naturalised or registered in the UK <u>and application referred from overseas post with all relevant documents/information</u>	EO	EO
Section 3(1) - illegitimate child of a BC father - grant	AO	AO
Section 3(1) - illegitimate child of a BC father - refusal	AO	EO
Illegitimate minors - Accept or reject evidence of paternity (except birth certificate)	AO	SCW
Section 3(1) , grant on the grounds of family/sibling unity	AO	EO
Section 3(1) , grant if paragraph 9.17 criteria are met	AO	AO
Section 3(1) , refuse paragraph 9.17 case on basis of impending prosecution	AO	AO
Section 3(1) , grant in all other categories	AO	EO
Section 3(1) , refusal in all other categories	AO	EO
Section 27(1) , grant/refusal in all other categories	SCW	SCW

Section 32, grant/refusal in all other categories SCW SCW

(Note: All applications in respect of allegedly stateless minors are dealt with in a designated team)

4. **REGISTRATION OF BRITISH NATIONALS AS BRITISH CITIZENS**

<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>
Refusal on grounds of deception (where 10 year bar is proposed)	AO	Chief Caseworker
Refusal - applicant's child(ren) not of good character	AO	Chief Caseworker
Section 4(2) , grant or refuse - no discretion involved	AO	AO
Section 4(2) , grant - discretion used to waive excess absences of more than 450 days but not exceeding 730 days	AO	AO
Section 4(2) , grant - discretion used to waive absences of more than 730 days but not exceeding 900 days	AO	EO
Section 4(2) , grant - discretion used to waive absences in excess of 900 days	AO	SCW
Section 4(2) , grant - discretion used to waive excess absences in the final 12 months of the QP of more than 90 days but not more than 100 days	AO	AO
Section 4(2) , grant - discretion used to waive excess absences in the final 12 months of the QP of more than 100 days but not more than 180 days	AO	AO
Section 4(2) , grant - discretion used to waive excess absences of more than 180 days in the final 12 months of the QP where the residence requirements over the full 5 year QP are met	AO	AO
Section 4(2) , grant - discretion used to waive excess absences of more than 180 days in the final 12 months of the QP where the residence requirements over the full 5 year QP are not met	AO	SCW
Section 4(2) , refusal - discretion not exercised in applicant's favour	AO	EO
Section 4(2) - invite re-declaration of application form where applicant not in UK on start date	AO	EO
Section 4(5) , grant/refuse in other cases	SCW	SCW
Section 4A , grant or refuse - no discretion involved	AO	AO

Section 4A , refuse - discretion not exercised in applicant's favour	AO	SCW
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(Note: All applications under **s.4A** are dealt with in a designated team)

Section 4B: grant	AO	AO
refuse in all other cases	AO	EO

(Note: All applications under **s.4B** are dealt with in a designated team)

5. **REGISTRATION OF STATELESS PERSONS (SCHEDULE 2)**

<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>
Para 3 or 4 , grant or refuse - no discretion involved	AO	AO
Para 3 or 4 , grant - discretion exercised in applicant's favour	AO	AO
Para 3 or 4 , refusal - no entitlement	AO	AO
Para 3 or 4 , refusal - discretion not exercised in applicant's favour	AO	EO
Para 3 or 4 - invite re-declaration of application form where applicant not in UK/British overseas territory on start date	AO	EO
Para 5 , grant or refuse	AO	EO

6. **NATURALISATION AS A BRITISH CITIZEN**

<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>
All requirements met - no discretion necessary	AO	AO
Grant - discretion used to waive excess absences of more than 450(270) days but not exceeding 730(450) days	AO	AO
Grant - discretion used to waive excess absences of more than 730(450) days but not exceeding 900(540) days	AO	EO
Grant - discretion used to waive absences in excess of 900(540) days	AO	SCW
Grant - discretion used to waive excess absences in the final 12 months of the QP of more than 90 days but not more than 100 days	AO	AO
Grant - discretion used to waive excess absences in the final 12 months of the QP of more than 100 days but not more than 180 days	AO	AO
Grant - discretion used to waive excess absences of more than 180 days in the final 12 months of the	AO	EO

QP where the residence requirements over the full 5(3) year QP are met		
Grant - discretion used to waive excess absences of more than 180 days in the final 12 months of the QP where the residence requirements over the full 5(3) year QP are not met	AO	SCW
Grant or refusal where s.6(1) applicant applying on basis of Crown service alternative to normal residence requirements	SCW	SCW
Grant in other cases where discretion is exercised in applicant's favour in respect of any residence requirement	AO	AO
Grant/refuse where discretion is requested in respect of language requirement on the grounds of age	AO	AO
Grant/refuse where discretion is requested in respect of language requirement on the grounds of physical/mental incapacity	AO	SCW
Grant/refuse where discretion is requested in respect of knowledge of life requirement on the grounds of age	AO	AO
Grant/refusal where discretion is requested in respect of knowledge of life requirement on the grounds of physical/mental incapacity	AO	SCW
Grant where applicant has been released on licence following a life sentence	AO	SCW
Grant where discretion is exercised to waive a single minor conviction	AO	EO
Refusal on basis if impending prosecution	AO	AO
Refusal - deception (where 10 year bar is proposed)	AO	Chief Caseworker
Refusal - applicant's child(ren) not of good character	AO	Chief Caseworker
Refusal on other character grounds	AO	EO
Grant or refusal where future intentions in doubt	AO	EO
Grant where full capacity in doubt	AO	EO
Refusal on full capacity	AO	SEO
Refusal where applicant fails to meet other unwaivable requirement	AO	AO
Refusal - discretion not exercised over waivable requirement	AO	EO

Grant or refusal of a s.6(2) application where application made on grounds of British citizen spouse's /civil partners Crown or designated service	EO	EO
Refusal of an application on the grounds of delay in sending tax/NIC confirmation	AO	EO
Refusal on the grounds of delay in any other circumstances	AO	AO
Grant of an application from an undischarged bankrupt	AO	SCW
Invite re-declaration of application form where applicant not in UK on start date	AO	EO
Where a decision is likely to attract public attention or press reaction	AO	SCW

7. **REGISTRATION AS A BRITISH CITIZEN - TRANSITIONAL PROVISIONS (SECTION 7(1))**

<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>
Grant or refusal - no discretion involved	AO	EO
Refusal - no entitlement	AO	EO
Grant where full capacity in doubt	AO	EO
Refusal on full capacity	AO	SEO
Grant - discretion exercised over time limit	AO	EO
Refusal - discretion not exercised over time limit	AO	EO

8. **RENUNCIATION (INCLUDING UNDER THE HONG KONG (BRITISH NATIONALITY) ORDER 1986)**

<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>
Registration, except where otherwise specified	AO	AO
Declaration unlikely to be registered within the time limit specified	AO	EO
Registration where declaration referred by overseas Post with all relevant documents/information	AO	AO
Registration where declarant not <u>required</u> to renounce in order to retain/acquire another nationality, but chooses to renounce	AO	AO
Declarant wrongly believes or mischievously claims that renunciation is necessary in order to retain/acquire another nationality	AO	EO

Registration where full capacity in doubt	AO	EO
Refusal to register on full capacity	AO	SEO
Refusal to register because other necessary requirements are not satisfied	AO	EO
Declarant has not acquired another citizenship and the declaration is to be endorsed as void	EO	EO

9. **RESUMPTION OF BRITISH CITIZENSHIP FOLLOWING RENUNCIATION OF CUKC**

<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>
Refusal - deception (where 10 year bar is proposed)	AO	Chief Caseworker
Refusal - applicant's child(ren) not of good character	AO	Chief Caseworker
Section 10(1) , grant	EO	EO
Section 10(1) or 10(2) - full capacity in doubt	EO	EO
Section 10(1) or 10(2) , refusal on full capacity	EO	SEO
Section 10(1) or 10(2) , refusal - other statutory requirements not met	EO	EO
Section 10(2) , grant - discretion exercised in applicant's favour	EO	EO
Section 10(2) , refusal - discretion not exercised in applicant's favour on character grounds	EO	EO
Section 10(2) , refusal - discretion not exercised on other grounds	EO	EO

10. **RESUMPTION OF BRITISH CITIZENSHIP FOLLOWING RENUNCIATION OF BRITISH CITIZENSHIP**

<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>
Refusal - deception (where 10 year bar is proposed)	AO	Chief Caseworker
Refusal - applicant's child(ren) not of good character	AO	Chief Caseworker
Section 13(1) , grant	AO	AO
Section 13(3) , refusal on character grounds	AO	EO
Section 13(1) or 13(2) - full capacity in doubt	AO	EO
Section 13(1) or 13(2) , refusal on full capacity	AO	SEO

	Section 13(3), grant or refusal on grounds other than character	AO	EO
11.	<u>REGISTRATION AS A BRITISH CITIZEN UNDER THE HONG KONG (WAR WIVES AND WIDOWS) ACT 1996</u>		
	<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>
	Refusal - deception (where 10 year bar is proposed)	AO	Chief Caseworker
	Refusal - applicant's child(ren) not of good character	AO	Chief Caseworker
	Grant/refusal in other cases	EO	EO
12.	<u>REGISTRATION AS A BRITISH CITIZEN UNDER THE BRITISH NATIONALITY (HONG KONG) ACT 1997</u>		
	<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>
	Grant	AO	AO
	Refusal - deception (where 10 year bar is proposed)	AO	Chief Caseworker
	Refusal - applicant's child(ren) not of good character	AO	Chief Caseworker
	Refusal - not ordinarily resident in Hong Kong	AO	SCW
	Refusal - other grounds	AO	SCW
	(Note: All applications under the 1997 Act are dealt with in a designated team)		
13.	<u>DEPRIVATION/NULLITY</u>		
	<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>
	Decision to recommend to Ministers that an order should be made for deprivation of citizenship	EO	Deputy Director
	Decision to proceed on the basis that a registration or naturalisation was a nullity	EO	SEO
14.	<u>JUDICIAL REVIEW</u>		
	<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>
	Person who we have refused to naturalise or register seeks a judicial review of the decision - response needs to be decided	SCW	Deputy Director
15.	<u>APPLICATION FOR CERTIFICATE OF ENTITLEMENT TO THE RIGHT OF ABODE</u>		
	<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>

Grant	AO	AO
Refusal - on grounds that applicant holds a current British citizen passport	AO	AO
Refusal in all other cases	AO	EO

16. **OTHER REGISTRATION**

<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>
Section 4C:		
• Grant	AO	AO
• Refuse - deception (where 10 year bar is proposed)	AO	Chief Caseworker
• Refuse - applicant's child(ren) not of good character	AO	Chief Caseworker
• Refuse in all other cases	AO	EO
(Note: All applications under s.4C are dealt with in a designated team)		
Section 5:		
• Refuse - deception (where 10 year bar is proposed)	AO	Chief Caseworker
• Refuse - applicant's child(ren) not of good character	AO	Chief Caseworker
• No entitlement/advice given that entitlement may exist and application should be made to Governor of Gibraltar	EO	EO
Person in UK applies for registration (including registration of a declaration of renunciation) or naturalisation as a BOTC other than under Schedule 2	AO	N/A

(Note: Whilst the Home Secretary is the ultimate naturalisation/registration authority, the Governors of the British overseas territories have been given delegated authority to decide these applications and the Home Office does not therefore normally decide them. From time to time, however, applications for BOTC may be received in the Home Office from persons in the UK, and these should be referred to the Governor of the relevant territory for decision.

If, exceptionally, it is intended to determine any non-**Schedule 2** applications for BOTC or BOTC renunciations in the UK, the levels of decision-taking should be as for the equivalent BC cases.)

17. **OTHER ACTIONS**

<u>Circumstances</u>	<u>Initiate</u>	<u>Decide</u>
Decision to give priority consideration to an application	AO	AO
Applicant to be interviewed	AO	EO
Requesting police to interview applicant out of turn	AO	SCW
Referral of case to police for possible prosecution	AO	EO

Refusal after oath issued (other than on grounds of delay)	SCW	SCW
Initial representations received requesting refusal decision be reconsidered	SCW	SCW
Further representations received requesting reconsideration of the decision to refuse	SCW	SEO
Authorising completion of computer action where decision on entitlement application has been re-considered	SCW	SCW
Decision to invite fresh application	SCW	SCW
Fee/fee refund queries	EO	EO
Agree or refuse to issue:	AO	EO
<ul style="list-style-type: none"> • a duplicate certificate where original claimed lost in the post immediately after grant • a replacement certificate where details are incorrect 		
Issue of an amended certificate	AO	EO
Issue of a duplicate certificate	AO	EO

Applications that may acquire a high public profile must be drawn to the attention of a Team Leader or Senior caseworker **immediately**, regardless of whether the case is to be granted or refused.

Enquiries received from the Press should be referred to the Communications Directorate and a senior Caseworker or Team Leader should be notified **immediately** of the enquiry.

<u>RESTRICTED - NOT FOR DISCLOSURE</u>		
Requesting telephone or immediate AC2 check	AO	SEO