



CAMERA DEI DEPUTATI

XVI LEGISLATURA

## SERVIZIO BIBLIOTECA

MATERIALI DI LEGISLAZIONE COMPARATA

### **L'ACQUISIZIONE DELLA CITTADINANZA**

**UFFICIO LEGISLAZIONE STRANIERA**

**I dossier del Servizio Biblioteca sono destinati alle esigenze di documentazione interna per l'attività degli organi parlamentari e dei parlamentari. La Camera dei deputati declina ogni responsabilità per la loro eventuale utilizzazione o riproduzione per fini non consentiti dalla legge.**

*File:MLC16009*

# *Indice*

## SCHEDE DI SINTESI

### FRANCIA

Filiazione o nascita

Matrimonio

Naturalizzazione

Effetto collettivo dell'acquisizione

Doppia cittadinanza

Perdita della cittadinanza

### GERMANIA

La cittadinanza per nascita e per adozione

La cittadinanza per naturalizzazione

La cittadinanza doppia o plurima

### REGNO UNITO

Riferimenti normativi

La disciplina della cittadinanza

Nascita nel Regno Unito

Naturalizzazione dei cittadini stranieri

### SPAGNA

Riferimenti normativi

La cittadinanza d'origine

La cittadinanza mediante opzione

L'acquisizione della cittadinanza

La perdita e il riacquisto della cittadinanza

## DOCUMENTAZIONE

### FRANCIA

CODE CIVIL. Livre Ier - Des personnes. Titre Ier bis - De la nationalité française

### GERMANIA

NATIONALITY ACT

### REGNO UNITO

BRITISH NATIONALITY ACT 1981

### SPAGNA

CÓDIGO CIVIL.Libro Primero. De las personas. Título Primero. De los españoles y extranjeros

LEY 52/2007, de 26 de diciembre, por la que se reconocen y amplían derechos y se establecen medidas en favor de quienes padecieron persecución o violencia durante la guerra civil y la dictadura. Disposición adicional séptima

## Schede di sintesi

### FRANCIA

La cittadinanza (*nationalité*) francese è disciplinata dal Codice civile, agli articoli da 17 a 33-2, e dalla Convenzione del Consiglio d'Europa, del 6 maggio 1963, sulla riduzione dei casi di nazionalità plurima, di cui sono firmatari Austria, Belgio, Danimarca, Francia, Germania, Italia, Lussemburgo, Norvegia, Olanda e Svezia.

In Francia la cittadinanza può essere acquisita in tre modi diversi.

Il primo comprende sia l'acquisizione per filiazione (*jus sanguinis*) che quella per nascita (*jus soli*).

Il secondo modo di acquisizione è rappresentato dal matrimonio con cittadino o cittadina francese.

Il terzo si produce in seguito ad una decisione delle autorità francesi (naturalizzazione).

#### **Filiazione o nascita**

Per quanto riguarda l'attribuzione per filiazione, è francese il figlio, legittimo o naturale, di una coppia in cui almeno uno dei due genitori sia francese (art. 18 c.c.).

Analogamente, è francese per filiazione anche il minore oggetto di adozione piena da parte di un francese. La cittadinanza non spetta invece al minore che sia oggetto di un'adozione semplice. Egli ha tuttavia facoltà, sino al momento della maggiore età, di reclamare la cittadinanza francese con dichiarazione, purché risieda in Francia alla data di quest'ultima. L'obbligo di residenza è sospeso qualora i genitori non risiedano in Francia.

La nazionalità può essere richiesta anche da un minore abbandonato in Francia ed allevato da un cittadino francese o affidato ai servizi di assistenza sociale per l'infanzia, purché abbia ricevuto un'educazione improntata ai valori ed alla cultura nazionale per almeno cinque anni.

Per quanto riguarda l'acquisizione per nascita, è francese il figlio, legittimo o naturale, nato in Francia quando almeno uno dei due genitori vi sia nato, qualunque sia la sua cittadinanza (art. 19-3 c.c.).

La semplice nascita nel territorio nazionale non rileva ai fini dell'attribuzione della cittadinanza se non per i minori figli di apolidi o di genitori sconosciuti o che non trasmettono la loro nazionalità.

Inoltre, per effetto della legge di modifica del c.c., del 16 marzo 1998, che ha soppresso il regime della manifestazione di volontà, ogni bambino nato in Francia da genitori stranieri acquisisce automaticamente la cittadinanza francese al momento della maggiore età se, a quella data, ha la propria residenza in Francia o vi ha avuto la propria residenza abituale durante un periodo, continuo o discontinuo, di almeno 5 anni, dall'età di 11 anni in poi. Le autorità pubbliche e gli istituti di insegnamento sono tenuti ad informare le persone interessate sulle disposizioni normative in materia (art. 21-7 c.c.).

L'acquisizione automatica può essere anticipata a 16 anni dallo stesso interessato, con dichiarazione sottoscritta dinanzi all'autorità competente, o può essere reclamata per lui dai suoi genitori a partire dai 13 anni e con il suo consenso, nel qual caso il requisito della residenza abituale per 5 anni decorre dall'età di 8 anni.

## **Matrimonio**

La cittadinanza francese è aperta, con dichiarazione da sottoscrivere dinanzi all'autorità competente, a qualunque straniero o apolide che contragga matrimonio con un cittadino o una cittadina francese, dopo il termine di 4 anni dal matrimonio

(l'innalzamento del termine, da 2 a 4 anni, è stato introdotto dalla legge 2006-911, del 24 luglio 2006 relativa all'immigrazione, allo scopo di contrastare il fenomeno dei matrimoni a scopo di naturalizzazione), a condizione che alla data della dichiarazione la comunione di vita non sia cessata fra gli sposi, che il coniuge francese abbia conservato la propria nazionalità e che lo straniero dimostri una residenza effettiva e non interrotta in Francia per tre anni consecutivi (art. 21-2 c.c.). Il coniuge straniero deve inoltre dimostrare una conoscenza sufficiente della lingua francese.

La dichiarazione viene registrata, dopo un controllo di ammissibilità, presso il Ministero competente in materia di naturalizzazioni.

Il Governo può tuttavia opporsi all'acquisizione della nazionalità da parte del coniuge straniero, per indegnità o difetto di assimilazione, nel termine di due anni dalla dichiarazione di attribuzione. In caso di opposizione del Governo si considera l'acquisizione della cittadinanza come mai avvenuta, tuttavia la validità degli atti intervenuti tra la dichiarazione e il decreto di opposizione non può essere contestata sulla base della mancata attribuzione della cittadinanza (art. 21-4 c.c.).

## **Naturalizzazione**

La naturalizzazione per decisione dell'autorità pubblica può essere concessa solo allo straniero maggiorenne che dimostri la propria residenza abituale in Francia nei 5 anni precedenti la sua domanda, salvo che egli non abbia compiuto e ultimato due anni di studi in un istituto di istruzione universitaria francese o non abbia reso importanti servizi allo Stato, nel qual caso il criterio della residenza viene ridotto a 2 anni. Inoltre, per essere naturalizzato occorre avere la residenza in Francia al momento della firma del decreto.

Con residenza si intende una residenza fissa, che presenti cioè un carattere stabile e permanente e che coincida con il centro degli interessi materiali e dei legami familiari del richiedente.

Possono essere naturalizzati, prescindendo dal criterio della residenza, gli stranieri incorporati nelle forze armate francesi; chi abbia reso dei servizi eccezionali allo Stato o lo straniero la cui naturalizzazione presenti per la Francia un interesse eccezionale, nel qual caso viene richiesto il parere del Consiglio di Stato su rapporto motivato del Ministro competente. La naturalizzazione può inoltre essere concessa a chi abbia lo *status*

di rifugiato concessogli dall'Ufficio francese di protezione dei rifugiati e degli apolidi (OFPRA). In ogni caso è richiesta la maggiore età dell'interessato.

La cittadinanza per naturalizzazione non può tuttavia essere concessa a chi sia stato condannato ad una pena detentiva superiore o uguale a 6 mesi senza condizionale, o sia stato oggetto di un decreto di espulsione o di una interdizione dal territorio, o si trovi in una situazione irregolare, o sia stato condannato per atti di terrorismo.

Infine, sia l'acquisizione mediante dichiarazione (matrimonio) che quella mediante decreto (naturalizzazione) richiedono, in forme diverse, una conoscenza sufficiente della lingua francese da parte dell'interessato. Tale condizione non è richiesta per i rifugiati o apolidi che risiedono sul territorio nazionale da almeno 15 anni ed abbiano un'età superiore ai 60 anni.

La recente legge sull'immigrazione del 24 luglio 2006, ha inserito nel codice civile (articoli 21-28 e 21-29) alcune disposizioni che istituiscono la cerimonia di accoglienza nella cittadinanza francese, che viene organizzata, dal rappresentante dello Stato in ogni dipartimento, ogni sei mesi, cui sono invitate naturalmente le persone che abbiano acquisito la nazionalità francese di pieno diritto nei sei mesi precedenti la cerimonia ed i deputati e i senatori eletti nel dipartimento.

### **Effetto collettivo dell'acquisizione**

A condizione che il suo nome sia menzionato nel decreto di naturalizzazione o nella dichiarazione di acquisizione, il figlio minore, legittimo o naturale, o il bambino oggetto di adozione piena, diventa francese di pieno diritto se uno dei due genitori ha acquisito la cittadinanza francese, purché egli abbia la stessa residenza abituale del genitore in questione. In caso di separazione o divorzio dei genitori, il bambino acquisisce la cittadinanza francese se risiede abitualmente o alternativamente con il genitore che diventa francese (art. 22-1 c.c.).

### **Doppia cittadinanza**

Il possesso di una o più altre nazionalità non ha, in linea di principio, alcuna incidenza sulla cittadinanza francese.

La legge non richiede infatti che uno straniero diventato francese rinunci alla sua cittadinanza di origine o che un francese diventato straniero rinunci alla cittadinanza francese, salvo che fra gli Stati firmatari della Convenzione del Consiglio d'Europa, del 6 maggio 1963, sulla riduzione dei casi di nazionalità plurima. Questa convenzione prevede infatti la perdita automatica della cittadinanza precedente.

La Francia non stabilisce distinzioni fra coloro che hanno una doppia cittadinanza (non importa se straniero divenuto francese o francese divenuto straniero) e tutti gli altri francesi per quanto riguarda i diritti e i doveri legati alla cittadinanza. Tuttavia, un francese che possieda la doppia cittadinanza non può far valere la propria cittadinanza francese dinanzi alle autorità dell'altro Stato di cui possiede la cittadinanza, qualora risieda nel suo territorio.

## **Perdita della cittadinanza**

La perdita della cittadinanza francese si verifica generalmente per atto volontario e deriva da una dichiarazione o da una decisione della pubblica autorità.

Casi di rinuncia alla cittadinanza francese sono previsti dal Codice civile, in presenza di talune condizioni, a favore dei figli nati all'estero da un solo genitore francese o nati in Francia da un solo genitore nato in Francia.

Qualsiasi maggiorenne residente abitualmente all'estero, che abbia acquisito volontariamente una cittadinanza straniera, può, in presenza di talune condizioni, perdere la cittadinanza francese con dichiarazione sottoscritta davanti all'autorità competente.

In caso di matrimonio con uno straniero, il coniuge francese può rinunciare alla cittadinanza francese con dichiarazione, a condizione che abbia acquisito la cittadinanza del coniuge e che la residenza abituale della coppia sia stata fissata all'estero.

In ogni caso i francesi minori di 35 anni non possono dichiarare la perdita della cittadinanza se non sono in regola con gli obblighi del servizio militare.

Le persone che non sono nelle condizioni previste dalla legge per la perdita della nazionalità per dichiarazione, possono essere autorizzate con decreto qualora abbiano acquisito la cittadinanza di un paese straniero.

Il codice civile prevede anche la decadenza della cittadinanza in caso di condanna per reati di particolare gravità, come ad esempio terrorismo o attentato agli

interessi fondamentali della nazione. Il provvedimento di decadenza è adottato con decreto previo parere del Consiglio di Stato, ma non deve causare casi di apolidia.

È possibile inoltre la reintegrazione nella nazionalità per le persone che l'abbiano perduta per matrimonio con uno straniero o per acquisizione di cittadinanza straniera, qualora ne facciano richiesta. La condizione per ottenere di nuovo la nazionalità è quella di aver conservato dei legami, con la Francia, di ordine culturale, professionale, economico e familiare.



## GERMANIA

La Legge fondamentale tedesca (*Grundgesetz*) del 1949, all'articolo 16, comma 1, sancisce il principio della irrevocabilità della cittadinanza tedesca, specificando essa si perde soltanto per effetto legge e, nel caso il soggetto interessato manifesti una volontà contraria, soltanto per impedire che egli diventi apolide. Tra le disposizioni transitorie e finali della Legge fondamentale vi è poi l'articolo 116 che reca la definizione di “tedesco”, inteso come “colui che possiede la cittadinanza tedesca o colui che è stato accolto, come rifugiato o espulso di nazionalità tedesca o come suo coniuge o discendente, nel territorio del *Reich* tedesco secondo lo *status* del 31 dicembre 1937”. A coloro che sono stati privati della cittadinanza tedesca tra il 30 gennaio 1933 e l'8 maggio 1945, per motivi politici, razziali o religiosi, è nuovamente concessa la cittadinanza sulla base di una richiesta di naturalizzazione. La stessa possibilità è offerta anche ai discendenti. Non sono considerati privi di cittadinanza coloro che dopo la fine della guerra hanno preso la residenza in Germania e non hanno manifestato una volontà contraria.

La disciplina legislativa federale in materia di cittadinanza è contenuta principalmente nella Legge sulla cittadinanza (*Staatsangehörigkeitsgesetz – StAG*)[\[1\]](#) del 22 luglio 1913 che, negli ultimi anni, ha subito tre rilevanti riforme. La prima, attuata con la Legge di riforma del diritto sulla cittadinanza del 15 luglio 1999 ed entrata in vigore il 1° gennaio 2000, ha introdotto quale ulteriore condizione per l'acquisizione della cittadinanza tedesca il principio del luogo di nascita (*ius soli* o *Geburtsortsprinzip*), in aggiunta al principio di filiazione (*ius sanguinis* o *Abstammungsprinzip*).

Con la Legge sull'immigrazione (*Zuwanderungsgesetz*)[\[2\]](#) del 30 luglio 2004, entrata in vigore il 1° gennaio 2005, la regolamentazione del diritto alla naturalizzazione, prima contenuta nell'*Ausländergesetz*[\[3\]](#), è stata trasposta quasi integralmente in alcuni articoli della Legge sulla cittadinanza.

Infine, l'articolo 5 della Legge di attuazione delle direttive dell'Unione europea in materia di diritto d'asilo e di soggiorno (*Gesetz zur Umsetzung von aufenthalts- und asylrechtlichen Richtlinien der Europäischen Union*)[\[4\]](#), del 19 agosto 2007, entrata in vigore il 28 agosto 2007, ha introdotto una nuova modalità di acquisizione della cittadinanza tedesca e ha modificato la normativa riguardante la naturalizzazione degli stranieri residenti in Germania.

Per quanto riguarda, più specificamente, le modalità di acquisizione della cittadinanza tedesca, la Legge sulla cittadinanza, all'articolo 3, prevede che si possa diventare cittadini tedeschi per nascita, per adozione, per naturalizzazione e, a partire dalla riforma del 2007, nel caso in cui il soggetto interessato abbia ricevuto il trattamento di cittadino tedesco per un lungo periodo (*Ersitzung*).

In base alle nuove disposizioni, infatti, può acquisire la cittadinanza tedesca anche colui che per dodici anni è stato considerato dalla pubblica amministrazione come un cittadino della Repubblica federale senza esserlo (§ 3 comma 2). Finalità della norma è quella di tutelare la certezza del diritto, soprattutto nei casi in cui la cittadinanza tedesca costituisce una condizione necessaria per l'esercizio di ulteriori diritti, ad esempio il diritto di voto e quelli relativi alla disciplina del pubblico impiego.

Gli Uffici della pubblica amministrazione cui la legge fa riferimento sono da individuare nelle autorità statali e dei *Länder* competenti in materia di cittadinanza (per gli affari consolari, per il rilascio del passaporto e della carta di identità, per l'anagrafe e lo stato civile). Il riconoscimento dello *status* di cittadino tedesco può avvenire attraverso il rilascio di documenti che attestino l'identità tedesca del titolare (il passaporto o la carta di identità), l'iscrizione nelle liste elettorali per le elezioni nazionali, regionali e comunali, l'assunzione nell'ambito del pubblico impiego o l'abilitazione ad una determinata professione. Tale diritto si estende anche ai discendenti.

## **La cittadinanza per nascita e per adozione**

In base al principio di filiazione (*ius sanguinis* o *Abstammungsprinzip*), un bambino acquisisce la cittadinanza tedesca alla nascita se almeno uno dei suoi genitori è cittadino tedesco (§ 4, comma 1). E', tuttavia, necessario che la filiazione sia valida ai sensi della legge federale. Se, per esempio, la nazionalità tedesca è trasmessa dal padre e se questi non è sposato con la madre del bambino, è necessario il riconoscimento (*Anerkennung*) o la constatazione di paternità (*Feststellung der Vaterschaft*) prima che il minore abbia compiuto il ventitreesimo anno di età.

Dal 1° gennaio 2000 acquisiscono automaticamente la cittadinanza tedesca non solo i figli di cittadini tedeschi, ma anche i figli di stranieri che nascono in Germania (*ius soli* o *Geburtsortsprinzip*), purché almeno uno dei genitori risieda abitualmente e legalmente nel paese da almeno otto anni e goda del diritto di soggiorno a tempo

indeterminato (*unbefristetes Aufenthaltsrecht*) o, qualora sia un cittadino svizzero, sia in possesso di un permesso di soggiorno (*Aufenthaltserlaubnis*) rilasciato sulla base dell'accordo del 21 giugno 1999 tra la Comunità europea e i suoi Stati membri, da una parte, e la Confederazione elvetica, dall'altra, riguardante la libertà di circolazione (§ 4, comma 3).

Un bambino di genitori ignoti (*Findelkind*) che viene trovato in territorio tedesco è considerato figlio di cittadini tedeschi fino a prova contraria (§ 4, comma 2).

L'acquisizione della cittadinanza tedesca viene iscritta nel registro delle nascite (*Geburtenregister*) nel quale è stata annotata la nascita del minore (§ 4, comma 3).

I bambini nati prima del 1° luglio 1993 da padre tedesco e madre straniera possono acquisire la cittadinanza tedesca mediante una dichiarazione, da effettuarsi entro il compimento del ventitreesimo anno di età, se il riconoscimento o l'accertamento della paternità sono validi per la legge tedesca e se il minore stesso è residente legalmente e stabilmente in Germania da tre anni (§ 5).

I bambini che divengono cittadini tedeschi in base al principio del luogo di nascita acquisiscono contemporaneamente anche la nazionalità dei genitori stranieri. Dal compimento della maggiore età hanno cinque anni di tempo per dichiarare la loro volontà di mantenere la nazionalità tedesca o quella del paese d'origine dei genitori. Tale dichiarazione deve avvenire in forma scritta (§ 29, comma 1). Nel caso in cui scelgano di conservare la nazionalità dei propri genitori o non facciano alcuna dichiarazione ufficiale entro i termini stabiliti, essi perdono la cittadinanza tedesca (§ 29, comma 2). Qualora l'interessato voglia mantenere la nazionalità tedesca deve dimostrare, entro gli stessi termini, di aver perso quella straniera (comma 3). Immediatamente dopo il compimento del diciottesimo anno di età il soggetto interessato è informato dalle autorità competenti sullo svolgimento della procedura.

L'obbligo di rinuncia alla doppia cittadinanza non riguarda i minori che hanno acquisito la nazionalità tedesca in base al principio di filiazione. In tale caso, essi ottengono la cittadinanza di entrambi i genitori.

Infine, il paragrafo 6 disciplina l'acquisizione della cittadinanza attraverso l'adozione di un minore (*Annahme als Kind*) da parte di un cittadino tedesco. Tale diritto si estende anche ai suoi discendenti.

## **La cittadinanza per naturalizzazione**

La legge riforma del 2007 ha modificato le norme riguardanti la naturalizzazione (*Einbürgerung*) degli stranieri residenti in Germania e ne ha semplificato le procedure.

Le disposizioni sulla naturalizzazione sono contenute principalmente negli articoli da 8 a 16, da 36 a 38, 40b e 40c della Legge sulla cittadinanza.

Per tutti coloro che non sono tedeschi per diritto di nascita, ma che vogliono diventarlo perché stabiliti in Germania, la naturalizzazione rappresenta la via principale per poter acquisire la cittadinanza tedesca. La naturalizzazione non avviene in modo automatico, ma previa un'apposita richiesta da parte dell'interessato.

Nella fattispecie della naturalizzazione rientrano gli stranieri residenti stabilmente e regolarmente in Germania, i coniugi stranieri di cittadini tedeschi e i figli minori.

Ai sensi del paragrafo 10 della Legge sulla cittadinanza, uno straniero che desideri ottenere la naturalizzazione deve possedere i seguenti requisiti:

- otto anni di residenza stabile e legale sul territorio federale tedesco [il termine non si applica al coniuge straniero e ai figli minori, che possono essere naturalizzati contemporaneamente al richiedente anche se risiedono legalmente in Germania da un periodo di tempo inferiore (§ 10, comma 2), e non si interrompe per soggiorni all'estero fino a sei mesi (§ 12b, comma 1)];
- il possesso della capacità di agire (minimo 16 anni), in conformità con le disposizioni contenute nell'articolo 80, comma 1, della Legge sul soggiorno, o una rappresentanza legale;
- il rispetto e l'osservanza dell'ordinamento libero e democratico stabilito nella Legge fondamentale tedesca;
- il diritto di soggiorno a tempo indeterminato o un permesso di soggiorno rilasciato ai sensi del paragrafo 4, comma 3, della Legge sulla cittadinanza o un regolare permesso di soggiorno rilasciato per uno degli scopi previsti agli articoli 16, 17, 20, 22, 23, comma 1, 23a, 24 e 25, comma da 3 a 5 della Legge sul soggiorno;

- la capacità di assicurare il mantenimento proprio e dei familiari a carico, senza far ricorso a sussidi sociali (*Sozialhilfe*) o all'indennità di disoccupazione(*Arbeitslosengeld II*). Con la riforma del 2007, anche le persone al di sotto dei 23 anni che aspirano alla naturalizzazione devono provvedere al proprio sostentamento senza ricorrere ai sostegni economici previsti nel Secondo Libro del Codice sociale (Sicurezza di base per le persone in cerca di lavoro) e nel Dodicesimo Libro del Codice Sociale (Pubblica assistenza);
- la rinuncia o la perdita della cittadinanza d'origine. La legge di riforma del 19 agosto 2007 consente, tuttavia, a tutti i cittadini dell'Unione europea e della Svizzera di conservare la propria cittadinanza d'origine (§ 12, comma 2);
- l'assenza di condanne penali per aver compiuto atti contrari alla legge o di misure di correzione e di sicurezza. La recente riforma ha reso più rigorosi i limiti per i reati penali minori: è escluso dalla procedura di naturalizzazione chi è stato condannato ad una pena pecuniaria che superi i 90 tassi giornalieri o una pena detentiva di durata superiore ai tre mesi;
- la dimostrazione di una sufficiente conoscenza della lingua tedesca;
- la conoscenza dell'ordinamento sociale e giuridico tedesco nonché delle condizioni di vita in Germania a cui il candidato alla naturalizzazione deve conformarsi.

La conoscenza della lingua tedesca rappresenta una delle condizioni fondamentali per ottenere la cittadinanza e per integrarsi nel tessuto sociale e politico del paese. La riforma del 2007 ha stabilito che per ottenere la naturalizzazione il candidato deve superare un esame scritto ed orale di lingua tedesca e conseguire il *Zertifikat Deutsch*, equivalente al livello B1 del Quadro Comune Europeo di Riferimento per la conoscenza delle Lingue (per i minori fino a 16 anni è sufficiente una conoscenza della lingua adeguata alla loro età). Sono escluse da tale obbligo le persone impedita da malattie fisiche o mentali.

L'articolo 10, comma 3 della Legge sulla cittadinanza prevede la possibilità per gli stranieri che abbiano frequentato e superato con successo un corso di integrazione (*Integrationskurs*) di ridurre di un anno (da otto a sette) il periodo minimo di soggiorno richiesto per ottenere la naturalizzazione. Con la recente legge di modifica della normativa sulla cittadinanza, tale periodo può essere ulteriormente ridotto a sei anni qualora lo straniero dimostri di aver compiuto grandi sforzi di integrazione, come, ad esempio, quello di aver superato il livello B1 di conoscenza della lingua tedesca richiesto per legge.

Infine, a partire dal 1 settembre 2008 è obbligatorio dimostrare di conoscere l'ordinamento sociale e giuridico tedesco nonché le condizioni di vita in Germania attraverso il superamento di un test di naturalizzazione (*Einbürgerungstest*), dal quale sono comunque esonerate le persone impedita da malattie fisiche o mentali. Per la preparazione dell'esame sono messi a disposizione corsi di naturalizzazione (*Einbürgerungskurse*) la cui partecipazione, tuttavia, non è obbligatoria (§ 10, comma 5).

Le disposizioni relative alla naturalizzazione degli stranieri si applicano anche nel caso di matrimonio o di convivenza registrata (*Lebenspartnerschaft*) con cittadini tedeschi, fattispecie detta della “naturalizzazione dovuta” (*Soll-Einbürgerung* o *In-der-Regel Einbürgerung*) regolata dal § 9. La naturalizzazione è concessa, nel rispetto delle condizioni previste al § 8, qualora si sia persa o si rinunci alla cittadinanza d'origine e si dimostri la conoscenza delle condizioni di vita in Germania nonché della lingua tedesca. Anche i figli minori dei coniugi o dei conviventi registrati stranieri possono essere naturalizzati. In questo caso, il periodo di soggiorno richiesto per presentare la relativa richiesta è ridotto da otto a tre anni, mentre la durata del matrimonio o della convivenza registrata deve essere di almeno due anni.

Per coloro ai quali viene riconosciuto il diritto di asilo ai sensi dell'art. 16a della Legge fondamentale, per i rifugiati ufficialmente riconosciuti in base alla Convenzione di Ginevra e per gli apolidi la procedura è più breve, essendo sufficienti sei anni di soggiorno per ottenere la cittadinanza.

I §§ 13 e 14 della Legge sulla cittadinanza riguardano, infine, altre due fattispecie di “naturalizzazione discrezionale” (*Kann-Einbürgerung* o *Ermessenseinbürgerung*). Si tratta, rispettivamente, della naturalizzazione di ex cittadini tedeschi che risiedono abitualmente all'estero e dei loro figli minori legittimi e adottivi, e della naturalizzazione di cittadini stranieri che vivono all'estero e mantengono legami particolari con la Germania, tali da giustificare la naturalizzazione.

Le domande di naturalizzazione possono essere presentate alle competenti autorità locali dopo il compimento del sedicesimo anno di età.

In base al § 38, comma 2, della Legge sulla cittadinanza è richiesta una tassa di naturalizzazione di 255 euro. Per i figli minori che non sono economicamente indipendenti l'importo è di 51 euro.

Al formulario, predisposto dalle autorità locali per la richiesta di naturalizzazione, devono essere allegati i seguenti documenti: una foto formato tessera, il passaporto con il permesso di soggiorno, il certificato di nascita, il certificato di matrimonio, se è richiesta anche la naturalizzazione del coniuge, un documento che indichi lo stipendio percepito (*Verdienstbescheinigung*) ed eventualmente un certificato del datore di lavoro, un certificato dell'istituto (legalmente riconosciuto) che attesti le competenze linguistiche.

### **La cittadinanza doppia o plurima**

Nella normativa vigente resta valido il principio generale per cui non è ammessa la cittadinanza doppia o plurima (*Vermeidung von Doppelte Staatsangehörigkeit - Mehrstaatigkeit*). Coloro che intendono acquisire la cittadinanza tedesca attraverso la naturalizzazione devono, quindi, rinunciare a quella d'origine.

Esistono, tuttavia, delle circostanze, previste al § 12 della Legge sulla cittadinanza, che rappresentano un'eccezione alla regola generale, giustificate dal fatto che talora non è possibile rinunciare alla propria nazionalità, perché l'ordinamento del paese di origine non lo prevede o perché lo Stato straniero regolarmente respinge le richieste<sup>[5]</sup>. La legge prevede alcune eccezioni anche nel caso di persone molto anziane, di profughi e rifugiati politici e qualora la rinuncia comporti il versamento di tasse particolarmente elevate o determini l'insorgenza di gravi pregiudizi di natura economica o patrimoniale. Inoltre, a partire dal 28 agosto 2007, la rinuncia alla nazionalità d'origine non è necessaria se il richiedente è un cittadino di uno Stato membro dell'Unione europea, della Svizzera o di un altro Stato con il quale la Repubblica federale tedesca ha stipulato una convenzione di diritto internazionale (§ 12, commi 2 e 3). Sempre sulla base delle misure introdotte nel 2007, anche i cittadini tedeschi non perdono automaticamente la loro cittadinanza qualora acquisiscano quella di uno Stato membro dell'Unione europea, della Svizzera o di un altro

Stato con il quale la Repubblica federale tedesca ha stipulato una convenzione di diritto internazionale (§ 25, comma 1).

I cittadini tedeschi che desiderino ottenere la cittadinanza di un altro Stato senza perdere quella del paese di origine possono richiedere la cosiddetta autorizzazione al mantenimento della cittadinanza tedesca (*Beibehaltungsgenehmigung*) che può essere concessa a discrezione dalle competenti autorità nazionali dopo aver ponderato gli interessi pubblici e privati (§ 25, comma 2).

## REGNO UNITO

### Riferimenti normativi

La cittadinanza britannica è disciplinata dal *British Nationality Act* del 1981, in vigore dal 1° gennaio 1983; alcune modifiche sono state introdotte, tra gli altri, con il *British Overseas Territories Act* del 2002[\[6\]](#), il *Nationality, Immigration and Asylum Act* del 2002[\[7\]](#), l'*Immigration, Asylum and Nationality Act* del 2006[\[8\]](#).

### La disciplina della cittadinanza

L'istituto della cittadinanza si articola in forme diverse in base a tre distinti ambiti territoriali: cosicché è contemplata non solamente la cittadinanza britannica propriamente detta - relativa al Regno Unito, alle Isole del Canale e all'Isola di Man -, ma anche la *British Dependent Territories Citizenship* e la *British Overseas Citizenship*. Nel secondo e nel terzo caso, norme speciali sono dettate per la cittadinanza.

#### *Nascita nel Regno Unito*

Si è cittadini britannici se al momento della nascita uno dei genitori è cittadino britannico o è autorizzato dall'autorità competente a soggiornare nel Regno Unito in modo permanente (cosiddetto *settlement*, “stabilimento”), ossia non deve più soggiacere a limiti temporali del soggiorno dettati dalla legislazione in materia di immigrazione (*Immigration Act* del 1971 e successive modifiche), né trovarsi a maggior ragione in situazione irregolare.

Quando al momento della nascita del figlio nessuno dei due genitori è cittadino britannico o è stabilito nel Regno Unito, vi sono diversi modi per acquisire la cittadinanza.

In primo luogo, se successivamente uno dei genitori diventa cittadino britannico o riceve il diritto di stabilirsi (*to settle*), il figlio può fare domanda di “naturalizzazione”, ma prima del compimento della maggiore età.

Il figlio può inoltre fare domanda se ha vissuto nel Regno Unito per i primi 10 anni dopo la nascita, non essendosi assentato per più di 90 giorni in ciascuno di questi anni. In tal caso non sono previsti limiti di tempo.

### *Naturalizzazione dei cittadini stranieri*

Se una persona è sposata con un cittadino britannico, l’acquisizione della cittadinanza è relativamente semplice. Il richiedente deve infatti dimostrare che: ha la maggiore età; è stabilito (*settled*) nel Regno Unito (non importa da quando); vi ha vissuto legalmente per almeno 3 anni e non è stato assente dal paese per più di 270 giorni in questo periodo e per non più di 90 giorni nell’anno precedente la domanda; soddisfa a condizioni di salute mentale (*sound mind and good character*) e di onorabilità (in sostanza è in regola sotto il profilo fiscale e penale).

Se una persona non è sposata ad un cittadino britannico, la legge impone invece una serie di requisiti più onerosi. Il richiedente deve infatti dimostrare che: ha la maggiore età; è stabilito (*settled*) nel Regno Unito da almeno 1 anno; vi ha vissuto legalmente per almeno 5 anni e non è stato assente dal paese per più di 450 giorni in questo periodo e per non più di 90 giorni nell’anno precedente la domanda; soddisfa alle succitate condizioni di salute mentale e di onorabilità; ha intenzione di continuare a vivere nel Regno Unito.

Dal 1° novembre 2005, tutti i richiedenti devono inoltre: superare un test che dimostri una conoscenza sufficiente della lingua inglese, gallese o gaelica scozzese (livello *Entry 3 dell’English for Speakers of Other Languages - ESOL*); superare un altro test che dimostri “la conoscenza sufficiente della vita nel Regno Unito”, nella forma di domande sulle istituzioni sociali e civili del paese per una durata complessiva di 45 minuti<sup>[9]</sup>; partecipare a livello locale ad una “cerimonia della cittadinanza”, in occasione della concessione della stessa, che prevede la prestazione di un giuramento solenne (*Oath and Pledge to the United Kingdom*).

I due test possono essere sostenuti dopo aver seguito appositi corsi offerti da organismi accreditati e sono a pagamento per il candidato.

Il Ministero degli Interni (*Home Office*) può respingere la domanda di cittadinanza in teoria senza l'obbligo di fornire una motivazione, ma la giurisprudenza delle corti ha imposto che esso debba comunicare in linea di principio i motivi del rigetto e che il richiedente possa presentare sue osservazioni prima della decisione definitiva. Non esiste un diritto generale di ricorso (*right of appeal*). È invece possibile presentare una nuova domanda.

Ai sensi della legislazione antiterrorismo, lo stesso Ministero può decidere di privare una persona della cittadinanza britannica se questa ha compiuto atti seriamente pregiudizievoli per gli interessi vitali del Regno Unito. Tale potere si aggiunge a quello di revoca della cittadinanza, già previsto in caso di frode, false dichiarazioni o occultamento di fatti. In entrambi i casi è ammesso il diritto di ricorso.

Infine, è consentito il possesso, da parte di colui che ottenga la cittadinanza britannica, di altre nazionalità, purché ciò sia consentito dallo Stato di origine.

## SPAGNA

### Riferimenti normativi

Costituzione spagnola del 27 dicembre 1978, art. 11

Codice civile, artt. 17-28 (modificati con la legge 36/2002, dell'8 ottobre 2002)

Legge 32/2002, del 5 luglio 2002, di modifica della legge 17/1999, sull'accesso degli stranieri alla condizione di militare di professione

### La cittadinanza d'origine

La Costituzione spagnola del 1978, all'articolo 11, rinvia ad una legge attuativa per quanto concerne le modalità di acquisizione, conservazione e perdita della cittadinanza (*nacionalidad*), limitandosi a porre il principio generale del divieto della privazione della cittadinanza nei confronti degli spagnoli d'origine. Un'ulteriore disposizione riguarda la possibilità di sottoscrivere trattati internazionali sulla “doppia cittadinanza” (*doble nacionalidad*) con i paesi ispano-americani o con altri paesi che abbiano mantenuto particolari legami con la Spagna, sulla base del principio di reciprocità.

La normativa specifica sul diritto di cittadinanza è contenuta nel codice civile, all'interno del Libro primo “Delle persone”, nel Titolo I “Degli spagnoli e degli stranieri” (artt. 17-28).

In particolare, sono spagnoli d'origine:

- i nati da padre o madre spagnoli;
- i nati in Spagna da genitori stranieri, se almeno uno di essi è nato in Spagna, ad eccezione dei figli di funzionari diplomatici o consolari accreditati in Spagna;
- i nati in Spagna da genitori stranieri, se entrambi non possiedono alcuna cittadinanza o la legislazione dei loro paesi d'origine non assegna al figlio la cittadinanza;

- i nati in Spagna la cui filiazione non risulti accertata. In tal caso si considerano nati nel territorio nazionale i minori di età il cui primo luogo conosciuto di soggiorno sia la Spagna.

Nel caso in cui la filiazione o la nascita in Spagna siano accertati dopo il compimento del diciottesimo anno di età, l'interessato non acquista automaticamente la cittadinanza spagnola d'origine, ma ha due anni di tempo per optare in tal senso.

Nella circostanza opposta, cioè laddove si scopra successivamente la mancanza di uno dei requisiti fondamentali per il possesso della cittadinanza spagnola d'origine, se l'interessato, fatta salva la sua buona fede, è stato considerato cittadino spagnolo per almeno dieci anni ininterrotti, con iscrizione regolare presso i registri dello stato civile, mantiene la cittadinanza.

È infine cittadino d'origine lo straniero, minore di diciotto anni, che viene adottato da uno spagnolo.

### **La cittadinanza mediante opzione**

In aggiunta ai casi di possesso della cittadinanza d'origine, è possibile, come già accennato (accertamento della nascita o filiazione in Spagna dopo il compimento del diciottesimo anno di età), optare per la cittadinanza spagnola; tale possibilità è prevista, infatti, anche per gli adottati nella maggiore età, purché esercitino tale opzione entro i due anni dall'adozione.

Il codice civile individua inoltre altre due categorie che possono esercitare il diritto d'opzione:

- le persone che siano, o siano state, soggette alla patria potestà di uno spagnolo;
- coloro il cui padre o madre, nato in Spagna, abbia avuto in passato la cittadinanza spagnola.[\[10\]](#)

La dichiarazione di opzione va fatta dall'interessato, se maggiorenne e con piena capacità giuridica; per i minorenni, purché maggiori di quattordici anni, è richiesta

l'assistenza di un rappresentante legale. Per i minori di quattordici anni, infine, è possibile soltanto la richiesta inoltrata da un rappresentante legale dell'optante, autorizzata dall'ufficiale dello stato civile del domicilio del richiedente, ascoltato il parere del Pubblico Ministero e nell'interesse del soggetto.

In caso di dichiarazione effettuata direttamente dall'interessato in possesso della maggiore età, è previsto, anche per chi è stato soggetto alla patria potestà di un cittadino, il termine di due anni per far valere l'opzione, mentre tale termine non si applica nel caso di chi ha avuto un genitore nato in Spagna e che era stato, in passato, cittadino spagnolo.

Trascorso il termine di due anni è comunque ancora possibile ottenere la cittadinanza, ma attraverso la "acquisizione" della stessa e previo il requisito della "residenza legale".

## **L'acquisizione della cittadinanza**

La cittadinanza spagnola può anche essere acquisita con due modalità: in primo luogo attraverso il rilascio di un "certificato di cittadinanza" (*carta de naturaleza*) mediante "*Real Decreto*", emanato a discrezione dell'autorità competente, ma soltanto nei casi in cui il richiedente si trovi in "circostanze eccezionali"; in secondo luogo, nella maniera più frequente, l'ottenimento della cittadinanza avviene con il requisito della "residenza in Spagna", su concessione del Ministro della Giustizia.

In entrambi i casi la domanda va inoltrata con gli stessi criteri già elencati per l'opzione a favore della cittadinanza spagnola, a seconda dell'età del richiedente.

Il requisito fondamentale, per la richiesta in base alla residenza, è appunto quello della "residenza legale e continuata" in Spagna per un periodo di 10 anni, come regola generale.

Per tale criterio di base sono tuttavia previste alcune eccezioni favorevoli:

- per coloro che sono stati riconosciuti come rifugiati politici: 5 anni di residenza;
- per i cittadini d'origine dei paesi ispano-americani, per quelli di Andorra, Filippine, Guinea Equatoriale, Portogallo e per i sefarditi: 2 anni di residenza;

- per coloro che sono nati in Spagna: 1 anno di residenza;
- per coloro che sono sposati con un cittadino spagnolo da almeno un anno e non sono separati legalmente o di fatto: 1 anno di residenza;
- per coloro che sono, o sono stati, soggetti legalmente alla tutela, alla custodia o all'affidamento di un cittadino o di un ente spagnolo per due anni consecutivi: 1 anno di residenza;
- per i vedovi o le vedove di uno spagnolo o di una spagnola, se alla morte del coniuge non vi era separazione legale o di fatto: 1 anno di residenza;
- per i nati fuori dalla Spagna, ma con un genitore o un nonno che ha avuto, in passato, la cittadinanza spagnola: 1 anno di residenza;
- per coloro che non hanno fatto valere, in passato, il diritto di opzione per la cittadinanza spagnola: 1 anno di residenza.

La domanda, rivolta al Ministro della Giustizia, va presentata presso l'ufficio dello stato civile dove si trova il domicilio del richiedente, corredata dai diversi certificati richiesti per le differenti fattispecie sopra elencate e, in ogni caso, da un certificato della Direzione generale di Polizia che attesti la durata della residenza legale e continuata in Spagna.

L'interessato deve inoltre attestare “buona condotta civica e sufficiente grado di integrazione nella società spagnola”.

A tale proposito sono richiesti, oltre ai certificati concernenti i precedenti penali, in Spagna e nel paese di provenienza, anche un certificato che attesti l'iscrizione ai tutti i ruoli anagrafici e tributari (*certificado de empadronamiento*); lo straniero dovrà inoltre dimostrare quali sono i suoi mezzi di sostentamento in Spagna.

Il Ministro della Giustizia può respingere la richiesta di cittadinanza con decisione motivata, per ragioni di ordine pubblico o d'interesse nazionale. Tale atto è impugnabile in via amministrativa.

La concessione della cittadinanza, sia mediante opzione che a seguito di rilascio del “certificato di cittadinanza” o per acquisizione con residenza in Spagna, decade automaticamente dopo 180 giorni se la persona interessata, nel caso sia maggiore di 14 anni ed in pieno possesso della capacità giuridica ad agire, non compie i seguenti atti:

- dichiara o promette fedeltà al Re ed obbedienza alla Costituzione e alle leggi;
- dichiara di rinunciare alla sua cittadinanza di origine, ad eccezione di coloro che provengono dai paesi ispano-americani e da Andorra, Filippine, Guinea Equatoriale e Portogallo, in base alla possibilità della “doppia cittadinanza”, prevista all’articolo 11 della Costituzione;
- registra l’acquisizione della cittadinanza spagnola presso l’ufficio dello stato civile.



Infine, disposizioni speciali sull’acquisizione della cittadinanza spagnola, non inserite nel codice civile, sono state recentemente introdotte con la settima disposizione aggiuntiva della *Ley 52/2007, de 26 de diciembre, por la que se reconocen y amplían derechos y se establecen medidas en favor de quienes padecieron persecución o violencia durante la guerra civil y la dictadura*.[\[11\]](#)

Le disposizioni, di natura temporanea, consentono infatti la richiesta di acquisizione della cittadinanza spagnola, entro un periodo di due anni a partire dall’entrata in vigore della legge, prorogabile per un ulteriore periodo massimo di un anno, con decisione del Consiglio dei Ministri, per le seguenti due categorie:

- persone con padre o madre che siano stati spagnoli di origine;
- nipoti di coloro che persero o dovettero rinunciare alla cittadinanza spagnola come conseguenza dell’esilio.



## **La perdita e il riacquisto della cittadinanza**

In base al codice civile perdono la cittadinanza spagnola coloro che, divenuti indipendenti dalla loro famiglia di origine (*emancipados*), decidano di risiedere abitualmente all’estero, di acquisire volontariamente un’altra cittadinanza o di utilizzare esclusivamente una cittadinanza straniera, che avevano prima della loro emancipazione.

La perdita della cittadinanza spagnola avviene dopo tre anni, calcolati a partire dall’acquisizione della nuova cittadinanza o dall’emancipazione. Gli interessati potranno

tuttavia evitare di perdere la cittadinanza spagnola se, entro il tempo indicato, dichiarano di volerla conservare innanzi all'ufficiale dello stato civile.[\[12\]](#)

L'acquisizione della cittadinanza di uno dei paesi ispano-americani o di Andorra, Filippine, Guinea Equatoriale e Portogallo non comporta automaticamente la perdita della cittadinanza spagnola, vista la possibilità della doppia cittadinanza.

In ogni caso perdono la cittadinanza spagnola coloro che rinunciano espressamente ad essa, ne mantengono un'altra e risiedono abitualmente all'estero.

Coloro che sono nati e risiedono all'estero, ma sono cittadini spagnoli in quanto figli di padre o madre spagnola, seppure nati all'estero a loro volta, laddove le leggi del paese gli attribuiscono la cittadinanza dello stesso, perderanno in ogni caso la cittadinanza spagnola, a meno che non dichiarino espressamente di volerla conservare innanzi all'ufficiale dello stato civile, entro tre anni a partire dalla maggiore età o dall'emancipazione.[\[13\]](#)

Per gli spagnoli che non sono cittadini d'origine, ma per acquisizione, la perdita della cittadinanza avviene nei seguenti casi:

- quando, per un periodo di tre anni, utilizzano esclusivamente la cittadinanza alla quale avevano dichiarato di rinunciare per acquisire la spagnola;
- quando entrano volontariamente al servizio di Forze Armate straniere o rivestono cariche politiche in uno Stato straniero, contro il divieto espresso dal Governo spagnolo.

La sentenza definitiva che afferma che l'interessato è incorso nei reati di falsità, occultazione o frode, con riferimento all'acquisizione della cittadinanza spagnola, produce la nullità dell'atto stesso di acquisizione, anche se non deriveranno da ciò effetti pregiudiziali per le terze persone eventualmente coinvolte, purché sia accertata la loro buona fede. L'azione penale di annullamento può essere avviata sia d'ufficio, dal Pubblico Ministero, sia a seguito di denuncia personale, entro un periodo massimo di quindici anni.

Coloro che abbiano perso la cittadinanza spagnola potranno comunque recuperarla, se in possesso dei seguenti requisiti e con la procedura indicata:

- avere la residenza legale in Spagna. Tale requisito non è richiesto agli emigranti o ai loro figli. Negli altri casi è possibile, in circostanze eccezionali, ottenere la deroga rilasciata dal Ministro della Giustizia;
- dichiarare, innanzi all'ufficiale dello stato civile, di voler recuperare la cittadinanza spagnola;
- iscrivere il recupero della cittadinanza nel registro dello stato civile.

Per i casi sopra menzionati di annullamento dell'atto di acquisizione della cittadinanza spagnola, per falsità, occultazione o frode, al fine di ottenere il recupero o l'acquisizione della cittadinanza è richiesta anche un'apposita abilitazione, rilasciata discrezionalmente dal Governo spagnolo.

## **Documentazione**

**FRANCIA**

**CODE CIVIL**

**Livre Ier - Des personnes**

**Titre Ier bis - De la nationalité française**

## **Chapitre Ier: Dispositions générales**

### **Article 17**

*(Loi du 8 mars 1803 promulguée le 18 mars 1803)*

*(Loi du 10 août 1927 art. 13)*

La nationalité française est attribuée, s'acquiert ou se perd selon les dispositions fixées par le présent titre, sous la réserve de l'application des traités et autres engagements internationaux de la France.

### **Article 17-1**

Les lois nouvelles relatives à l'attribution de la nationalité d'origine s'appliquent aux personnes encore mineures à la date de leur entrée en vigueur, sans préjudicier aux droits acquis par des tiers et sans que la validité des actes passés antérieurement puisse être contestée pour cause de nationalité.

Les dispositions de l'alinéa précédent s'appliquent à titre interprétatif, aux lois sur la nationalité d'origine qui ont été mises en vigueur après la promulgation du titre Ier du présent code.

### **Article 17-2**

L'acquisition et la perte de la nationalité française sont régies par la loi en vigueur au temps de l'acte ou du fait auquel la loi attache ces effets.

Les dispositions de l'alinéa qui précède règlent, à titre interprétatif, l'application dans le temps des lois sur la nationalité qui ont été en vigueur avant le 19 octobre 1945.

### **Article 17-3**

*(Modifié par Loi n°2007-1631 du 20 novembre 2007 - art. 39 JORF 21 novembre 2007)*

Les demandes en vue d'acquérir, de perdre la nationalité française ou d'être réintégré dans cette nationalité, ainsi que les déclarations de nationalité, peuvent, dans les conditions prévues par la loi, être faites, sans autorisation, dès l'âge de seize ans.

Le mineur âgé de moins de seize ans doit être représenté par celui ou ceux qui exercent à son égard l'autorité parentale.

Doit être pareillement représenté tout mineur dont l'altération des facultés mentales ou corporelles empêche l'expression de la volonté. L'empêchement est constaté par le juge des tutelles d'office, à la requête d'un membre de la famille du mineur ou du ministère public, au vu d'un certificat délivré par un médecin spécialiste choisi sur une liste établie par le procureur de la République.

Lorsque le mineur mentionné à l'alinéa précédent est placé sous tutelle, sa représentation est assurée par le tuteur autorisé à cet effet par le conseil de famille.

#### **Article 17-4**

*(Loi n° 2003-1119 du 26 novembre 2003 art. 63 Journal Officiel du 27 novembre 2003)*

Au sens du présent titre, l'expression "en France" s'entend du territoire métropolitain, des départements et des collectivités d'outre-mer ainsi que de la Nouvelle-Calédonie et des Terres australes et antarctiques françaises.

#### **Article 17-5**

Dans le présent titre, majorité et minorité s'entendent au sens de la loi française.

#### **Article 17-6**

Il est tenu compte pour la détermination, à toute époque, du territoire français, des modifications résultant des actes de l'autorité publique française pris en application de la constitution et des lois, ainsi que des traités internationaux survenus antérieurement.

#### **Article 17-7**

Les effets sur la nationalité française des annexions et cessions de territoires sont réglés par les dispositions qui suivent, à défaut de stipulations conventionnelles.

#### **Article 17-8**

Les nationaux de l'Etat cédant, domiciliés dans les territoires annexés au jour du transfert de la souveraineté acquièrent la nationalité française, à moins qu'il n'établissent effectivement leur domicile hors de ces territoires. Sous la même réserve, les nationaux français, domiciliés dans les territoires cédés au jour du transfert de souveraineté perdent cette nationalité.

#### **Article 17-9**

Les effets sur la nationalité française de l'accession à l'indépendance d'anciens départements ou territoires d'outre-mer de la République sont déterminés au chapitre VII du présent titre.

#### **Article 17-10**

Les dispositions de l'article 17-8 s'appliquent, à titre interprétatif, aux changements de nationalité consécutifs aux annexions et cessions de territoires résultant de traités antérieurs au 19 octobre 1945.

Toutefois, les personnes étrangères qui étaient domiciliées dans les territoires rétrocédés par la France, conformément au traité de Paris du 30 mai 1814 et qui, à la suite de ce traité, ont transféré en France leur domicile, n'ont pu acquérir, de ce chef, la nationalité française que si elles se sont conformées aux dispositions de la loi du 14 octobre 1814. Les Français qui étaient nés hors des territoires rétrocédés et qui ont conservé leur domicile sur ces territoires n'ont pas perdu la nationalité française, par application du traité susvisé.

### **Article 17-11**

Sans qu'il soit porté atteinte à l'interprétation donnée aux accords antérieurs, un changement de nationalité ne peut, en aucun cas, résulter d'une convention internationale si celle-ci ne le prévoit expressément.

### **Article 17-12**

Lorsqu'un changement de nationalité est subordonné, dans les termes d'une convention internationale, à l'accomplissement d'un acte d'option, cet acte est déterminé dans sa forme par la loi de celui des pays contractants dans lequel il est institué.

## **Chapitre II: De la nationalité française d'origine**

### **Section 1: Des Français par filiation**

#### **Article 18**

*(Loi du 8 mars 1803 promulguée le 18 mars 1803))*

*(Loi du 10 août 1927 art. 13))*

*(Ordonnance n° 2005-759 du 4 juillet 2005 art. 17 I Journal Officiel du 6 juillet 2005 en vigueur le 1er juillet 2006)*

Est français l'enfant dont l'un des parents au moins est français.

#### **Article 18-1**

Toutefois, si un seul des parents est français, l'enfant qui n'est pas né en France a la faculté de répudier la qualité de Français dans les six mois précédant sa majorité et dans les douze mois la suivant.

Cette faculté se perd si le parent étranger ou apatride acquiert la nationalité française durant la minorité de l'enfant.

### **Section 2: Des Français par la naissance en France**

#### **Article 19**

*(Loi du 8 mars 1803 promulguée le 18 mars 1803)*

*(Loi du 10 août 1927 art. 13)*

Est français l'enfant né en France de parents inconnus.

Toutefois, il sera réputé n'avoir jamais été français si, au cours de sa minorité, sa filiation est établie à l'égard d'un étranger et s'il a, conformément à la loi nationale de son auteur, la nationalité de celui-ci.

#### **Article 19-1**

*(Loi n° 98-170 du 16 mars 1998 art. 13 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

*(Loi n° 2003-1119 du 26 novembre 2003 art. 64 Journal Officiel du 27 novembre 2003)*

Est français:

1° L'enfant né en France de parents apatrides;

2° L'enfant né en France de parents étrangers pour lequel les lois étrangères de nationalité ne permettent en aucune façon qu'il se voie transmettre la nationalité de l'un ou l'autre de ses parents.

Toutefois, il sera réputé n'avoir jamais été français si, au cours de sa minorité, la nationalité étrangère acquise ou possédée par l'un de ses parents vient à lui être transmise.

#### **Article 19-2**

Est présumé né en France l'enfant dont l'acte de naissance a été dressé conformément à l'article 58 du présent code.

#### **Article 19-3**

*(Ordonnance n° 2005-759 du 4 juillet 2005 art. 17 I Journal Officiel du 6 juillet 2005 en vigueur le 1er juillet 2006)*

Est français l'enfant né en France lorsque l'un de ses parents au moins y est lui-même né.

#### **Article 19-4**

Toutefois, si un seul des parents est né en France, l'enfant français, en vertu de l'article 19-3, a la faculté de répudier cette qualité dans les six mois précédant sa majorité et dans les douze mois la suivant.

Cette faculté se perd si l'un des parents acquiert la nationalité française durant la minorité de l'enfant.

### **Section 3: Dispositions communes**

#### **Article 20**

*(Loi du 8 mars 1803 promulguée le 18 mars 1803)*

*(Loi du 10 août 1927 art. 13)*

L'enfant qui est français en vertu des dispositions du présent chapitre est réputé avoir été français dès sa naissance, même si l'existence des conditions requises par la loi pour l'attribution de la nationalité française n'est établie que postérieurement.

La nationalité de l'enfant qui a fait l'objet d'une adoption plénière est déterminée selon les distinctions établies aux articles 18 et 18-1, 19-1, 19-3 et 19-4 ci-dessus.

Toutefois, l'établissement de la qualité de Français postérieurement à la naissance ne porte pas atteinte à la validité des actes antérieurement passés par l'intéressé ni aux droits antérieurement acquis à des tiers sur le fondement de la nationalité apparente de l'enfant.

#### **Article 20-1**

La filiation de l'enfant n'a d'effet sur la nationalité de celui-ci que si elle est établie durant sa minorité.

#### **Article 20-2**

Le Français qui possède la faculté de répudier la nationalité française dans les cas visés au présent titre peut exercer cette faculté par déclaration souscrite conformément aux articles 26 et suivants.

Il peut renoncer à cette faculté à partir de l'âge de seize ans dans les mêmes conditions.

#### **Article 20-3**

Dans les cas visés à l'article précédent, nul ne peut répudier la nationalité française s'il ne prouve qu'il a par filiation la nationalité d'un pays étranger.

#### **Article 20-4**

*(Loi n° 98-170 du 16 mars 1998 art. 18 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

Le Français qui contracte un engagement dans les armées françaises perd la faculté de répudiation.

#### **Article 20-5**

*(Loi n° 98-170 du 16 mars 1998 art. 14 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

Les dispositions contenues dans les articles 19-3 et 19-4 ne sont pas applicables aux enfants nés en France des agents diplomatiques ou des consuls de carrière de nationalité étrangère.

Ces enfants ont toutefois la faculté d'acquérir volontairement la qualité de Français conformément aux dispositions de l'article 21-11 ci-après.

### **Chapitre III: De l'acquisition de la nationalité française**

#### **Section 1: Des modes d'acquisition de la nationalité française**

##### **Paragraphe 1: Acquisition de la nationalité française à raison de la filiation**

###### **Article 21**

*(Loi du 8 mars 1803 promulguée le 18 mars 1803)*

*(Loi du 10 août 1927 art. 13)*

L'adoption simple n'exerce de plein droit aucun effet sur la nationalité de l'adopté.

##### **Paragraphe 2: Acquisition de la nationalité française à raison du mariage**

###### **Article 21-1**

Le mariage n'exerce de plein droit aucun effet sur la nationalité.

###### **Article 21-2**

*(Loi n° 98-170 du 16 mars 1998 art. 1 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

*(Loi n° 2003-1119 du 26 novembre 2003 art. 65 Journal Officiel du 27 novembre 2003)*

*(Loi n° 2006-911 du 24 juillet 2006 art. 79 Journal Officiel du 25 juillet 2006)*

L'étranger ou apatride qui contracte mariage avec un conjoint de nationalité française peut, après un délai de quatre ans à compter du mariage, acquérir la nationalité française par déclaration à condition qu'à la date de cette déclaration la communauté de vie tant affective que matérielle n'ait pas cessé entre les époux depuis le mariage et que le conjoint français ait conservé sa nationalité.

Le délai de communauté de vie est porté à cinq ans lorsque l'étranger, au moment de la déclaration, soit ne justifie pas avoir résidé de manière ininterrompue et régulière pendant au moins trois ans en France à compter du mariage, soit n'est pas en mesure d'apporter la preuve que son conjoint français a été inscrit pendant la durée de leur communauté de vie à l'étranger au registre des Français établis hors de France. En outre, le mariage célébré à l'étranger doit avoir fait l'objet d'une transcription préalable sur les registres de l'état civil français.

Le conjoint étranger doit en outre justifier d'une connaissance suffisante, selon sa condition, de la langue française.

La déclaration est faite dans les conditions prévues aux articles 26 et suivants. Par dérogation aux dispositions de l'article 26-1, elle est enregistrée par le ministre chargé des naturalisations.

### **Article 21-3**

Sous réserve des dispositions prévues aux articles 21-4 et 26-3, l'intéressé acquiert la nationalité française à la date à laquelle la déclaration a été souscrite.

### **Article 21-4**

*(Loi n° 2003-1119 du 26 novembre 2003 art. 66 Journal Officiel du 27 novembre 2003)*

*(Loi n° 2006-911 du 24 juillet 2006 art. 80 Journal Officiel du 25 juillet 2006)*

Le Gouvernement peut s'opposer par décret en Conseil d'Etat, pour indignité ou défaut d'assimilation, autre que linguistique, à l'acquisition de la nationalité française par le conjoint étranger dans un délai de deux ans à compter de la date du récépissé prévu au deuxième alinéa de l'article 26 ou, si l'enregistrement a été refusé, à compter du jour où la décision judiciaire admettant la régularité de la déclaration est passée en force de chose jugée.

La situation effective de polygamie du conjoint étranger ou la condamnation prononcée à son encontre au titre de l'infraction définie à l'article 222-9 du code pénal, lorsque celle-ci a été commise sur un mineur de quinze ans, sont constitutives du défaut d'assimilation.

En cas d'opposition du Gouvernement, l'intéressé est réputé n'avoir jamais acquis la nationalité française.

Toutefois, la validité des actes passés entre la déclaration et le décret d'opposition ne pourra être contestée pour le motif que l'auteur n'a pu acquérir la nationalité française.

### **Article 21-5**

Le mariage déclaré nul par une décision émanant d'une juridiction française ou d'une juridiction étrangère dont l'autorité est reconnue en France ne rend pas caduque la déclaration prévue à l'article 21-2 au profit du conjoint qui l'a contracté de bonne foi.

### **Article 21-6**

L'annulation du mariage n'a point d'effet sur la nationalité des enfants qui en sont issus.

## **Paragraphe 3: Acquisition de la nationalité française à raison de la naissance et de la résidence en France**

### **Article 21-7**

*(Loi n° 98-170 du 16 mars 1998 art. 2 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

Tout enfant né en France de parents étrangers acquiert la nationalité française à sa majorité si, à cette date, il a en France sa résidence et s'il a eu sa résidence habituelle en France pendant une période continue ou discontinue d'au moins cinq ans, depuis l'âge de onze ans.

Les tribunaux d'instance, les collectivités territoriales, les organismes et services publics, et notamment les établissements d'enseignement sont tenus d'informer le public, et en particulier les personnes auxquelles s'applique le premier alinéa, des dispositions en vigueur en matière de nationalité. Les conditions de cette information sont fixées par décret en Conseil d'Etat.

#### **Article 21-8**

*(Loi n° 93-1417 du 30 décembre 1993 art. 11 I Journal Officiel du 1er janvier 1994 en vigueur le 1er mars 1994)*

*(Loi n° 98-170 du 16 mars 1998 art. 3 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

L'intéressé a la faculté de déclarer, dans les conditions prévues aux articles 26 et suivants et sous réserve qu'il prouve qu'il a la nationalité d'un Etat étranger, qu'il décline la qualité de Français dans les six mois qui précèdent sa majorité ou dans les douze mois qui la suivent.

Dans ce dernier cas, il est réputé n'avoir jamais été français.

#### **Article 21-9**

*(Loi n° 98-170 du 16 mars 1998 art. 4 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

Toute personne qui remplit les conditions prévues à l'article 21-7 pour acquérir la qualité de Français perd la faculté de décliner celle-ci si elle contracte un engagement dans les armées françaises.

Tout mineur né en France de parents étrangers, qui est régulièrement incorporé en qualité d'engagé, acquiert la nationalité française à la date de son incorporation.

#### **Article 21-10**

*(Loi n° 98-170 du 16 mars 1998 art. 5 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

Les dispositions des articles 21-7 à 21-9 ne sont pas applicables aux enfants nés en France des agents diplomatiques et des consuls de carrière de nationalité étrangère. Ces enfants ont toutefois la faculté d'acquérir volontairement la nationalité française conformément aux dispositions de l'article 21-11 ci-après.

#### **Article 21-11**

*(Modifié par Loi n°2007-1631 du 20 novembre 2007 - art. 39 JORF 21 novembre 2007)*

L'enfant mineur né en France de parents étrangers peut à partir de l'âge de seize ans réclamer la nationalité française par déclaration, dans les conditions prévues aux articles 26 et suivants si, au moment de sa déclaration, il a en France sa résidence et s'il a eu sa résidence habituelle en France pendant une période continue ou discontinue d'au moins cinq ans, depuis l'âge de onze ans.

Dans les mêmes conditions, la nationalité française peut être réclamée, au nom de l'enfant mineur né en France de parents étrangers, à partir de l'âge de treize ans, la condition de résidence habituelle en France devant alors être remplie à partir de l'âge de huit ans. Le consentement du mineur est requis, sauf s'il est empêché d'exprimer sa volonté par une altération de ses facultés mentales ou corporelles constatée selon les modalités prévues au troisième alinéa de l'article 17-3.

#### **Paragraphe 4: Acquisition de la nationalité française par déclaration de nationalité**

##### **Article 21-12**

*(Loi n° 98-170 du 16 mars 1998 art. 7 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

*(Loi n° 2003-1119 du 26 novembre 2003 art. 67 Journal Officiel du 27 novembre 2003)*

L'enfant qui a fait l'objet d'une adoption simple par une personne de nationalité française peut, jusqu'à sa majorité, déclarer, dans les conditions prévues aux articles 26 et suivants, qu'il réclame la qualité de Français, pourvu qu'à l'époque de sa déclaration il réside en France.

Toutefois, l'obligation de résidence est supprimée lorsque l'enfant a été adopté par une personne de nationalité française n'ayant pas sa résidence habituelle en France.

Peut, dans les mêmes conditions, réclamer la nationalité française:

1° L'enfant qui, depuis au moins cinq années, est recueilli en France et élevé par une personne de nationalité française ou qui, depuis au moins trois années, est confié au service de l'aide sociale à l'enfance;

2° L'enfant recueilli en France et élevé dans des conditions lui ayant permis de recevoir, pendant cinq années au moins une formation française, soit par un organisme public, soit par un organisme privé présentant les caractères déterminés par un décret en Conseil d'Etat.

##### **Article 21-13**

Peuvent réclamer la nationalité française par déclaration souscrite conformément aux articles 26 et suivants, les personnes qui ont joui, d'une façon constante, de la possession d'état de Français, pendant les dix années précédant leur déclaration.

Lorsque la validité des actes passés antérieurement à la déclaration était subordonnée à la possession de la nationalité française, cette validité ne peut être contestée pour le seul motif que le déclarant n'avait pas cette nationalité.

#### **Article 21-14**

Les personnes qui ont perdu la nationalité française en application de l'article 23-6 ou à qui a été opposée la fin de non-recevoir prévue par l'article 30-3 peuvent réclamer la nationalité française par déclaration souscrite conformément aux articles 26 et suivants.

Elles doivent avoir soit conservé ou acquis avec la France des liens manifestes d'ordre culturel, professionnel, économique ou familial, soit effectivement accompli des services militaires dans une unité de l'armée française ou combattu dans les armées françaises ou alliées en temps de guerre.

Les conjoints survivants des personnes qui ont effectivement accompli des services militaires dans une unité de l'armée française ou combattu dans les armées françaises ou alliées en temps de guerre peuvent également bénéficier des dispositions du premier alinéa du présent article.

#### **Paragraphe 5: Acquisition de la nationalité française par décision de l'autorité publique**

##### **Article 21-14-1**

*(inséré par Loi n° 99-1141 du 29 décembre 1999 art. 1 Journal Officiel du 30 décembre 1999)*

La nationalité française est conférée par décret, sur proposition du ministre de la défense, à tout étranger engagé dans les armées françaises qui a été blessé en mission au cours ou à l'occasion d'un engagement opérationnel et qui en fait la demande.

En cas de décès de l'intéressé, dans les conditions prévues au premier alinéa, la même procédure est ouverte à ses enfants mineurs qui, au jour du décès, remplissaient la condition de résidence prévue à l'article 22-1.

##### **Article 21-15**

*(Loi n° 99-1141 du 29 décembre 1999 art. 2 Journal Officiel du 30 décembre 1999)*

Hors le cas prévu à l'article 21-14-1, l'acquisition de la nationalité française par décision de l'autorité publique résulte d'une naturalisation accordée par décret à la demande de l'étranger.

##### **Article 21-16**

Nul ne peut être naturalisé s'il n'a en France sa résidence au moment de la signature du décret de naturalisation.

#### **Article 21-17**

Sous réserve des exceptions prévues aux articles 21-18, 21-19 et 21-20, la naturalisation ne peut être accordée qu'à l'étranger justifiant d'une résidence habituelle en France pendant les cinq années qui précèdent le dépôt de la demande.

#### **Article 21-18**

Le stage mentionné à l'article 21-17 est réduit à deux ans:

1° Pour l'étranger qui a accompli avec succès deux années d'études supérieures en vue d'acquérir un diplôme délivré par une université ou un établissement d'enseignement supérieur français;

2° Pour celui qui a rendu ou qui peut rendre par ses capacités et ses talents des services importants à la France.

#### **Article 21-19**

*(Loi n° 98-170 du 16 mars 1998 art. 8 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

*(Loi n° 2006-911 du 24 juillet 2006 art. 82 Journal Officiel du 25 juillet 2006)*

Peut être naturalisé sans condition de stage:

1° Alinéa abrogé;

2° Alinéa abrogé;

3° Alinéa abrogé;

4° L'étranger qui a effectivement accompli des services militaires dans une unité de l'armée française ou qui, en temps de guerre, a contracté un engagement volontaire dans les armées françaises ou alliées;

5° Alinéa abrogé;

6° L'étranger qui a rendu des services exceptionnels à la France ou celui dont la naturalisation présente pour la France un intérêt exceptionnel. Dans ce cas, le décret de naturalisation ne peut être accordé qu'après avis du Conseil d'Etat sur rapport motivé du ministre compétent;

7° L'étranger qui a obtenu le statut de réfugié en application de la loi n° 52-893 du 25 juillet 1952 portant création d'un Office français de protection des réfugiés et apatrides.

#### **Article 21-20**

Peut être naturalisée sans condition de stage la personne qui appartient à l'entité culturelle et linguistique française, lorsqu'elle est ressortissante des territoires ou Etats dont la langue officielle

ou l'une des langues officielles est le français, soit lorsque le français est sa langue maternelle, soit lorsqu'elle justifie d'une scolarisation minimale de cinq années dans un établissement enseignant en langue française.

#### **Article 21-21**

La nationalité française peut être conférée par naturalisation sur proposition du ministre des affaires étrangères à tout étranger francophone qui en fait la demande et qui contribue par son action éminente au rayonnement de la France et à la prospérité de ses relations économiques internationales.

#### **Article 21-22**

*(Loi n° 2006-911 du 24 juillet 2006 art. 83 Journal Officiel du 25 juillet 2006)*

Nul ne peut être naturalisé s'il n'a atteint l'âge de dix-huit ans.

Toutefois, la naturalisation peut être accordée à l'enfant mineur resté étranger bien que l'un de ses parents ait acquis la nationalité française s'il justifie avoir résidé en France avec ce parent durant les cinq années précédant le dépôt de la demande.

#### **Article 21-23**

Nul ne peut être naturalisé s'il n'est pas de bonnes vie et moeurs ou s'il a fait l'objet de l'une des condamnations visées à l'article 21-27 du présent code.

Les condamnations prononcées à l'étranger pourront toutefois ne pas être prises en considération; en ce cas, le décret prononçant la naturalisation ne pourra être pris qu'après avis conforme du Conseil d'Etat.

#### **Article 21-24**

*(Loi n° 2003-1119 du 26 novembre 2003 art. 68 Journal Officiel du 27 novembre 2003)*

Nul ne peut être naturalisé s'il ne justifie de son assimilation à la communauté française, notamment par une connaissance suffisante, selon sa condition, de la langue française et des droits et devoirs conférés par la nationalité française.

#### **Article 21-24-1**

*(inséré par Loi n° 2003-1119 du 26 novembre 2003 art. 69 Journal Officiel du 27 novembre 2003)*

La condition de connaissance de la langue française ne s'applique pas aux réfugiés politiques et apatrides résidant régulièrement et habituellement en France depuis quinze années au moins et âgés de plus de soixante-dix ans.

#### **Article 21-25**

Les conditions dans lesquelles s'effectuera le contrôle de l'assimilation et de l'état de santé de l'étranger en instance de naturalisation seront fixées par décret.

#### **Article 21-25-1**

*(Loi n° 98-170 du 16 mars 1998 art. 15 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

*(Loi n° 2006-911 du 24 juillet 2006 art. 84 Journal Officiel du 25 juillet 2006)*

La réponse de l'autorité publique à une demande d'acquisition de la nationalité française par naturalisation doit intervenir au plus tard dix-huit mois à compter de la remise de toutes les pièces nécessaires à la constitution d'un dossier complet contre laquelle un récépissé est délivré immédiatement.

Le délai visé au premier alinéa est réduit à douze mois lorsque l'étranger en instance de naturalisation justifie avoir en France sa résidence habituelle depuis une période d'au moins dix ans au jour de cette remise.

Les délais précités peuvent être prolongés une fois, par décision motivée, pour une période de trois mois.

### **Paragraphe 6: Dispositions communes à certains modes d'acquisition de la nationalité française**

#### **Article 21-26**

*(Loi n° 98-170 du 16 mars 1998 art. 9 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

Est assimilé à la résidence en France lorsque cette résidence constitue une condition de l'acquisition de la nationalité française:

1° Le séjour hors de France d'un étranger qui exerce une activité professionnelle publique ou privée pour le compte de l'Etat français ou d'un organisme dont l'activité présente un intérêt particulier pour l'économie ou la culture française;

2° Le séjour dans les pays en union douanière avec la France qui sont désignés par décret;

3° La présence hors de France, en temps de paix comme en temps de guerre, dans une formation régulière de l'armée française ou au titre des obligations prévues par le livre II du code du service national;

4° Le séjour hors de France en qualité de volontaire du service national.

L'assimilation de résidence qui profite à l'un des époux s'étend à l'autre s'ils habitent effectivement ensemble.

#### **Article 21-27**

*(Loi n° 93-1027 du 24 août 1993 art. 32 Journal Officiel du 29 août 1993)*

*(Loi n° 93-1417 du 30 décembre 1993 art. 11 II Journal Officiel du 1er janvier 1994)*

*(Loi n° 98-170 du 16 mars 1998 art. 10 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

*(Loi n° 2003-1119 du 26 novembre 2003 art. 70 Journal Officiel du 27 novembre 2003)*

Nul ne peut acquérir la nationalité française ou être réintégré dans cette nationalité s'il a été l'objet soit d'une condamnation pour crimes ou délits constituant une atteinte aux intérêts fondamentaux de la Nation ou un acte de terrorisme, soit, quelle que soit l'infraction considérée, s'il a été condamné à une peine égale ou supérieure à six mois d'emprisonnement, non assortie d'une mesure de sursis.

Il en est de même de celui qui a fait l'objet soit d'un arrêté d'expulsion non expressément rapporté ou abrogé, soit d'une interdiction du territoire français non entièrement exécutée.

Il en est de même de celui dont le séjour en France est irrégulier au regard des lois et conventions relatives au séjour des étrangers en France.

Les dispositions du présent article ne sont pas applicables à l'enfant mineur susceptible d'acquérir la nationalité française en application des articles 21-7, 21-11, 21-12 et 22-1, ni au condamné ayant bénéficié d'une réhabilitation de plein droit ou d'une réhabilitation judiciaire conformément aux dispositions de l'article 133-12 du code pénal, ou dont la mention de la condamnation a été exclue du bulletin n° 2 du casier judiciaire, conformément aux dispositions des articles 775-1 et 775-2 du code de procédure pénale.

### **Paragraphe 7: De la cérémonie d'accueil dans la citoyenneté française**

#### **Article 21-28**

*(inséré par Loi n° 2006-911 du 24 juillet 2006 art. 85, art. 86 Journal Officiel du 25 juillet 2006)*

Le représentant de l'Etat dans le département ou, à Paris, le préfet de police organise, dans un délai de six mois à compter de l'acquisition de la nationalité française, une cérémonie d'accueil dans la citoyenneté française à l'intention des personnes résidant dans le département visées aux articles 21-2, 21-11, 21-12, 21-14, 21-14-1, 21-15, 24-1, 24-2 et 32-4 du présent code ainsi qu'à l'article 2 de la loi n° 64-1328 du 26 décembre 1964 autorisant l'approbation de la convention du

Conseil de l'Europe sur la réduction des cas de pluralité de nationalités et sur les obligations militaires en cas de pluralité de nationalités, signée à Strasbourg le 6 mai 1963.

Les députés et les sénateurs élus dans le département sont invités à la cérémonie d'accueil.

Les personnes ayant acquis de plein droit la nationalité française en application de l'article 21-7 sont invitées à cette cérémonie dans un délai de six mois à compter de la délivrance du certificat de nationalité française mentionné à l'article 31.

## **Article 21-29**

*(inséré par Loi n° 2006-911 du 24 juillet 2006 art. 85, art. 87 Journal Officiel du 25 juillet 2006)*

Le représentant de l'Etat dans le département ou, à Paris, le préfet de police communique au maire, en sa qualité d'officier d'état civil, l'identité et l'adresse des personnes résidant dans la commune susceptibles de bénéficier de la cérémonie d'accueil dans la citoyenneté française.

Lorsque le maire en fait la demande, il peut l'autoriser à organiser, en sa qualité d'officier d'état civil, la cérémonie d'accueil dans la citoyenneté française.

## **Section 2: Des effets de l'acquisition de la nationalité française**

### **Article 22**

*(Loi du 8 mars 1803 promulguée le 18 mars 1803)*

*(Loi du 31 mai 1854)*

La personne qui a acquis la nationalité française jouit de tous les droits et est tenue à toutes les obligations attachées à la qualité de Français, à dater du jour de cette acquisition.

### **Article 22-1**

*(Loi n° 98-170 du 16 mars 1998 art. 11 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

*(Loi n° 99-1141 du 29 décembre 1999 art. 3 Journal Officiel du 30 décembre 1999)*

*(Ordonnance n° 2005-759 du 4 juillet 2005 art. 17 II Journal Officiel du 6 juillet 2005 en vigueur le 1er juillet 2006)*

L'enfant mineur dont l'un des deux parents acquiert la nationalité française, devient français de plein droit s'il a la même résidence habituelle que ce parent ou s'il réside alternativement avec ce parent dans le cas de séparation ou divorce.

Les dispositions du présent article ne sont applicables à l'enfant d'une personne qui acquiert la nationalité française par décision de l'autorité publique ou par déclaration de nationalité que si son nom est mentionné dans le décret ou dans la déclaration.

### **Article 22-2**

Les dispositions de l'article précédent ne sont pas applicables à l'enfant marié.

### **Article 22-3**

Toutefois, l'enfant français en vertu de l'article 22-1 et qui n'est pas né en France a la faculté de répudier cette qualité pendant les six mois précédant sa majorité et dans les douze mois la suivant.

Il exerce cette faculté par déclaration souscrite conformément aux articles 26 et suivants.

Il peut renoncer à cette faculté à partir de l'âge de seize ans dans les mêmes conditions.

## **Chapitre IV: De la perte, de la déchéance et de la réintégration dans la nationalité française**

### **Section 1: De la perte de la nationalité française**

#### **Article 23**

*(Loi du 8 mars 1803 promulguée le 18 mars 1803)*

*(Loi du 31 mai 1854)*

Toute personne majeure de nationalité française, résidant habituellement à l'étranger, qui acquiert volontairement une nationalité étrangère ne perd la nationalité française que si elle le déclare expressément, dans les conditions prévues aux articles 26 et suivants du présent titre.

#### **Article 23-1**

La déclaration en vue de perdre la nationalité française peut être souscrite à partir du dépôt de la demande d'acquisition de la nationalité étrangère et, au plus tard, dans le délai d'un an à compter de la date de cette acquisition.

#### **Article 23-2**

*(Loi n° 98-170 du 16 mars 1998 art. 19 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

Les Français de moins de trente-cinq ans ne peuvent souscrire la déclaration prévue aux articles 23 et 23-1 ci-dessus que s'ils sont en règle avec les obligations du livre II du code du service national.

#### **Article 23-3**

*(Loi n° 98-170 du 16 mars 1998 art. 20 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

Perd la nationalité française le Français qui exerce la faculté de répudier cette qualité dans les cas prévus aux articles 18-1, 19-4 et 22-3.

#### **Article 23-4**

Perd la nationalité française le Français, même mineur, qui, ayant une nationalité étrangère, est autorisé, sur sa demande, par le Gouvernement Français, à perdre la qualité de Français.

Cette autorisation est accordée par décret.

#### **Article 23-5**

*(Loi n° 98-170 du 16 mars 1998 art. 21 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

En cas de mariage avec un étranger, le conjoint français peut répudier la nationalité française selon les dispositions des articles 26 et suivants à la condition qu'il ait acquis la nationalité étrangère de son conjoint et que la résidence habituelle du ménage ait été fixée à l'étranger.

Toutefois, les français âgés de moins de trente-cinq ans ne pourront exercer cette faculté de répudiation que s'ils sont en règle avec les obligations prévues au livre II du code du service national.

#### **Article 23-6**

La perte de la nationalité française peut être constatée par jugement lorsque l'intéressé, français d'origine par filiation, n'en a point la possession d'état et n'a jamais eu sa résidence habituelle en France, si les ascendants, dont il tenait la nationalité française, n'ont eux-mêmes ni possession d'état de Français, ni résidence en France depuis un demi-siècle.

Le jugement détermine la date à laquelle la nationalité française a été perdue. Il peut décider que cette nationalité avait été perdue par les auteurs de l'intéressé et que ce dernier n'a jamais été français.

#### **Article 23-7**

Le Français qui se comporte en fait comme le national d'un pays étranger peut, s'il a la nationalité de ce pays, être déclaré, par décret après avis conforme du Conseil d'Etat, avoir perdu la qualité de Français.

#### **Article 23-8**

Perd la nationalité française le Français qui, occupant un emploi dans une armée ou un service public étranger ou dans une organisation internationale dont la France ne fait pas partie ou plus généralement leur apportant son concours, n'a pas résigné son emploi ou cessé son concours nonobstant l'injonction qui lui en aura été faite par le Gouvernement.

L'intéressé sera, par décret en Conseil d'Etat, déclaré avoir perdu la nationalité française si, dans le délai fixé par l'injonction, délai qui ne peut être inférieur à quinze jours et supérieur à deux mois, il n'a pas mis fin à son activité.

Lorsque l'avis du Conseil d'Etat est défavorable, la mesure prévue à l'alinéa précédent ne peut être prise que par décret en conseil des ministres.

#### **Article 23-9**

La perte de la nationalité française prend effet:

- 1° Dans le cas prévu à l'article 23 à la date de l'acquisition de la nationalité étrangère;
- 2° Dans le cas prévu aux articles 23-3 et 23-5 à la date de la déclaration;
- 3° Dans le cas prévu aux articles 23-4, 23-7 et 23-8 à la date du décret;
- 4° Dans les cas prévus à l'article 23-6 au jour fixé par le jugement.

### **Section 2: De la réintégration dans la nationalité française**

#### **Article 24**

*(Loi du 8 mars 1803 promulguée le 18 mars 1803)*

*(Loi du 31 mai 1854)*

La réintégration dans la nationalité française des personnes qui établissent avoir possédé la qualité de Français résulte d'un décret ou d'une déclaration suivant les distinctions fixées aux articles ci-après.

#### **Article 24-1**

La réintégration par décret peut être obtenue à tout âge et sans condition de stage. Elle est soumise, pour le surplus, aux conditions et aux règles de la naturalisation.

#### **Article 24-2**

*(Loi n° 98-170 du 16 mars 1998 art. 22 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

Les personnes qui ont perdu la nationalité française à raison du mariage avec un étranger ou de l'acquisition par mesure individuelle d'une nationalité étrangère peuvent, sous réserve des dispositions de l'article 21-27, être réintégrées par déclaration souscrite, en France ou à l'étranger, conformément aux articles 26 et suivants.

Elles doivent avoir conservé ou acquis avec la France des liens manifestes, notamment d'ordre culturel, professionnel, économique ou familial.

### **Article 24-3**

La réintégration par décret ou par déclaration produit effet à l'égard des enfants âgés de moins de dix-huit ans dans les conditions des articles 22-1 et 22-2 du présent titre.

## **Section 3: De la déchéance de la nationalité française**

### **Article 25**

*(Loi du 8 mars 1803 promulguée le 18 mars 1803))*

*(Loi du 31 mai 1854))*

*(Loi n° 96-647 du 22 juillet 1996 art. 12 Journal Officiel du 23 juillet 1996)*

*(Loi n° 98-170 du 16 mars 1998 art. 23 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

L'individu qui a acquis la qualité de Français peut, par décret pris après avis conforme du Conseil d'Etat, être déchu de la nationalité française, sauf si la déchéance a pour résultat de le rendre apatride:

1° S'il est condamné pour un acte qualifié de crime ou délit constituant une atteinte aux intérêts fondamentaux de la Nation ou pour un crime ou un délit constituant un acte de terrorisme;

2° S'il est condamné pour un acte qualifié de crime ou délit prévu et réprimé par le chapitre II du titre III du livre IV du code pénal;

3° S'il est condamné pour s'être soustrait aux obligations résultant pour lui du code du service national;

4° S'il s'est livré au profit d'un Etat étranger à des actes incompatibles avec la qualité de Français et préjudiciables aux intérêts de la France.

### **Article 25-1**

*(Loi n° 2003-1119 du 26 novembre 2003 art. 71 Journal Officiel du 27 novembre 2003)*

*(Loi n° 2006-64 du 23 janvier 2006 art. 21 Journal Officiel du 24 janvier 2006)*

La déchéance n'est encourue que si les faits reprochés à l'intéressé et visés à l'article 25 se sont produits antérieurement à l'acquisition de la nationalité française ou dans le délai de dix ans à compter de la date de cette acquisition.

Elle ne peut être prononcée que dans le délai de dix ans à compter de la perpétration desdits faits.

Si les faits reprochés à l'intéressé sont visés au 1° de l'article 25, les délais mentionnés aux deux alinéas précédents sont portés à quinze ans.

## **Chapitre V: Des actes relatifs à l'acquisition ou à la perte de la nationalité française**

### **Section 1: Des déclarations de nationalité**

#### **Article 26**

*(Loi du 8 mars 1803 promulguée le 18 mars 1803)*

*(Loi du 31 mai 1854)*

*(Loi n° 98-170 du 16 mars 1998 art. 12 I Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

Les déclarations de nationalité sont reçues par le juge d'instance ou par les consuls suivant les formes déterminées par décret en Conseil d'Etat.

Il en est délivré récépissé après remise des pièces nécessaires à la preuve de leur recevabilité.

#### **Article 26-1**

Toute déclaration de nationalité doit, à peine de nullité, être enregistrée soit par le juge d'instance, pour les déclarations souscrites en France, soit par le ministre de la justice, pour les déclarations souscrites à l'étranger.

#### **Article 26-2**

Le siège et le ressort des tribunaux d'instance compétents pour recevoir et enregistrer les déclarations de nationalité française sont fixés par décret.

#### **Article 26-3**

*(Loi n° 98-170 du 16 mars 1998 art. 12 II Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

Le ministre ou le juge refuse d'enregistrer les déclarations qui ne satisfont pas aux conditions légales.

Sa décision motivée est notifiée au déclarant qui peut la contester devant le tribunal de grande instance durant un délai de six mois. L'action peut être exercée personnellement par le mineur dès l'âge de seize ans.

La décision de refus d'enregistrement doit intervenir six mois au plus après la date à laquelle a été délivré au déclarant le récépissé constatant la remise de toutes les pièces nécessaires à la preuve de recevabilité de la déclaration.

Le délai est porté à un an pour les déclarations souscrites en vertu de l'article 21-2.

#### **Article 26-4**

*(Loi n° 98-170 du 16 mars 1998 art. 12 III Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

*(Loi n° 2003-1119 du 26 novembre 2003 art. 72 Journal Officiel du 27 novembre 2003)*

*(Loi n° 2006-911 du 24 juillet 2006 art. 88 Journal Officiel du 25 juillet 2006)*

A défaut de refus d'enregistrement dans les délais légaux, copie de la déclaration est remise au déclarant revêtue de la mention de l'enregistrement.

Dans le délai de deux ans suivant la date à laquelle il a été effectué, l'enregistrement peut être contesté par le ministère public si les conditions légales ne sont pas satisfaites.

L'enregistrement peut encore être contesté par le ministère public en cas de mensonge ou de fraude dans le délai de deux ans à compter de leur découverte. La cessation de la communauté de vie entre les époux dans les douze mois suivant l'enregistrement de la déclaration prévue à l'article 21-2 constitue une présomption de fraude.

#### **Article 26-5**

*(Loi n° 98-170 du 16 mars 1998 art. 12 IV Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

Sous réserve des dispositions du deuxième alinéa (1°) de l'article 23-9, les déclarations de nationalité, dès lors qu'elles ont été enregistrées, prennent effet à la date à laquelle elles ont été souscrites.

### **Section 2: Des décisions administratives**

#### **Article 27**

*(Loi du 8 mars 1803 promulguée le 18 mars 1803)*

*(Loi du 31 mai 1854)*

*(Loi n° 99-1141 du 29 décembre 1999 art. 3 Journal Officiel du 30 décembre 1999)*

Toute décision déclarant irrecevable, ajournant ou rejetant une demande d'acquisition, de naturalisation ou de réintégration par décret ainsi qu'une autorisation de perdre la nationalité française doit être motivée.

#### **Article 27-1**

*(Loi n° 99-1141 du 29 décembre 1999 art. 3 Journal Officiel du 30 décembre 1999)*

Les décrets portant, acquisition, naturalisation ou réintégration, autorisation de perdre la nationalité française, perte ou déchéance de cette nationalité, sont pris et publiés dans des formes fixées par décret. Ils n'ont point d'effet rétroactif.

## **Article 27-2**

*(Loi n° 99-1141 du 29 décembre 1999 art. 3 Journal Officiel du 30 décembre 1999)*

Les décrets portant acquisition, naturalisation ou réintégration peuvent être rapportés sur avis conforme du Conseil d'Etat dans le délai d'un an à compter de leur publication au Journal officiel si le requérant ne satisfait pas aux conditions légales; si la décision a été obtenue par mensonge ou fraude, ces décrets peuvent être rapportés dans le délai de deux ans à partir de la découverte de la fraude.

## **Article 27-3**

Les décrets qui portent perte pour l'une des causes prévues aux articles 23-7 et 23-8 ou déchéance de la nationalité française sont pris, l'intéressé entendu ou appelé à produire ses observations.

## **Section 3: Des mentions sur les registres de l'état civil**

### **Article 28**

*(Loi du 8 mars 1803 promulguée le 18 mars 1803)*

*(Loi du 31 mai 1854)*

*(Loi n° 98-170 du 16 mars 1998 art. 16 Journal Officiel du 17 mars 1998 en vigueur le 1er septembre 1998)*

Mention sera portée, en marge de l'acte de naissance, des actes administratifs et des déclarations ayant pour effet l'acquisition, la perte de la nationalité française ou la réintégration dans cette nationalité.

Il sera fait de même mention de toute première délivrance de certificat de nationalité française et des décisions juridictionnelles ayant trait à cette nationalité.

### **Article 28-1**

*(Modifié par LOI n°2007-1787 du 20 décembre 2007 - art. 11)*

Les mentions relatives à la nationalité prévues à l'article précédent sont portées d'office sur les copies et les extraits avec indication de la filiation des actes de naissance ou des actes dressés pour en tenir lieu.

Ces mentions sont également portées sur les extraits sans indication de la filiation des actes de naissance ou sur le livret de famille à la demande des intéressés. Toutefois, la mention de la perte, de la déclinéation, de la déchéance, de l'opposition à l'acquisition de la nationalité française, du retrait du décret d'acquisition, de naturalisation ou de réintégration ou de la décision judiciaire ayant constaté l'extranéité est portée d'office sur tous les extraits des actes de naissance et sur le livret de famille lorsqu'une personne ayant antérieurement acquis cette nationalité, ou s'étant vu reconnaître judiciairement celle-ci, ou délivrer un certificat de nationalité française a demandé qu'il en soit fait mention sur lesdits documents.

## **Chapitre VI: Du contentieux de la nationalité**

### **Section 1: De la compétence des tribunaux judiciaires et de la procédure devant ces tribunaux**

#### **Article 29**

*(Loi du 8 mars 1803 promulguée le 18 mars 1803)*

*(Loi du 31 mai 1854)*

La juridiction civile de droit commun est seule compétente pour connaître des contestations sur la nationalité française ou étrangère des personnes physiques.

Les questions de nationalité sont préjudicielles devant toute autre juridiction de l'ordre administratif ou judiciaire à l'exception des juridictions répressives comportant un jury criminel.

#### **Article 29-1**

Le siège et le ressort des tribunaux de grande instance compétents pour connaître des contestations sur la nationalité française ou étrangère des personnes physiques sont fixés par décret.

#### **Article 29-2**

La procédure suivie en matière de nationalité, et notamment la communication au ministère de la justice des assignations, conclusions et voies de recours, est déterminée par le code de procédure civile.

#### **Article 29-3**

Toute personne a le droit d'agir pour faire décider qu'elle a ou qu'elle n'a point la qualité de Français.

Le procureur de la République a le même droit à l'égard de toute personne. Il est défendeur nécessaire à toute action déclaratoire de nationalité. Il doit être mis en cause toutes les fois qu'une question de nationalité est posée à titre incident devant un tribunal habile à en connaître.

#### **Article 29-4**

Le procureur est tenu d'agir s'il en est requis par une administration publique ou par une tierce personne ayant soulevé l'exception de nationalité devant une juridiction qui a sursis à statuer en application de l'article 29. Le tiers requérant devra être mis en cause.

#### **Article 29-5**

Les jugements et arrêts rendus en matière de nationalité française par le juge de droit commun ont effet même à l'égard de ceux qui n'y ont été ni parties, ni représentés.

Tout intéressé est recevable cependant à les attaquer par la tierce opposition à la condition de mettre en cause le procureur de la République.

## **Section 2: De la preuve de la nationalité devant les tribunaux judiciaires**

### **Article 30**

*(Loi du 8 mars 1803 promulguée le 18 mars 1803)*

*(Loi du 31 mai 1854)*

La charge de la preuve, en matière de nationalité française, incombe à celui dont la nationalité est en cause.

Toutefois, cette charge incombe à celui qui conteste la qualité de Français à un individu titulaire d'un certificat de nationalité française délivré conformément aux articles 31 et suivants.

### **Article 30-1**

*(Loi n° 99-1141 du 29 décembre 1999 art. 3 Journal Officiel du 30 décembre 1999)*

Lorsque la nationalité française est attribuée ou acquise autrement que par déclaration, décret d'acquisition ou de naturalisation, réintégration ou annexion de territoires, la preuve ne peut être faite qu'en établissant l'existence de toutes les conditions requises par la loi.

### **Article 30-2**

*(Loi n° 2006-911 du 24 juillet 2006 art. 110 Journal Officiel du 25 juillet 2006)*

Néanmoins, lorsque la nationalité française ne peut avoir sa source que dans la filiation, elle est tenue pour établie, sauf la preuve contraire si l'intéressé et celui de ses père et mère qui a été susceptible de la lui transmettre ont joui d'une façon constante de la possession d'état de Français.

La nationalité française des personnes nées à Mayotte, majeures au 1er janvier 1994, sera subsidiairement tenue pour établie si ces personnes ont joui de façon constante de la possession d'état de Français.

Pendant une période de trois ans à compter de la publication de la loi n° 2006-911 du 24 juillet 2006 relative à l'immigration et à l'intégration, pour l'application du deuxième alinéa du présent article, les personnes majeures au 1er janvier 1994 qui établissent qu'elles sont nées à Mayotte sont réputées avoir joui de façon constante de la possession d'état de Français si elles prouvent, en outre, qu'elles ont été inscrites sur une liste électorale à Mayotte au moins dix ans avant la publication de la loi n° 2006-911 du 24 juillet 2006 précitée et qu'elles font la preuve d'une résidence habituelle à Mayotte.

### **Article 30-3**

Lorsqu'un individu réside ou a résidé habituellement à l'étranger, où les ascendants dont il tient par filiation la nationalité sont demeurés fixés pendant plus d'un demi-siècle, cet individu ne sera pas admis à faire la preuve qu'il a, par filiation, la nationalité française si lui-même et celui de ses père et mère qui a été susceptible de la lui transmettre n'ont pas eu la possession d'état de Français.

Le tribunal devra dans ce cas constater la perte de la nationalité française, dans les termes de l'article 23-6.

### **Article 30-4**

En dehors des cas de perte ou de déchéance de la nationalité française, la preuve de l'extranéité d'un individu peut seulement être établie en démontrant que l'intéressé ne remplit aucune des conditions exigées par la loi pour avoir la qualité de Français.

## **Section 3: Des certificats de nationalité française**

### **Article 31**

*(Loi du 31 mai 1854)*

*(Loi n° 93-933 du 22 juillet 1993 art. 50 Journal Officiel du 23 juillet 1993)*

*(Loi n° 95-125 du 8 février 1995 art. 15 Journal Officiel du 9 février 1995 en vigueur le 9 mai 1995)*

Le greffier en chef du tribunal d'instance a seul qualité pour délivrer un certificat de nationalité française à toute personne justifiant qu'elle a cette nationalité.

### **Article 31-1**

Le siège et le ressort des tribunaux d'instance compétents pour délivrer les certificats de nationalité sont fixés par décret.

### **Article 31-2**

*(Loi n° 93-933 du 22 juillet 1993 art. 50 Journal Officiel du 23 juillet 1993)*

*(Loi n° 95-125 du 8 février 1995 art. 16 Journal Officiel du 9 février 1995 en vigueur le 9 mai 1995)*

Le certificat de nationalité indique, en se référant aux chapitres II, III, IV et VII du présent titre, la disposition légale en vertu de laquelle l'intéressé a la qualité de Français, ainsi que les documents qui ont permis de l'établir. Il fait foi jusqu'à preuve du contraire.

Pour l'établissement d'un certificat de nationalité, le greffier en chef du tribunal d'instance pourra présumer, à défaut d'autres éléments, que les actes d'état civil dressés à l'étranger et qui sont produits devant lui emportent les effets que la loi française y aurait attachés.

### **Article 31-3**

*(Loi n° 93-933 du 22 juillet 1993 art. 50 Journal Officiel du 23 juillet 1993)*

*(Loi n° 95-125 du 8 février 1995 art. 17 Journal Officiel du 9 février 1995 en vigueur le 9 mai 1995)*

Lorsque le greffier en chef du tribunal d'instance refuse de délivrer un certificat de nationalité, l'intéressé peut saisir le ministre de la justice, qui décide s'il y a lieu de procéder à cette délivrance.

## **Chapitre VII: Des effets sur la nationalité française des transferts de souveraineté relatifs à certains territoires**

### **Article 32**

*(Loi du 8 mars 1803 promulguée le 18 mars 1803)*

*(Loi du 31 mai 1854)*

Les Français originaires du territoire de la République française, tel qu'il était constitué à la date du 28 juillet 1960, et qui étaient domiciliés au jour de son accession à l'indépendance sur le territoire d'un Etat qui avait eu antérieurement le statut de territoire d'outre-mer de la République française, ont conservé la nationalité française.

Il en est de même des conjoints, des veufs ou veuves et des descendants desdites personnes.

### **Article 32-1**

Les Français de statut civil de droit commun domiciliés en Algérie à la date de l'annonce officielle des résultats du scrutin d'autodétermination conservent la nationalité française quelle que soit leur situation au regard de la nationalité algérienne.

### **Article 32-2**

La nationalité française des personnes de statut civil de droit commun, nées en Algérie avant le 22 juillet 1962, sera tenue pour établie, dans les conditions de l'article 30-2, si ces personnes ont joui de façon constante de la possession d'état de Français.

### **Article 32-3**

Tout Français domicilié à la date de son indépendance sur le territoire d'un Etat qui avait eu antérieurement le statut de département ou de territoire d'outre-mer de la République, conserve de

plein droit sa nationalité dès lors qu'aucune autre nationalité ne lui a été conférée par la loi de cet Etat.

Conservent également de plein droit la nationalité française les enfants des personnes bénéficiaires des dispositions de l'alinéa précédent, mineurs de dix-huit ans à la date de l'accession à l'indépendance du territoire où leurs parents étaient domiciliés.

#### **Article 32-4**

Les anciens membres du Parlement de la République, de l'Assemblée de l'Union française et du Conseil économique qui ont perdu la nationalité française et acquis une nationalité étrangère par l'effet d'une disposition générale peuvent être réintégrés dans la nationalité française par simple déclaration, lorsqu'ils ont établi leur domicile en France.

La même faculté est ouverte à leur conjoint, veuf ou veuve et à leurs enfants.

#### **Article 32-5**

La déclaration de réintégration prévue à l'article précédent peut être souscrite par les intéressés, conformément aux dispositions des articles 26 et suivants, dès qu'ils ont atteint l'âge de dix-huit ans; elle ne peut l'être par représentation. Elle produit effet à l'égard des enfants mineurs dans les conditions des articles 22-1 et 22-2.

### **Chapitre VIII: Dispositions particulières concernant les territoires d'outre-mer**

#### **Article 33**

*(Modifié par Ordonnance n°2007-98 du 25 janvier 2007 - art. 130 JORF 26 janvier 2007)*

Pour l'application du présent titre :

1° Les mots : " tribunal de grande instance " sont remplacés par les mots : " tribunal de première instance " ;

2° Aux articles 21-28 et 21-29, les mots : " dans le département " sont remplacés par les mots : " dans la collectivité " ou " en Nouvelle-Calédonie ".

Les sanctions pécuniaires encourues en vertu de l'article 68 dans les îles Wallis et Futuna, en Polynésie française et en Nouvelle-Calédonie sont prononcées en monnaie locale, compte tenu de la contre-valeur dans cette monnaie de l'euro.

#### **Article 33-1**

*(Modifié par Ordonnance n°2007-98 du 25 janvier 2007 - art. 130 JORF 26 janvier 2007)*

Par dérogation à l'article 26, la déclaration est reçue par le président du tribunal de première instance ou par le juge chargé de la section détachée.

## **Article 33-2**

*(Modifié par Ordonnance n°2007-98 du 25 janvier 2007 - art. 130 JORF 26 janvier 2007)*

Par dérogation à l'article 31, le président du tribunal de première instance ou le juge chargé de la section détachée a seul qualité pour délivrer un certificat de nationalité française à toute personne justifiant qu'elle a cette nationalité.

## **GERMANIA**

### **NATIONALITY ACT**

**(Traduzione non ufficiale in inglese a cura del Ministero federale dell'interno:**

[http://www.bmi.bund.de/Internet/Content/Common/Anlagen/Gesetze/Gesetze\\_Sprachen/Staatsangehoerigkeitsgesetz\\_englisch,templateId=raw,property=publicationFile.pdf/Staatsangehoerigkeitsgesetz\\_englisch.pdf](http://www.bmi.bund.de/Internet/Content/Common/Anlagen/Gesetze/Gesetze_Sprachen/Staatsangehoerigkeitsgesetz_englisch,templateId=raw,property=publicationFile.pdf/Staatsangehoerigkeitsgesetz_englisch.pdf))

of 22 July 1913 (Reich Law Gazette I p. 583 - Federal Law Gazette III 102-1), as last amended by Article 5 of the Act on the implementation of residence- and asylumrelated directives of the European Union of 19 August 2007 (Federal Law Gazette I p. 1970)

#### **Section 1**

##### **[Definition of a German][14]**

A German within the meaning of this Act is a person who possesses German citizenship.

#### **Section 2**

*(Repealed)*

#### **Section 3**

##### **[Acquisition of citizenship]**

(1) Citizenship is acquired

1. by birth (Section 4),
2. by a declaration pursuant to Section 5,
3. by adoption (Section 6),

4. by issuance of the certificate pursuant to Section 15 (1) or (2) of the Federal Expellees Act (Section 7),

4a. for Germans without German citizenship within the meaning of Article 116 (1) of the Basic Law, under the procedure laid down in Section 40a below (Section 40a),

5. for a foreigner by naturalisation (Sections 8 to 16, 40b and 40c).

(2) German citizenship shall also be acquired by any person who has been treated by German public authorities as a German national for 12 years and this has been due to circumstances beyond his or her control. In particular, any person who has been issued a certificate of nationality, a passport or a national identity card shall be treated as a German national. Acquisition of citizenship shall apply as of the date when the person was deemed to have acquired German citizenship by treating him or her as a German national. The acquisition of German citizenship shall extend to those descendants who derive their status as Germans from the beneficiary pursuant to sentence 1.

## **Section 4<sup>[15]</sup>**

### **[Acquisition by birth]**

(1) A child shall acquire German citizenship by birth if one parent possesses German citizenship. Where at the time of the birth only the father is a German national, and where for proof of descent under German law recognition or determination of paternity is necessary, acquisition shall be dependent on recognition or determination of paternity with legal effect under German law; the declaration of recognition must be submitted or the procedure for determination commenced before the child reaches the age of 23.

(2) A child which is found on German territory (foundling) shall be deemed to be the child of a German until otherwise proven.

(3) A child of foreign parents shall acquire German citizenship by birth in Germany if one parent

1. has been legally ordinarily resident in Germany for eight years and

2. has been granted a permanent right of residence or as a national of Switzerland or as a family member of a national of Switzerland possesses a residence permit on the basis of the Agreement of 21 June 1999 between the European Community and its Member States on the one hand and the Swiss Confederation on the other hand on the free movement of persons (Federal Law Gazette 2001 II p. 810).

The acquisition of German citizenship shall be recorded by the registrar responsible for certifying the child's birth. The Federal Ministry of the Interior shall, with the consent of the *Bundesrat*, be authorised to issue regulations concerning the procedure for recording the acquisition of citizenship pursuant to sentence 1 by way of ordinance.

(4) German citizenship shall not be acquired pursuant to sub-section 1 in case of birth abroad if the German parent was born abroad after 31 December 1999 and is ordinarily resident abroad, unless the child would otherwise become stateless. The legal consequence pursuant to sentence 1 shall not ensue if the German parent notifies the competent diplomatic mission abroad of the birth within one year. Where both parents are German nationals, the legal consequences pursuant to sentence 1 shall ensue only if they both fulfil the conditions stipulated therein.

## **Section 5**

### **[Right of declaration for children born before 1 July 1993]**

By declaring a wish to become a German national, a child born before 1 July 1993 of a German father and a foreign mother shall acquire German citizenship if

1. paternity has been recognised or determined with legal effect under German law,
2. the child has been legally ordinarily resident in the federal territory for three years and
3. the declaration is submitted prior to the child's 23rd birthday.

## **Section 6**

### **[Acquisition by adoption as a child]**

A child who is below eighteen years of age at the time of application for adoption shall acquire citizenship as a result of valid adoption by a German under German law. The acquisition of citizenship shall extend to the child's descendants.

## **Section 7**

### **[Acquisition by issuance of the certificate pursuant to Section 15 (1) or (2) of the Federal Expellees Act]**

Repatriates of German ancestry and their family members included in the admission notice shall acquire the German citizenship when they are issued a repatriates certificate in accordance with Section 15 (1) or (2) of the Federal Expellees Act.

## **Section 8**

### **[Discretionary naturalisation]**

(1) A foreigner who is legally ordinarily resident in Germany may be naturalised upon application provided that he or she

1. possesses legal capacity pursuant to Section 80 (1) of the Residence Act or has a legal representative,
2. has not been sentenced for an unlawful act and is not subject to any court order imposing a measure of reform and prevention,
3. has found a dwelling of his or her own or accommodation and
4. is able to support himself or herself and his or her dependents.

(2) The requirements stipulated in sub-section 1, sentence 1, nos. 2 and 4 may be waived on grounds of public interest or in order to avoid special hardship.

## **Section 9**

### **[Naturalisation of spouses or life partners of Germans]**

(1) Spouses or life partners of Germans should be naturalised in keeping with the requirements set out in Section 8, if

1. they lose or give up their previous citizenship or a ground exists for accepting multiple nationality pursuant to Section 12 and

2. it is ensured that they will conform to the German way of life, unless they do not have sufficient command of the German language (Section 10(1), sentence 1, no. 6 and sub-section 4) and do not fulfil any condition that would justify an exception under Section 10, sub-section 6.

(2) The provision pursuant to sub-section 1 shall also apply if naturalisation is applied for within one year of the German spouse's death or of a ruling dissolving the marriage becoming final and the applicant is entitled to custody of a child issuing from the marriage who already possesses German citizenship.

(3) (repealed)

## **Section 10<sup>[16]</sup>**

### **[Entitlement to naturalisation;**

#### **derivative naturalisation of spouses and minor children]**

(1) A foreigner who has been legally ordinarily resident in Germany for eight years and possesses legal capacity pursuant to Section 80 of the Residence Act or has a legal representative shall be naturalised upon application if he or she 1. confirms his or her commitment to the free democratic constitutional system enshrined in the Basic Law of the Federal Republic of Germany and declares that he or she does not pursue or support and has never pursued or supported any activities

a) aimed at subverting the free democratic constitutional system, the existence or security of the Federation or a *Land* or

b) aimed at illegally impeding the constitutional bodies of the Federation or a *Land* or the members of said bodies in discharging their duties or

c) any activities which jeopardise foreign interests of the Federal Republic of Germany through the use of violence or preparatory actions for the use of violence, or credibly asserts that he or she has distanced himself or herself from the former pursuit or support of such activities,

2. has been granted a permanent right of residence or as a national of Switzerland or as a family member of a national of Switzerland possesses a residence permit on the basis of the Agreement of 21 June 1999 between the European Community and its Member States on the one hand and the Swiss Confederation on the other hand on the free movement of persons or possesses a residence permit for purposes other than those specified in Sections 16, 17, 20, 22, 23(1), 23a, 24 and Section 25 sub-sections 3 to 5 of the Residence Act,

3. is able to ensure his or her own subsistence and the subsistence of his or her dependents without recourse to benefits in accordance with Book Two or Book Twelve of the Social Code or recourse to such benefits is due to conditions beyond his or her control,

4. gives up or loses his or her previous citizenship,

5. has not been sentenced for an unlawful act and is not subject to any court order imposing a measure of reform and prevention,

6. possesses an adequate knowledge of German and

7. possesses knowledge of the legal system, the society and living conditions in the Federal Republic of Germany. The conditions under sentence 1 numbers 1 and 7 do not apply to foreigners who do not have legal capacity pursuant to Section 80 (1) of the Residence Act.

(2) The foreigner's spouse and minor children may be naturalised together with the foreigner in accordance with sub-section (1), irrespective of whether they have been lawfully resident in Germany for eight years.

(3) Upon a foreigner confirming successful attendance of an integration course by presenting a certificate issued by the Federal Office for Migration and Refugees, the qualifying period stipulated in sub-section 1 shall be reduced to seven years. This qualifying period may be reduced to six years if the foreigner has made outstanding efforts at integration exceeding the requirements under sub-section 1, sentence 1, no. 6, especially if he or she can demonstrate his or her command of the German language.

(4) The conditions specified in sub-section 1, sentence 1, no. 6 are fulfilled if the foreigner passes the oral and written language examinations leading to the *Zertifikat Deutsch* (equivalent of level B 1 in the Common European Framework of Reference for Languages). Where a minor child is under 16 years of age at the time of naturalisation the conditions of sub-section 1, sentence 1, no. 6 shall be fulfilled if the child demonstrates age-appropriate language skills.

(5) As a rule, the conditions specified in sub-section 1, sentence 1, no. 7 shall be fulfilled if the foreigner has passed the naturalisation test. To prepare for the test, foreigners may participate in voluntary integration courses.

(6) The requirements of sub-section 1, sentence 1, nos. 6 and 7 shall be waived if the foreigner is unable to fulfil them on account of a physical, mental or psychological illness or disability or on grounds related to age.

(7) The Federal Ministry of the Interior shall be authorised, without the need for approval by the *Bundesrat*, to issue ordinances defining the test and certification requirements as well as the basic structure and contents of the naturalisation courses under sub-section 5, based on the contents of the orientation course under Section 43, sub-section 3, sentence 1 of the Residence Act.

## **Section 11**

### **[Grounds for exclusion]**

Naturalisation shall not be allowed

1. there are concrete, justifiable grounds to assume that the foreigner is pursuing or supporting or has pursued or supported activities aimed at subverting the free democratic constitutional system, the existence or security of the Federation or a *Land* or at illegally impeding the constitutional bodies of the Federation or a *Land* or the members of said bodies in discharging their duties or any activities which jeopardise foreign interests of the Federal Republic of Germany through the use of violence or preparatory actions for the use of violence, unless he or she credibly asserts that he or she has distanced himself or herself from the former pursuit or support of such activities, or

2. a ground for expulsion applies pursuant to Section 54, nos. 5 and 5a of the Residence Act.

Sentence 1, no. 2 shall apply *mutatis mutandis* for foreigners within the meaning of Section 1 (2) of the Residence Act and also for nationals of Switzerland and their family members possessing a residence permit on the basis of the Agreement of 21 June 1999 between the European Community and its Member States on the one hand and the Swiss Confederation on the other hand on the free movement of persons.

## **Section 12**

### **[Naturalisation accepting multiple nationality]**

(1) The condition stipulated in Section 10 (1), sentence 1, no. 4 shall be waived if the foreigner is unable to give up his or her previous citizenship, or if doing so would entail particularly difficult conditions. This is to be assumed if

1. the law of the foreign state makes no provision for giving up its citizenship,
2. the foreign state regularly refuses to grant release from citizenship,

3. the foreign state has refused to grant release from citizenship for reasons for which the foreigner is not responsible, or attaches unreasonable conditions to release from citizenship or has failed to reach a decision within a reasonable time on the application for release from citizenship which has been submitted in due and complete form,

4. the subsequent multiple nationality represents the sole obstacle to the naturalisation of older persons, the process for release from citizenship entails unreasonable difficulties and failure to grant naturalisation would constitute special hardship,

5. in giving up his or her foreign citizenship the foreigner would incur substantial disadvantages beyond the loss of his or her civic rights, in particular such disadvantages of an economic or property-related nature, or

6. the foreigner holds a travel document in accordance with Article 28 of the Convention relating to the Status of Refugees of 28 July 1951 (Federal Law Gazette 1953 II, p. 559).

(2) The condition stipulated in Section 10 (1), sentence 1, no. 4 shall further be waived if the foreigner holds the citizenship of another member state of the European Union or Switzerland.

(3) Further exemptions from the condition stipulated in Section 10 (1), sentence 1, no. 4 may be granted pursuant to the provisions of agreements under international law.

## **Section 12a**

### **[Decision in case of conviction for an offence]**

(1) The following shall not be taken into consideration in the process of naturalisation:

1. The imposition of educational or disciplinary measures under the Juvenile Court Act,
2. sentencing to fines of up to 90 daily rates and

3. the imposition of suspended sentences of up to three months' imprisonment which are waived after expiry of the probationary period.

Where more than one term of imprisonment or more than one fine have been imposed pursuant to sentence 1, nos. 2 and 3, they shall be cumulated, unless doing so would result in a

lesser punishment overall; where a fine and imprisonment are imposed simultaneously, one daily rate equals one day's imprisonment. If the punishment or the total of all punishments slightly exceeds the framework under sentences 1 and 2, it shall be decided on the merits of the individual case whether it can be disregarded. Where a measure of reform and prevention under Section 61, no. 5 or no. 6 of the Criminal Code has been imposed, it shall be decided on the merits of the individual case whether this measure of reform and prevention can be disregarded.

(2) Foreign convictions shall be considered if the offence concerned is to be regarded as liable to prosecution in Germany, the sentence has been passed in proceedings conducted in accordance with the rule of law and the sentence is commensurate.

Such a conviction cannot be considered if its removal from the records would be required in accordance with the Federal Central Criminal Register Act. Sub-section 1 shall apply *mutatis mutandis*.

(3) If a foreigner who has applied for naturalisation is under investigation on suspicion of having committed an offence, the decision on naturalisation shall be deferred until conclusion of the proceedings, and in the case of conviction until the judgement becomes unappealable. The same shall apply if the imposition of youth custody is suspended pursuant to Section 27 of the Juvenile Court Act.

(4) Convictions abroad and criminal investigations and proceedings which are pending abroad shall be stated in the application for naturalisation.

## **Section 12b**

### **[Interruptions of residence]**

(1) Ordinary residence in Germany shall not be considered interrupted by stays abroad of up to six months in duration. In case of longer stays abroad, ordinary residence in Germany shall be considered to continue if the foreigner re-enters the federal territory within the deadline stipulated by the foreigners authority. The same shall apply if the deadline is exceeded solely on account of the foreigner carrying out statutory military service in his or her country of origin and the foreigner re-enters the federal territory within three months of discharge from military or community service.

(2) If the foreigner has resided abroad for over six months for a reason of a nontemporary nature, the previous period of residence in Germany may be counted towards the duration of residence which is necessary for the purposes of naturalisation, up to a period of five years.

(3) Interruptions in the lawfulness of residence shall be disregarded if they arise as a result of the foreigner having failed to apply in good time for initial issuance or subsequent extension of the residence title.

## **Section 13**

### **[Discretionary naturalisation of former Germans abroad]**

A former German and his or her minor children who are ordinarily resident abroad may be naturalised on application if they meet the requirements of Section 8, subsection 1, nos. 1 and 2.

## **Section 14**

**[General discretionary naturalisation abroad]**

A foreigner who is ordinarily resident abroad may be naturalised subject to the other conditions of Sections 8 and 9 if ties with Germany exist which justify naturalisation.

## **Section 15**

*(Repealed)*

## **Section 16**

### **[Certificate of naturalisation]**

Naturalisation shall become effective upon delivery of the certificate of naturalisation issued by the competent administrative authority. Before the certificate is handed over to the foreigner he or she shall make the following solemn statement: "I solemnly declare that I will respect and observe the Basic Law and the laws of the Federal Republic of Germany, and that I will refrain from any activity which might cause it harm." Section 10, sub-section 1, sentence 2 shall apply *mutatis mutandis*.

## **Section 17**

### **[Loss of citizenship]**

Citizenship shall be lost

1. by release from citizenship (Sections 18 to 24),
2. by acquisition of a foreign citizenship (Section 25),
3. by renunciation (Section 26),
4. by adoption by a foreigner (Section 27),
5. by joining the armed forces or a comparable armed organisation of a foreign state (Section 28) or
6. by a declaration (Section 29).

## **Section 18**

### **[Release from citizenship]**

A German shall, on application, be released from citizenship if he or she has applied for a foreign citizenship and the competent body has furnished an assurance that such citizenship will be granted.

## **Section 19**

### **[Release from citizenship of a person in parental custody or in the care of a guardian]**

(1) Application for the release from citizenship of a person in parental custody or in the care of a guardian may be filed by the legal representative only and shall require approval from the German guardianship court. The public prosecutor's office is to be notified of the decision reached by the German guardianship court and may appeal against this decision; further appeals against the court of appeal's decision shall be permissible without any restrictions.

(2) The approval of the guardianship court shall not be required where the father or mother applies for release from citizenship for himself or herself and for a child at the same time by virtue of the right of custody and the applicant is entitled to custody for the child concerned.

## **Section 20**

*(Repealed)*

## **Section 21**

*(Repealed)*

## **Section 22**

### **[Refusal of release from citizenship]**

Release from citizenship must not be granted to:

1. Civil servants, judges, Federal Armed Forces soldiers and other persons employed in a service or official capacity under public law, for as long as they remain employed in said service or official capacity, with the exception of persons employed in an honorary capacity.
2. Persons liable for military service, until it is confirmed by the Federal Ministry of Defence or a body designated by the said Ministry that no reservations exist regarding release from citizenship.

## **Section 23**

### **[Certificate of release]**

Release from citizenship shall become effective upon delivery of the certificate of release from citizenship issued by the competent administrative authority.

## **Section 24**

### **[Invalidity of release from citizenship]**

The release from citizenship shall be deemed to be null and void if the released person fails to acquire the foreign citizenship of which he or she was assured within one year of issuance of the certificate of release.

## **Section 25**

### **[Loss of citizenship on acquisition of a foreign citizenship following due application for the same; approval of retention of citizenship]**

(1) A German shall lose his or her citizenship upon acquiring a foreign citizenship where such acquisition results from an application filed by the German concerned or his or her legal representative, whereas the represented person shall suffer such loss only if the qualifying conditions for application for release from citizenship apply as stipulated in Section 19. The loss

under sentence 1 shall not take effect if a German acquires the citizenship of another member state of the European Union, Switzerland or of a state with whom the Federal Republic of Germany has signed a treaty under Section 12, sub-section 3.

(2) Citizenship shall not be lost by any person who, prior to acquiring foreign citizenship following their application for the same, received written approval from their competent authority for retention of their citizenship. Where an applicant is ordinarily resident abroad, the German diplomatic mission abroad shall be consulted in this connection. The public and private interests shall be weighed up in reaching the decision on an application pursuant to sentence 1. With regard to an applicant who is ordinarily resident abroad, special consideration shall be accorded to the question of whether he or she is able to furnish credible evidence of continuing ties with Germany.

## **Section 26**

### **[Renunciation]**

(1) A German may renounce his or her citizenship if he or she possesses several nationalities. Such a renunciation shall be declared in writing.

(2) The written renunciation shall require the approval of the authority which is competent pursuant to Section 23 for issuing the certificate of release. Such approval shall be withheld if release may not be granted pursuant to Section 22; this shall not apply, however, if the person renouncing citizenship 1. has been permanently resident abroad for at least ten years or

2. has performed military service in one of the states whose citizenship he holds as a person liable for military service within the meaning of Section 22, no. 2.

(3) The loss of citizenship shall take effect upon delivery of the certificate of renunciation issued by the approving authority.

(4) Section 19 shall apply *mutatis mutandis* for minors.

## **Section 27**

### **[Loss of citizenship on adoption by a foreigner]**

A German under the age of majority shall lose his or her citizenship as a result of adoption by a foreigner in accordance with German law, if he or she acquires the adopting person's citizenship by virtue of such adoption. The loss of citizenship shall extend to his or her descendants where the acquisition of citizenship by the adoptee pursuant to sentence 1 also extends to the descendants. The loss under sentence 1 or sentence 2 shall not take effect if the adoptee or his or her descendants maintain a legal relation to their German parent.

## **Section 28**

### **[Loss of citizenship as a result of joining the armed forces or a comparable armed organisation of a foreign state]**

A German who, without the consent of the Federal Ministry of Defence or a body designated by the said Ministry, voluntarily enlists with the armed forces or a comparable armed organisation of a foreign state whose citizenship he or she possesses, shall lose German citizenship. This shall

not apply if he or she is entitled to enlist in the aforesaid manner by virtue of an inter-governmental agreement.

## **Section 29**

### **[Declaration]**

(1) After attaining the age of majority and after receiving due advice in accordance with sub-section 5, a German who, after 31 December 1999, has acquired citizenship pursuant to Section 4 (3) or via naturalisation pursuant to Section 40b and possesses a foreign citizenship is to declare whether he or she wishes to retain the German or foreign citizenship. The declaration shall be submitted in writing.

(2) If the person obliged to furnish a declaration pursuant to sub-section 1 declares a wish to retain the foreign citizenship, German citizenship shall be lost upon the declaration being received by the competent authority. Citizenship shall also be lost if no declaration has been made by the time the person concerned reaches the age of 23.

(3) If the person obliged to furnish a declaration pursuant to sub-section 1 declares a wish to retain German citizenship, he or she shall be obliged to furnish proof that he or she has given up or lost the foreign citizenship. German citizenship shall be lost if no such proof is furnished by the 23rd birthday of the person concerned, unless the German has previously applied for and received the written approval of the competent authority to retain German citizenship (retention approval). The application for retention approval, including as a precautionary measure, may only be filed up to the 21st birthday of the person concerned (preclusive period). The loss of German citizenship shall not take effect until rejection of the application becomes legally valid. The possibility of provisional legal redress pursuant to Section 123 of the Code of Administrative Procedure shall remain unaffected.

(4) The retention approval pursuant to sub-section 3 shall be granted where renunciation or loss of the foreign citizenship is not possible or cannot reasonably be expected or where acceptance of multiple nationality would be required in case of naturalisation in accordance with Section 12.

(5) The competent authority shall advise the person required to furnish a declaration pursuant to sub-section 1 of his or her obligations and the possible legal consequences as set out in sub-sections 2 to 4. The said advice shall be formally served. Such service shall be effected immediately after the 18th birthday of the person who is required to furnish a declaration pursuant to sub-section 1. The provisions of the Act to regulate service in administrative proceedings shall apply.

(6) The continuation or loss of German citizenship in accordance with this provision shall be determined ex officio. The Federal Ministry of the Interior may, by ordinance with the consent of the *Bundesrat*, issue provisions regulating the procedure to determine the continuation or loss of German citizenship.

## **Section 30**

### **[Establishment of German citizenship]**

(1) Possession or lack of German citizenship shall be established by the nationality authority upon application. The outcome of this assessment shall be binding in all matters for which possession or lack of German citizenship is of legal relevance. In the case of a public interest, possession or lack thereof may be established upon the competent authority's own motion.

(2) To establish possession of German citizenship it shall be required and sufficient to give reliable evidence that German citizenship was acquired and has not since been lost by furnishing documents, extracts from the citizens' registers or other written evidence. Section 3, sub-section 2 remains unaffected.

(3) Where possession of German citizenship has been established upon application, the nationality authority shall issue a certificate of nationality. Upon request, the nationality authority shall issue a certificate confirming nonpossession of German citizenship.

## **Section 31**

### **[Personal data]**

Nationality authorities and diplomatic missions abroad may collect, store, modify and use personal data insofar as this is necessary to discharge their duties under this Act and in accordance with provisions relating to nationality contained in other acts. For the purpose of deciding on the citizenship of persons specified in Article 116 (2) of the Basic Law, such information may also be collected, stored or modified and used which relates to the political, racial or religious reasons due to which these persons were deprived of their German citizenship between 30 January 1933 and 8 May 1945.

## **Section 32**

### **[Transmission of data to nationality authorities]**

(1) Public bodies shall transmit personal data to the bodies specified in Section 31 upon request, insofar as knowledge of these data is necessary to discharge the duties referred to in Section 31. Public bodies shall transmit these data to the competent nationality authority even without a request if the public body considers such transmission to be necessary for the nationality authority to decide on a pending application for naturalisation or loss or non-acquisition of German citizenship. With regard to naturalisation procedures, pursuant to Section 87 (4) if the Residence Act, this refers particularly to data relating to the initiation and execution of criminal proceedings, proceedings for the collection of fines, and extradition procedures of which the foreigners authorities have obtained knowledge. The data referred to in sentence 3 shall be transmitted without delay to the competent nationality authority.

(2) Personal data shall not be transferred pursuant to sub-section 1 if such transfer is precluded by special statutory regulations on the use of the said data.

## **Section 33**

### **[Register of decisions relating to nationality law]**

(1) The Federal Office of Administration (registration authority) maintains a register of decisions relating to citizenship matters. The following shall be entered into the register:

1. Decisions on certificates on nationality,
2. Decisions on the statutory loss of German citizenship,
3. Decisions on the acquisition, possession and loss of German citizenship made between 31 December 1960 and 28 August 2007.

(2) More specifically, the following items of information may be stored in the register:

1. the basic personal data of the person concerned (surname, surname at birth, former surnames, given names, day and place of birth, sex, the fact that under Section 29 German citizenship may be lost, as well as the postal address at the date of the decision),
2. The way in which, and the date when the decision or certificate or the loss of the citizenship shall take effect,
3. Name, postal address and file reference of the authority which made the decision.

(3) The nationality authorities shall be obliged to immediately transmit all personal data specified in sub-section 2 relating to decisions made under sub-section 1, sentence 2, nos. 1 and 2 after 28 August 2007 to the registration authority.

(4) The registration authority shall transmit the data referred to in sub-section 2 to the nationality authorities and diplomatic missions abroad upon their request insofar as knowledge of the data is necessary to discharge their duties relating to nationality law. The provisions of the Federal Data Protection Act shall apply to the transmission to other public bodies or for research purposes.

(5) The nationality authority shall transmit the data specified in sub-section 2 to the competent authority to which a person must report his/her current address or to the competent

diplomatic mission abroad immediately after it has established that a person has been naturalised, retains German citizenship or has lost, renounced or never acquired German citizenship.

## **Section 34**

### **[Opting procedure]**

(1) With a view to implementing the opting procedure under Section 29, the authority to which a person must report his/her current address shall transmit the following personal data relating to persons who will reach 18 years of age in the following months and may lose German citizenship under Section 29 to the competent nationality authority:

1. name at birth,
2. surname,
3. former names,
4. given names,
5. sex,
6. date and place of birth,
7. current postal addresses,
8. the fact that under Section 29 the person may lose German citizenship.

(2) If a person referred to in sub-section 1 has moved to a foreign country, the competent authority to which the person must report his/her current address shall transfer the data specified in sub-section 1, the date when the person moved abroad and the new address abroad, if known, to the Federal Office of Administration within the period specified in sub-section 1. If a person immigrates from abroad, sentence 1 applies *mutatis mutandis*.

## **Section 35**

*(Repealed)*

## **Section 36**

### **[Naturalisation statistics]**

(1) Annual naturalisation surveys shall be conducted for the purposes of federal statistics, beginning in 2000 and relating in each case to the previous calendar year.

(2) The surveys shall cover the following attributes for each naturalised person:

1. year of birth,
2. sex,
3. marital status,
4. place of residence at time of naturalisation,
5. duration of residence in the federal territory in years,

6. legal basis for naturalisation,
7. previous citizenships and
8. continuation of previous citizenships.

(3) Supplementary attributes covered in the survey shall be:

1. designations and addresses of those obliged to furnish information pursuant to sub-section 4,
2. names and telecommunication numbers of the persons available to answer queries and
3. registration number of the naturalised person at the naturalisation authority.

(4) In respect of the surveys there shall be a duty to furnish information. This duty shall be incumbent on the naturalisation authorities. The naturalisation authorities shall furnish the information to the competent statistical offices of the *Länder* by 1 March each year. Provision of the information pertaining to sub-section 3, no. 2 shall be voluntary.

(5) Transmission of tables containing statistical results, including where a field in a table only shows a single case, may be effected by the Federal Statistical Office and by statistical offices of the *Länder* to the competent highest federal and Land authorities for use in dealings with the legislative bodies and for planning purposes, but not for measures pertaining to individual cases.

## **Section 37**

### **[Procedural provisions]**

(1) Section 80 (1) and (3) and Section 82 of the Residence Act shall apply *mutatis mutandis*.

(2) The naturalisation authorities shall transmit the personal data which they have stored on applicants aged 16 or over to the authorities for the protection of the constitution for the purpose of investigating grounds for exclusion under Section 11. The authorities for the protection of the constitution shall notify the inquiring body forthwith in accordance with the applicable special statutory provisions on use of the said data.

## **Section 38**

### **[Fees]**

(1) In the absence of any statutory provision to the contrary, official acts in citizenship matters shall be subject to costs (fees and expenses).

(2) The fee for naturalisation under this Act shall be 255 euros. This fee shall be reduced to 51 euros for a minor child which is naturalised at the same time and which has no independent income within the meaning of the Income Tax Act. No fee shall be payable for the acquisition of German citizenship pursuant to Section 5 and the naturalisation of former Germans who have lost their German citizenship as a result of marrying a foreigner. Establishment of the possession or non-possession of the German citizenship under Section 29, sub-section 6 and Section 30, sub-section 1, sentence 3, as well as issuance of a retention approval under Section 29, subsection 4 are free of charge. The fee stipulated in sentence 1 may be reduced or renounced on grounds of equity or public interest.

(3) The Federal Minister of the Interior shall be empowered to determine the additional circumstances in which fees shall be payable and to make provision in respect of the levels of fees and the reimbursement of expenses via statutory order with the approval of the Bundesrat. The fee shall not exceed 51 euros for release from citizenship, 255 euros for retention approval and 51 euros for the certificate of citizenship and other forms of certification.

## **Section 38a**

### **[Ban on issuance of citizenship certification in electronic form]**

It shall not be permissible to issue certification pertaining to citizenship matters in electronic form.

## **Section 39**

*(Repealed)*

## **Section 40**

*(Repealed)*

## **Section 40a**

**[Acquisition of German citizenship by Germans without German citizenship within the meaning of Article 116 (1) of the Basic Law]**

Any person who, on 1 August 1999, is a German within the meaning of Article 116 (1) of the Basic Law without possessing German citizenship shall acquire German citizenship on the said date. For a repatriate, his or her non-German spouse and his or her descendants within the meaning of Section 4 of the Federal Expellees Act, this shall apply only if they have been issued a certificate pursuant to Section 15 (1) or (2) of the Federal Expellees Act prior to the aforesaid date.

## **Section 40b**

### **[Transitional provision for children up to the age of ten]**

A foreigner who is legally ordinarily resident in Germany on 1 January 2000 and is under ten years of age shall be naturalised upon application if the conditions pursuant to Section 4 (3), sentence 1 were met at the time of his or her birth and continue to be met. The application can be filed up to 31 December 2000.

## **Section 40c**

### **[Transitional provision for persons applying for naturalisation]**

Sections 8 to 14 and Section 40c as last amended before 28 August 2007 (Federal Law Gazette I, p. 1970) shall continue to apply to applications for naturalisation filed before 30 March 2007, as far as these sections contain more lenient provisions.

## **Section 41**

### **[No possibility of deviation on the part of the *Länder*]**

*Land* law shall not deviate from the regulations of the administrative procedure set out in Sections 30 to 34 and Section 37(2).

## **REGNO UNITO**

### **BRITISH NATIONALITY ACT 1981 CHAPTER 61[\[17\]](#)**

An Act to make fresh provision about citizenship and nationality, and to amend the Immigration Act 1971 as regards the right of abode in the United Kingdom [October 30, 1981]

## **PART I BRITISH CITIZENSHIP**

### ***ACQUISITION AFTER COMMENCEMENT***

#### ***s 1 Acquisition by birth or adoption.***

(1) A person born in the United Kingdom after commencement, or in a qualifying territory on or after the appointed day, shall be a British citizen if at the time of the birth his father or mother is

- (a) a British citizen; or
- (b) settled in the United Kingdom or that territory.

(2) A new-born infant who, after commencement, is found abandoned in the United Kingdom, or on or after the appointed day is found abandoned in a qualifying territory, shall, unless the contrary is shown, be deemed for the purposes of subsection (1)

(a) to have been born in the United Kingdom after commencement or in that territory on or after the appointed day; and

(b) to have been born to a parent who at the time of the birth was a British citizen or settled in the United Kingdom or that territory.

(3) A person born in the United Kingdom after commencement who is not a British citizen by virtue of subsection (1) or (2) shall be entitled to be registered as a British citizen if, while he is a minor :

(a) his father or mother becomes a British citizen or becomes settled in the United Kingdom; and

(b) an application is made for his registration as a British citizen.

(4) A person born in the United Kingdom after commencement who is not a British citizen by virtue of subsection (1) or (2) shall be entitled, on an application for his registration as a British citizen made at any time after he has attained the age of ten years, to be registered as such a citizen if, as regards each of the first ten years of that person's life, the number of days on which he was absent from the United Kingdom in that year does not exceed 90.

(5) Where

(a) any court in the United Kingdom makes an order authorising the adoption of a minor who is not a British citizen; or

(b) a minor who is not a British citizen is adopted under a Convention adoption,

that minor shall, if the requirements of subsection (5A) are met, be a British citizen as from the date on which the order is made or the Convention adoption is effected, as the case may be.

(5A) Those requirements are that on the date on which the order is made or the Convention adoption is effected (as the case may be)--

(a) the adopter or, in the case of a joint adoption, one of the adopters is a British citizen; and

(b) in a case within subsection (5)(b), the adopter or, in the case of a joint adoption, both of the adopters are habitually resident in the United Kingdom.

(6) Where an order or a Convention adoption in consequence of which any person became a British citizen by virtue of subsection (5) ceases to have effect, whether on annulment or otherwise, the cesser shall not affect the status of that person as a British citizen.

(7) If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of subsection (4) treat the person to whom the application relates as fulfilling the requirement specified in that subsection although, as regards any one or more of the first ten years of that person's life, the number of days on which he was absent from the United Kingdom in that year or each of the years in question exceeds 90.

(8) In this section and elsewhere in this Act "settled" has the meaning given by section 50[ and in this section "Convention adoption" has the same meaning as in the Adoption Act 1976 and the Adoption (Scotland) Act 1978] [FN1].

[FN1] words inserted by Adoption (Intercountry Aspects) Act (1999 c.18), s 7 (3)

## *s 2 Acquisition by descent.*

(1) A person born outside the United Kingdom and the qualifying territories after commencement shall be a British citizen if at the time of the birth his father or mother

(a) is a British citizen otherwise than by descent; or

(b) is a British citizen and is serving outside the United Kingdom and the qualifying territories in service to which this paragraph applies, his or her recruitment for that service having taken place in the United Kingdom or a qualifying territory; or

(c) is a British citizen and is serving outside the United Kingdom and the qualifying territories in service under a Community institution, his or her recruitment for that service having taken place in a country which at the time of the recruitment was a member of the Communities.

(2) Paragraph (b) of subsection (1) applies to

(a) Crown service under the government of the United Kingdom or of a qualifying territory; and

(b) service of any description for the time being designated under subsection (3).

(3) For the purposes of this section the Secretary of State may by order made by statutory instrument designate any description of service which he considers to be closely associated with the activities outside the United Kingdom[ and the qualifying territories] [FN1] of Her Majesty's government in the United Kingdom or in a qualifying territory.

(4) Any order made under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[FN1] words inserted by British Overseas Territories Act (2002 c.8), Sch 1 Para 2 (4) (a)

### *s 3 Acquisition by registration: minors.*

(1) If while a person is a minor an application is made for his registration as a British citizen, the Secretary of State may, if he thinks fit, cause him to be registered as such a citizen.

(2) A person born outside the United Kingdom and the qualifying territories shall be entitled, on an application for his registration as a British citizen made within the period of twelve months from the date of birth, to be registered as such a citizen if the requirements specified in subsection (3) or, in the case of a person born stateless, the requirements specified in paragraphs (a) and (b) of that subsection, are fulfilled in the case of either that person's father or his mother ("the parent in question").

(3) The requirements referred to in subsection (2) are

(a) that the parent in question was a British citizen by descent at the time of the birth; and

(b) that the father or mother of the parent in question

(i) was a British citizen otherwise than by descent at the time of the birth of the parent in question; or

(ii) became a British citizen otherwise than by descent at commencement, or would have become such a citizen otherwise than by descent at commencement but for his or her death; and

(c) that, as regards some period of three years ending with a date not later than the date of the birth

(i) the parent in question was in the United Kingdom or a qualifying territory at the beginning of that period; and

(ii) the number of days on which the parent in question was absent from the United Kingdom and the qualifying territories in that period does not exceed 270.

(4) If in the special circumstances of any particular case the Secretary of State thinks fit, he may treat subsection (2) as if the reference to twelve months were a reference to six years.

(5) A person born outside the United Kingdom and the qualifying territories shall be entitled, on an application for his registration as a British citizen made while he is a minor, to be registered as such a citizen if the following requirements are satisfied, namely

(a) that at the time of that person's birth his father or mother was a British citizen by descent; and

(b) subject to subsection (6), that that person and his father and mother were in the United Kingdom[ or a qualifying territory] [FN1] at the beginning of the period of three years ending with the date of the application and that, in the case of each of them, the number of days on which the person in question was absent from the United Kingdom[ and the qualifying territories] [FN2] in that period does not exceed 270; and

(c) subject to subsection (6), that the consent of his father and mother to the registration has been signified in the prescribed manner.

(6) In the case of an application under subsection (5) for the registration of a person as a British citizen

(a) if his father or mother died, or their marriage was terminated, on or before the date of the application, or his father and mother were legally separated on that date, the references to his father and mother in paragraph (b) of that subsection shall be read either as references to his father or as references to his mother;

(b) if his father or mother died on or before that date, the reference to his father and mother in paragraph (c) of that subsection shall be read as a reference to either of them; and

(c) if he was born illegitimate, all those references shall be read as references to his mother.

[FN1] words inserted by British Overseas Territories Act (2002 c.8), Sch 1 Para 3 (4) (b)

[FN2] words inserted by British Overseas Territories Act (2002 c.8), Sch 1 Para 3 (4) (b)

#### *s 4 Acquisition by registration: BRITISH OVERSEAS TERRITORIES CITIZENS etc.*

(1) This section applies to any person who is a [British overseas territories citizen] [FN2], a British National (Overseas), a British Overseas citizen, a British subject under this Act or a British protected person.

(2) A person to whom this section applies shall be entitled, on an application for his registration as a British citizen, to be registered as such a citizen if the following requirements are satisfied in the case of that person, namely

(a) subject to subsection (3), that he was in the United Kingdom at the beginning of the period of five years ending with the date of the application and that the number of days on which he was absent from the United Kingdom in that period does not exceed 450; and

(b) that the number of days on which he was absent from the United Kingdom in the period of twelve months so ending does not exceed 90; and

(c) that he was not at any time in the period of twelve months so ending subject under the immigration laws to any restriction on the period for which he might remain in the United Kingdom; and

(d) that he was not at any time in the period of five years so ending in the United Kingdom in breach of the immigration laws.

(3) So much of subsection (2)(a) as requires the person in question to have been in the United Kingdom at the beginning of the period there mentioned shall not apply in relation to a person who was settled in the United Kingdom immediately before commencement.

(4) If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of subsection (2) do all or any of the following things, namely

(a) treat the person to whom the application relates as fulfilling the requirement specified in subsection (2)(a) or subsection (2)(b), or both, although the number of days on which he was absent from the United Kingdom in the period there mentioned exceeds the number there mentioned;

(b) disregard any such restriction as is mentioned in subsection (2)(c), not being a restriction to which that person was subject on the date of the application;

(c) treat that person as fulfilling the requirement specified in subsection (2)(d) although he was in the United Kingdom in breach of the immigration laws in the period there mentioned.

(5) If, on an application for registration as a British citizen made by a person to whom this section applies, the Secretary of State is satisfied that the applicant has at any time served in service to which this subsection applies, he may, if he thinks fit in the special circumstances of the applicant's case, cause him to be registered as such a citizen.

(6) Subsection (5) applies to

(a) Crown service under the government of a British overseas territory; and

(b) paid or unpaid service (not falling within paragraph (a)) as a member of any body established by law in a British overseas territory members of which are appointed by or on behalf of the Crown.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN2] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

*s 4A Acquisition by registration: further provision for British overseas territories citizens*

[4A Acquisition by registration: further provision for British overseas territories citizens

(1) If an application is made to register as a British citizen a person who is a British overseas territories citizen, the Secretary of State may if he thinks fit cause the person to be so registered.

(2) Subsection (1) does not apply in the case of a British overseas territories citizen who

(a) is such a citizen by virtue only of a connection with the Sovereign Base Areas of Akrotiri and Dhekelia; or

(b) has ceased to be a British citizen as a result of a declaration of renunciation.] [FN1]

[FN1] added by British Overseas Territories Act (2002 c.8), s 4

*s 4B Acquisition by registration: certain persons without other citizenship*

[4B Acquisition by registration: certain persons without other citizenship

(1) This section applies to a person who has the status of--

- (a) British Overseas citizen,
- (b) British subject under this Act, or
- (c) British protected person.

(2) A person to whom this section applies shall be entitled to be registered as a British citizen if--

(a) he applies for registration under this section,

(b) the Secretary of State is satisfied that the person does not have, apart from the status mentioned in subsection (1), any citizenship or nationality, and

(c) the Secretary of State is satisfied that the person has not after 4th July 2002 renounced, voluntarily relinquished or lost through action or inaction any citizenship or nationality] [FN1]

[FN1] added by Nationality, Immigration and Asylum Act (2002 c.41), Pt 1 s 12 (1)

*s 4C Acquisition by registration: certain persons born between 1961 and 1983*

[4C Acquisition by registration: certain persons born between 1961 and 1983

(1) A person is entitled to be registered as a British citizen if--

- (a) he applies for registration under this section, and
- (b) he satisfies each of the following conditions.

(2) The first condition is that the applicant was born after 7th February 1961 and before 1st January 1983.

(3) The second condition is that the applicant would at some time before 1st January 1983 have become a citizen of the United Kingdom and Colonies by virtue of section 5 of the British Nationality Act 1948 (c. 56) if that section had provided for citizenship by descent from a mother in the same terms as it provided for citizenship by descent from a father.

(4) The third condition is that immediately before 1st January 1983 the applicant would have had the right of abode in the United Kingdom by virtue of section 2 of the Immigration Act 1971 (c. 77) had he become a citizen of the United Kingdom and Colonies as described in subsection (3) above.] [FN1]

[FN1] added by Nationality, Immigration and Asylum Act (2002 c.41), Pt 1 s 13 (1)

*s 5 Acquisition by registration: nationals for purposes of the Community Treaties.*

A [British overseas territories citizen] [FN1] who falls to be treated as a national of the United Kingdom for the purposes of the Community Treaties shall be entitled to be registered as a British citizen if an application is made for his registration as such a citizen.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

*s 6 Acquisition by naturalisation.*

(1) If, on an application for naturalisation as a British citizen made by a person of full age and capacity, the Secretary of State is satisfied that the applicant fulfils the requirements of Schedule 1 for naturalisation as such a citizen under this subsection, he may, if he thinks fit, grant to him a certificate of naturalisation as such a citizen.

(2) If, on an application for naturalisation as a British citizen made by a person of full age and capacity who on the date of the application is married to a British citizen, the Secretary of State is satisfied that the applicant fulfils the requirements of Schedule 1 for naturalisation as such a citizen under this subsection, he may, if he thinks fit, grant to him a certificate of naturalisation as such a citizen.

*s 7*

[...] [FN1]

[FN1] repealed by Nationality, Immigration and Asylum Act (2002 c.41), Sch 2 Para 1 (a)

*s 8*

[...] [FN1]

[FN1] repealed by Nationality, Immigration and Asylum Act (2002 c.41), Sch 2 Para 1 (b)

*s 9*

[...] [FN1]

[FN1] repealed by Nationality, Immigration and Asylum Act (2002 c.41), Sch 2 Para 1 (c)

*s 10 Registration following renunciation of citizenship of U.K. and Colonies.*

(1) Subject to subsection (3), a person shall be entitled, on an application for his registration as a British citizen, to be registered as such a citizen if immediately before commencement he would (had he applied for it) have been entitled under section 1(1) of the British Nationality Act 1964 (resumption of citizenship) to be registered as a citizen of the United Kingdom and Colonies by virtue of having an appropriate qualifying connection with the United Kingdom or[...] [FN1] by virtue of having been married before commencement to a person who has, or would if living have, such a connection.

(2) On an application for his registration as a British citizen made by a person of full capacity who had before commencement ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation, the Secretary of State may, if he thinks fit, cause that person to be registered as a British citizen if that person--

(a) has an appropriate qualifying connection with the United Kingdom; or

(b) [...] [FN2]has been married to a person who has, or would if living have, such a connection.

(3) A person shall not be entitled to registration under subsection (1) on more than one occasion.

(4) For the purposes of this section a person shall be taken to have an appropriate qualifying connection with the United Kingdom if he, his father or his father's father

(a) was born in the United Kingdom; or

(b) is or was a person naturalised in the United Kingdom; or

(c) was registered as a citizen of the United Kingdom and Colonies in the United Kingdom or in a country which at the time was mentioned in section 1(3) of the 1948 Act.

[FN1] words repealed by Nationality, Immigration and Asylum Act (2002 c.41), Sch 9 Para 1

[FN2] words repealed by Nationality, Immigration and Asylum Act (2002 c.41), Sch 9 Para 1

*s 11 Citizens of U.K. and Colonies who are to become British citizens at commencement.*

(1) Subject to subsection (2), a person who immediately before commencement

(a) was a citizen of the United Kingdom and Colonies; and

(b) had the right of abode in the United Kingdom under the Immigration Act 1971 as then in force,

shall at commencement become a British citizen.

(2) A person who was registered as a citizen of the United Kingdom and Colonies under section 1 of the British Nationality (No. 2) Act 1964 (stateless persons) on the ground mentioned in subsection (1)(a) of that section (namely that his mother was a citizen of the United Kingdom and Colonies at the time when he was born) shall not become a British citizen under subsection (1) unless

(a) his mother becomes a British citizen under subsection (1) or would have done so but for her death; or

(b) immediately before commencement he had the right of abode in the United Kingdom by virtue of section 2(1)(c) of the Immigration Act 1971 as then in force (settlement in United Kingdom, combined with five or more years' ordinary residence there as a citizen of the United Kingdom and Colonies).

(3) A person who

(a) immediately before commencement was a citizen of the United Kingdom and Colonies by virtue of having been registered under subsection (6) of section 12 of the 1948 Act (British subjects before commencement of 1948 Act becoming citizens of United Kingdom and Colonies) under arrangements made by virtue of subsection (7) of that section (registration in independent Commonwealth country by United Kingdom High Commissioner); and

(b) was so registered on an application under the said subsection (6) based on the applicant's descent in the male line from a person ("the relevant person") possessing one of the

qualifications specified in subsection (1)(a) and (b) of that section (birth or naturalisation in the United Kingdom and Colonies),

shall at commencement become a British citizen if the relevant person was born or naturalised in the United Kingdom.

#### *s 12 Renunciation.*

(1) If any British citizen of full age and capacity makes in the prescribed manner a declaration of renunciation of British citizenship, then, subject to subsections (3) and (4), the Secretary of State shall cause the declaration to be registered.

(2) On the registration of a declaration made in pursuance of this section the person who made it shall cease to be a British citizen.

(3) A declaration made by a person in pursuance of this section shall not be registered unless the Secretary of State is satisfied that the person who made it will after the registration have or acquire some citizenship or nationality other than British citizenship; and if that person does not have any such citizenship or nationality on the date of registration and does not acquire some such citizenship or nationality within six months from that date, he shall be, and be deemed to have remained, a British citizen notwithstanding the registration.

(4) The Secretary of State may withhold registration of any declaration made in pursuance of this section if it is made during any war in which Her Majesty may be engaged in right of Her Majesty's government in the United Kingdom.

(5) For the purposes of this section any person who has been married shall be deemed to be of full age.

#### *s 13 Resumption.*

(1) Subject to subsection (2), a person who has ceased to be a British citizen as a result of a declaration of renunciation shall be entitled, on an application for his registration as a British citizen, to be registered as such a citizen if

(a) he is of full capacity; and

(b) his renunciation of British citizenship was necessary to enable him to retain or acquire some other citizenship or nationality.

(2) A person shall not be entitled to registration under subsection (1) on more than one occasion.

(3) If a person of full capacity who has ceased to be a British citizen as a result of a declaration of renunciation (for whatever reason made) makes an application for his registration as such a citizen, the Secretary of State may, if he thinks fit, cause him to be registered as such a citizen.

#### *s 14 Meaning of British citizen "by descent".*

(1) For the purposes of this Act a British citizen is a British citizen "by descent" if and only if--

(a) he is a person born outside the United Kingdom after commencement who is a British citizen by virtue of section 2(1)(a) only or by virtue of registration under section 3(2) or 9; or

(b) subject to subsection (2), he is a person born outside the United Kingdom before commencement who became a British citizen at commencement and immediately before commencement

(i) was a citizen of the United Kingdom and Colonies by virtue of section 5 of the 1948 Act (citizenship by descent); or

(ii) was a person who, under any provision of the British Nationality Acts 1948 to 1965, was deemed for the purposes of the proviso to section 5(1) of the 1948 Act to be a citizen of the United Kingdom and Colonies by descent only, or would have been so deemed if male; or

(iii) had the right of abode in the United Kingdom by virtue only of paragraph (b) of subsection (1) of section 2 of the Immigration Act 1971 as then in force (connection with United Kingdom through parent or grandparent), or by virtue only of that paragraph and paragraph (c) of that subsection (settlement in United Kingdom with five years' ordinary residence there), or by virtue only of being or having been the wife of a person who immediately before commencement had that right by virtue only of the said paragraph (b) or the said paragraphs (b) and (c); or

(iv) being a woman, was a citizen of the United Kingdom and Colonies as a result of her registration as such a citizen under section 6(2) of the 1948 Act by virtue of having been married to a man who at commencement became a British citizen by descent or would have done so but for his having died or ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation; or

(c) he is a British citizen by virtue of registration under section 3(1) and either

(i) his father or mother was a British citizen at the time of the birth; or

(ii) his father or mother was a citizen of the United Kingdom and Colonies at that time and became a British citizen at commencement, or would have done so but for his or her death; or

(d) he is a British citizen by virtue of registration under [section 4B, 4C or 5] [FN1]; or

(e) subject to subsection (2), being a woman born outside the United Kingdom before commencement, she is a British citizen as a result of her registration as such a citizen under section 8 by virtue of being or having been married to a man who at commencement became a British citizen by descent or would have done so but for his having died or ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation; or

(f) he is a British citizen by virtue of registration under section 10 who, having before commencement ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation, would, if he had not so ceased, have at commencement become a British citizen by descent by virtue of paragraph (b); or

(g) he is a British citizen by virtue of registration under section 13 who, immediately before he ceased to be a British citizen as a result of a declaration of renunciation, was such a citizen by descent; or

(h) he is a person born in a British overseas territory after commencement who is a British citizen by virtue of paragraph 2 of Schedule 2.

(2) A person born outside the United Kingdom before commencement is not a British citizen "by descent" by virtue of subsection (1)(b) or (e) if his father was at the time of his birth serving outside the United Kingdom

(a) in service of a description mentioned in subsection (3), his recruitment for the service in question having taken place in the United Kingdom; or

(b) in service under a Community institution, his recruitment for that service having taken place in a country which at the time of the recruitment was a member of the Communities.

(3) The descriptions of service referred to in subsection (2) are:

(a) Crown service under the government of the United Kingdom; and

(b) service of any description at any time designated under section 2(3).

[FN1] words inserted by Nationality, Immigration and Asylum Act (2002 c.41), Pt 1 s 13 (2)

## **PART II BRITISH DEPENDENT TERRITORIES CITIZENSHIP**

### ***ACQUISITION AFTER COMMENCEMENT***

#### *s 15 Acquisition by birth or adoption.*

(1) A person born in a British overseas territory after commencement shall be a [British overseas territories citizen] [FN1] if at the time of the birth his father or mother is--

(a) a [British overseas territories citizen] [FN2]; or

(b) settled in a British overseas territory.

(2) A new-born infant who, after commencement, is found abandoned in a British overseas territory shall, unless the contrary is shown, be deemed for the purposes of subsection (1):

(a) to have been born in that territory after commencement; and

(b) to have been born to a parent who at the time of the birth was a [British overseas territories citizen] [FN3] or settled in a British overseas territory.

(3) A person born in a British overseas territory after commencement who is not a [British overseas territories citizen] [FN4] by virtue of subsection (1) or (2) shall be entitled to be registered as such a citizen if, while he is a minor:

(a) his father or mother becomes such a citizen or becomes settled in a British overseas territory; and

(b) an application is made for his registration as such a citizen.

(4) A person born in a British overseas territory after commencement who is not a [British overseas territories citizen] [FN5] by virtue of subsection (1) or (2) shall be entitled, on an application for his registration as a [British overseas territories citizen] [FN6] made at any time after he has attained the age of ten years, to be registered as such a citizen if, as regards each of the first ten years of that person's life, the number of days on which he was absent from that territory in that year does not exceed 90.

(5) Where after commencement an order authorising the adoption of a minor who is not a [British overseas territories citizen] [FN7] is made by a court in any British overseas territory, he shall be a [British overseas territories citizen] [FN8] as from the date on which the order is made if the adopter or, in the case of a joint adoption, one of the adopters, is a [British overseas territories citizen] [FN9] on that date.

(6) Where an order in consequence of which any person became a [British overseas territories citizen] [FN10] by virtue of subsection (5) ceases to have effect, whether on annulment or otherwise, the cesser shall not affect the status of that person as such a citizen.

(7) If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of subsection (4) treat the person to whom the application relates as fulfilling the requirements specified in that subsection although, as regards any one or more of the first ten years of that person's life, the number of days on which he was absent from the British overseas territory there mentioned in that year or each of the years in question exceeds 90.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN2] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN3] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN4] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN5] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN6] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN7] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN8] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN9] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN10] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

#### *s 16 Acquisition by descent.*

(1) A person born outside the British overseas territories after commencement shall be a [British overseas territories citizen] [FN1] if at the time of the birth his father or mother:

(a) is such a citizen otherwise than by descent; or

(b) is such a citizen and is serving outside the British overseas territories in service to which this paragraph applies, his or her recruitment for that service having taken place in a British overseas territory.

(2) Paragraph (b) of subsection (1) applies to:

(a) Crown service under the government of a British overseas territory; and

(b) service of any description for the time being designated under subsection (3).

(3) For the purposes of this section the Secretary of State may by order made by statutory instrument designate any description of service which he considers to be closely associated with the activities outside the British overseas territories of the government of any British overseas territory.

(4) Any order made under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

*s 17 Acquisition by registration: minors.*

(1) If while a person is a minor an application is made for his registration as a [British overseas territories citizen] [FN1] the Secretary of State may, if he thinks fit, cause him to be registered as such a citizen.

(2) A person born outside the British overseas territories shall be entitled, on an application for his registration as a [British overseas territories citizen] [FN2] made within the period of twelve months from the date of the birth, to be registered as such a citizen if the requirements specified in subsection (3) or, in the case of a person born stateless, the requirements specified in paragraphs (a) and (b) of that subsection, are fulfilled in the case of either that person's father or his mother ("the parent in question").

(3) The requirements referred to in subsection (2) are:

(a) that the parent in question was a [British overseas territories citizen] [FN3] by descent at the time of the birth; and

(b) that the father or mother of the parent in question--

(i) was a [British overseas territories citizen] [FN4] otherwise than by descent at the time of the birth of the parent in question; or

(ii) became a [British overseas territories citizen] [FN5] otherwise than by descent at commencement, or would have become such a citizen otherwise than by descent at commencement but for his or her death; and

(c) that, as regards some period of three years ending with a date not later than the date of the birth:

(i) the parent in question was in a British overseas territory at the beginning of that period; and

(ii) the number of days on which the parent in question was absent from that territory in that period does not exceed 270.

(4) If in the special circumstances of any particular case the Secretary of State thinks fit, he may treat subsection (2) as if the reference to twelve months were a reference to six years.

(5) A person born outside the British overseas territories shall be entitled, and on application for his registration as a [British overseas territories citizen] [FN6] made while he is a minor, to be registered as such a citizen if the following requirements are satisfied, namely--

(a) that at the time of that person's birth his father or mother was a [British overseas territories citizen] [FN7] by descent; and

(b) subject to subsection (6), that that person and his father and mother were in one and the same British overseas territory (no matter which) at the beginning of the period of three years ending with the date of the application and that, in the case of each of them, the number of days on

which the person in question was absent from the last-mentioned territory in that period does not exceed 270; and

(c) subject to subsection (6), that the consent of his father and mother to the registration has been signified in the prescribed manner.

(6) In the case of an application under subsection (5) for the registration of a person as a [British overseas territories citizen] [FN8]--

(a) if his father or mother died, or their marriage was terminated, on or before the date of the application, or his father and mother were legally separated on that date, the references to his father and mother in paragraph (b) of that subsection shall be read either as references to his father or as references to his mother;

(b) if his father or mother died on or before that date, the reference to his father and mother in paragraph (c) of that subsection shall be read as a reference to either of them; and

(c) if he was born illegitimate, all those references shall be read as references to his mother.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN2] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN3] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN4] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN5] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN6] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN7] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN8] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

*s 18 Acquisition by naturalisation.*

(1) If, on an application for naturalisation as a [British overseas territories citizen] [FN1] made by a person of full age and capacity, the Secretary of State is satisfied that the applicant fulfils the requirements of Schedule 1 for naturalisation as such a citizen under this subsection, he may, if he thinks fit, grant to him a certificate of naturalisation as such a citizen.

(2) If, on an application for naturalisation as a [British overseas territories citizen] [FN2] made by a person of full age and capacity who on the date of the application is married to such a citizen, the Secretary of State is satisfied that the applicant fulfils the requirements of Schedule 1 for naturalisation as such a citizen under this subsection, he may, if he thinks fit, grant to him a certificate of naturalisation as such a citizen.

(3) Every application under this section shall specify the British overseas territory which is to be treated as the relevant territory for the purposes of that application; and, in relation to any such application, references in Schedule 1 to the relevant territory shall be construed accordingly.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN2] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

*s 19*

[...] [FN1]

[FN1] repealed by Nationality, Immigration and Asylum Act (2002 c.41), Sch 2 Para 1 (d)

*s 20*

[...] [FN1]

[FN1] repealed by Nationality, Immigration and Asylum Act (2002 c.41), Sch 2 Para 1 (e)

*s 21*

[...] [FN1]

[FN1] repealed by Nationality, Immigration and Asylum Act (2002 c.41), Sch 2 Para 1 (f)

*s 22 Right to registration replacing right to resume citizenship of U.K. and Colonies.*

(1) Subject to subsection (3), a person shall be entitled, on an application for his registration as a British overseas territories citizen, to be registered as such a citizen if immediately before commencement he would (had he applied for it) have been entitled under section 1(1) of the British Nationality Act 1964 (resumption of citizenship) to be registered as a citizen of the United Kingdom and Colonies by virtue of having an appropriate qualifying connection with a British overseas territory or[...] [FN1] by virtue of having been married before commencement to a person who has, or would if living have, such a connection.

(2) On an application for his registration as a British overseas territories citizen made by a person of full capacity who had before commencement ceased to be a citizen of the United

Kingdom and Colonies as a result of a declaration of renunciation, the Secretary of State may, if he thinks fit, cause that person to be registered as a British overseas territories citizen if that person:

(a) has an appropriate qualifying connection with a British overseas territory; or

(b) [...] [FN2] has been married to a person who has, or would if living have, such a connection.

(3) A person shall not be entitled to registration under subsection (1) on more than one occasion.

(4) For the purposes of this section a person shall be taken to have an appropriate qualifying connection with a British overseas territory if he, his father or his father's father:

(a) was born in that territory; or

(b) is or was a person naturalised in that territory; or

(c) was registered as a citizen of the United Kingdom and Colonies in that territory; or

(d) became a British subject by reason of the annexation of any territory included in that territory.

[FN1] words repealed by Nationality, Immigration and Asylum Act (2002 c.41), Sch 9 Para 1

[FN2] words repealed by Nationality, Immigration and Asylum Act (2002 c.41), Sch 9 Para 1

*s 23 Citizens of U.K. and Colonies who are to become British overseas territories citizens at commencement.*

(1) A person shall at commencement become a [British overseas territories citizen] [FN2] if:

(a) immediately before commencement he was a citizen of the United Kingdom and Colonies who had that citizenship by his birth, naturalisation or registration in a British overseas territory; or

(b) he was immediately before commencement a citizen of the United Kingdom and Colonies, and was born to a parent:

(i) who at the time of the birth ("the material time") was a citizen of the United Kingdom and Colonies; and

(ii) who either had that citizenship at the material time by his birth, naturalisation or registration in a British overseas territory or was himself born to a parent who at the time of that birth so had that citizenship; or

(c) being a woman, she was immediately before commencement a citizen of the United Kingdom and Colonies and either was then, or had at any time been, the wife of a man who under paragraph (a) or (b) becomes a [British overseas territories citizen] [FN3] at commencement or would have done so but for his death.

(2) A person shall at commencement become a [British overseas territories citizen] [FN4] if:

(a) immediately before commencement he was a citizen of the United Kingdom and Colonies by virtue of registration under section 7 of the 1948 Act (minor children) or section 1 of the British Nationality (No. 2) Act 1964 (stateless persons); and

(b) he was so registered otherwise than in a British overseas territory; and

(c) his father or mother (in the case of a person registered under the said section 7) or his mother (in the case of a person registered under the said section 1):

(i) was a citizen of the United Kingdom and Colonies at the time of the registration or would have been such a citizen at that time but for his or her death; and

(ii) becomes a [British overseas territories citizen] [FN5] at commencement or would have done so but for his or her death.

(3) A person who:

(a) immediately before commencement was a citizen of the United Kingdom and Colonies by virtue of having been registered under subsection (6) of section 12 of the 1948 Act (British subjects before commencement of 1948 Act becoming citizens of United Kingdom and Colonies) otherwise than in a British overseas territory; and

(b) was so registered on an application under that subsection based on the applicant's descent in the male line from a person ("the relevant person") possessing one of the qualifications specified in subsection (1) of that section (birth or naturalisation in the United Kingdom and Colonies, or acquisition of the status of British subject by reason of annexation of territory),

shall at commencement become a [British overseas territories citizen] [FN6] if the relevant person:

(i) was born or naturalised in a British overseas territory; or

(ii) became a British subject by reason of the annexation of any territory included in a British overseas territory.

(4) A person who:

(a) immediately before commencement was a citizen of the United Kingdom and Colonies by virtue of registration under section 1 of the British Nationality Act 1964 (resumption of citizenship); and

(b) was so registered otherwise than in a British overseas territory; and

(c) was so registered by virtue of having an appropriate qualifying connection with a British overseas territory or, if a woman, by virtue of having been married to a person who at the time of the registration had or would, if then living, have had such a connection,

shall at commencement become a [British overseas territories citizen] [FN7].

(5) For the purposes of subsection (4) a person shall be taken to have an appropriate qualifying connection with a British overseas territory if he, his father or his father's father:

(a) was born in a British overseas territory; or

(b) is or was a person naturalised in a British overseas territory; or

(c) was registered as a citizen of the United Kingdom and Colonies in a British overseas territory; or

(d) became a British subject by reason of the annexation of any territory included in a British overseas territory.

(6) For the purposes of subsection (1)(b) references to citizenship of the United Kingdom and Colonies shall, in relation to a time before the year 1949, be construed as references to British nationality.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN2] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN3] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN4] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN5] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN6] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN7] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

*s 24 Renunciation and resumption.*

The provisions of sections 12 and 13 shall apply in relation to [British overseas territories citizens] [FN1] and [British overseas territories citizenship] [FN2] as they apply in relation to British citizens and British citizenship.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN2] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

*s 25 Meaning of British overseas territories citizen "by descent".*

(1) For the purposes of this Act a [British overseas territories citizen] [FN2] is such a citizen "by descent" if and only if--

(a) he is a person born outside the British overseas territories after commencement who is a [British overseas territories citizen] [FN3] by virtue of section 16(1)(a) only or by virtue of registration under section 17(2) or 21; or

(b) subject to subsection (2), he is a person born outside the British overseas territories before commencement who became a [British overseas territories citizen] [FN4] at commencement and immediately before commencement:

(i) was a citizen of the United Kingdom and Colonies by virtue of section 5 of the 1948 Act (citizenship by descent); or

(ii) was a person who, under any provision of the British Nationality Acts 1948 to 1965, was deemed for the purposes of the proviso to section 5(1) of the 1948 Act to be a citizen of the United Kingdom and Colonies by descent only, or would have been so deemed if male; or

(c) he is a [British overseas territories citizen] [FN5] by virtue of registration under section 17(1) and either:

(i) his father or mother was a [British overseas territories citizen] [FN6] at the time of the birth; or

(ii) his father or mother was a citizen of the United Kingdom and Colonies at that time and became a [British overseas territories citizen] [FN7] at commencement, or would have done so but for his or her death; or

(d) subject to subsection (2), he is a person born outside the British overseas territories before commencement who became a [British overseas territories citizen] [FN8] at commencement under section 23(1)(b) only; or

(e) subject to subsection (2), being a woman, she became a [British overseas territories citizen] [FN9] at commencement under section 23(1)(c) only, and did so only by virtue of having been, immediately before commencement or earlier, the wife of a man who immediately after commencement was, or would but for his death have been, a [British overseas territories citizen] [FN10] by descent by virtue of paragraph (b) or (d) of this subsection; or

(f) subject to subsection (2), being a woman born outside the British overseas territories before commencement, she is a [British overseas territories citizen] [FN11] as a result of her registration as such a citizen under section 20 by virtue of being or having been married to a man who at commencement became such a citizen by descent or would have done so but for his having died or ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation; or

(g) he is a [British overseas territories citizen] [FN12] by virtue of registration under section 22 who, having before commencement ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation, would, if he had not so ceased, have at commencement become a [British overseas territories citizen] [FN13] by descent by virtue of paragraph (b), (d) or (e);

(h) he is a [British overseas territories citizen] [FN14] by virtue of registration under section 13 (as applied by section 24) who, immediately before he ceased to be a [British overseas

territories citizen] [FN15] as a result of a declaration of renunciation, was such a citizen by descent; or

(i) he is a person born in the United Kingdom after commencement who is a [British overseas territories citizen] [FN16] by virtue of paragraph 1 of Schedule 2.

(2) A person born outside the British overseas territories before commencement is not a [British overseas territories citizen] [FN17] "by descent" by virtue of subsection (1)(b), (d), (e) or (f) if his father was at the time of his birth serving outside the British overseas territories in service of a description mentioned in subsection (3), his recruitment for the service in question having taken place in a British overseas territory.

(3) The descriptions of service referred to in subsection (2) are:

(a) Crown service under the government of a British overseas territory; and

(b) service of any description at any time designated under section 16(3).

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN2] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN3] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN4] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN5] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN6] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN7] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN8] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN9] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN10] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN11] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN12] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN13] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN14] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN15] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN16] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN17] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

### **PART III BRITISH OVERSEAS CITIZENSHIP**

*s 26 Citizens of U.K. and Colonies who are to become British Overseas citizens at commencement.*

Any person who was a citizen of the United Kingdom and Colonies immediately before commencement and who does not at commencement become either a British citizen or a [British overseas territories citizen] [FN1] shall at commencement become a British Overseas citizen.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

*s 27 Registration of minors.*

(1) If while a person is a minor an application is made for his registration as a British Overseas citizen, the Secretary of State may, if he thinks fit, cause him to be registered as such a citizen.

[...] [FN1]

[FN1] repealed by Nationality, Immigration and Asylum Act (2002 c.41), Sch 2 Para 1 (g)

*s 28*

[...] [FN1]

[FN1] repealed by Nationality, Immigration and Asylum Act (2002 c.41), Sch 2 Para 1 (h)

*s 29 Renunciation.*

The provisions of section 12 shall apply in relation to British Overseas citizens and British Overseas citizenship as they apply in relation to British citizens and British citizenship.

### **PART IV BRITISH SUBJECTS**

*s 30 Continuance as British subjects of existing British subjects of certain descriptions.*

A person who immediately before commencement was--

(a) a British subject without citizenship by virtue of section 13 or 16 of the 1948 Act; or

(b) a British subject by virtue of section 1 of the British Nationality Act 1965 (registration of alien women who have been married to British subjects of certain descriptions),

shall as from commencement be a British subject by virtue of this section.

*s 31 Continuance as British subjects of certain former citizens of Eire.*

(1) A person is within this subsection if immediately before 1st January 1949 he was both a citizen of Eire and a British subject.

(2) A person within subsection (1) who immediately before commencement was a British subject by virtue of section 2 of the 1948 Act (continuance of certain citizens of Eire as British subjects) shall as from commencement be a British subject by virtue of this subsection.

(3) If at any time after commencement a citizen of the Republic of Ireland who is within subsection (1) but is not a British subject by virtue of subsection (2) gives notice in writing to the Secretary of State claiming to remain a British subject on either or both of the following grounds, namely:

(a) that he is or has been in Crown Service under the government of the United Kingdom; and

(b) that he has associations by way of descent, residence or otherwise with the United Kingdom or with any [British overseas territory] [FN1],

he shall as from that time be a British subject by virtue of this subsection.

(4) A person who is a British subject by virtue of subsection (2) or (3) shall be deemed to have remained a British subject from 1st January 1949 to the time when (whether already a British subject by virtue of the said section 2 or not) he became a British subject by virtue of that subsection.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 1 (1) (b)

#### *s 32 Registration of minors.*

If while a person is a minor an application is made for his registration as a British subject, the Secretary of State may, if he thinks fit, cause him to be registered as a British subject.

#### *s 33*

[...] [FN1]

[FN1] repealed by Nationality, Immigration and Asylum Act (2002 c.41), Sch 2 Para 1 (i)

*s 34 Renunciation.*

The provisions of section 12 shall apply in relation to British subjects and the status of a British subject as they apply in relation to British citizens and British citizenship.

*s 35 Circumstances in which British subjects are to lose that status.*

A person who under this Act is a British subject otherwise than by virtue of section 31 shall cease to be such a subject if, in whatever circumstances and whether under this Act or otherwise, he acquires any other citizenship or nationality whatever.

## **PART V MISCELLANEOUS AND SUPPLEMENTARY**

*s 36 Provisions for reducing statelessness.*

The provisions of Schedule 2 shall have effect for the purpose of reducing statelessness.

*s 37 Commonwealth citizenship.*

(1) Every person who:

(a) under the British Nationality Acts 1981 and 1983[ or the British Overseas Territories Act 2002] [FN1] is a British citizen, a British overseas territories citizen, a British National (Overseas), a British Overseas citizen or a British subject; or

(b) under any enactment for the time being in force in any country mentioned in Schedule 3 is a citizen of that country,

shall have the status of a Commonwealth citizen.

(2) Her Majesty may by Order in Council amend Schedule 3 by the alteration of any entry, the removal of any entry, or the insertion of any additional entry.

(3) Any Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) After commencement no person shall have the status of a Commonwealth citizen or the status of a British subject otherwise than under this Act.

[FN1] words inserted by British Overseas Territories Act (2002 c.8), Sch 1 Para 4

*s 38 British protected persons.*

(1) Her Majesty may by Order in Council made in relation to any territory which was at any time before commencement--

(a) a protectorate or protected state for the purposes of the 1948 Act; or

(b) a United Kingdom trust territory within the meaning of that Act,

declare to be British protected persons for the purposes of this Act any class of persons who are connected with that territory and are not citizens of any country mentioned in Schedule 3 which consists of or includes that territory.

(2) Any Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*s 39 Amendment of Immigration Act 1971.*

(1) [...] [FN1]

(2) [...] [FN2]

(3) [...] [FN3]

(4) [...] [FN4]

(5) [...] [FN5]

(6) [...] [FN6]

(7) [...] [FN7]

(8) A certificate of partiality issued under the Immigration Act 1971 and in force immediately before commencement shall have effect after commencement as if it were a certificate of entitlement issued under that Act [as in force after commencement] [FN8], unless at commencement the holder ceases to have the right of abode in the United Kingdom.

[FN1] Substitutes new s. 2 in Immigration Act 1971 (c. 77)

[FN2] Substitutes new s. 2 in Immigration Act 1971 (c. 77)

[FN3] Repealed by Immigration Act 1988 (c.14), s. 3(3)

[FN4] Inserts Immigration Act 1971 (c. 77), s. 8(5A)

[FN5] Repealed by Immigration Act 1988 (c.14), s. 3(3)

[FN6] Provides for amendments of Immigration Act 1971 (c. 77) specified in Sch. 4

[FN7] Amends Mental Health Act 1959 (c. 72), s. 90 and Mental Health (Scotland) Act 1960 (c. 61), s. 82

[FN8] Words substituted by Immigration Act 1988 (c.14), s. 3(3)

*s 40 Deprivation of citizenship*

[40 Deprivation of citizenship

(1) In this section a reference to a person's "citizenship status" is a reference to his status as:

(a) a British citizen,

(b) a British overseas territories citizen,

(c) a British Overseas citizen,

(d) a British National (Overseas),

(e) a British protected person, or

(f) a British subject.

(2) The Secretary of State may by order deprive a person of a citizenship status if the Secretary of State is satisfied that that deprivation is conducive to the public good. (A)

(3) The Secretary of State may by order deprive a person of a citizenship status which results from his registration or naturalisation if the Secretary of State is satisfied that the registration or naturalisation was obtained by means of:

- (a) fraud,
- (b) false representation, or
- (c) concealment of a material fact.

(4) The Secretary of State may not make an order under subsection (2) if he is satisfied that the order would make a person stateless.

(5) Before making an order under this section in respect of a person the Secretary of State must give the person written notice specifying:

- (a) that the Secretary of State has decided to make an order,
- (b) the reasons for the order, and

(c) the person's right of appeal under section 40A(1) or under section 2B of the Special Immigration Appeals Commission Act 1997 (c. 68).

(6) Where a person acquired a citizenship status by the operation of a law which applied to him because of his registration or naturalisation under an enactment having effect before commencement, the Secretary of State may by order deprive the person of the citizenship status if the Secretary of State is satisfied that the registration or naturalisation was obtained by means of:

- (a) fraud,
- (b) false representation, or
- (c) concealment of a material fact.] [FN1]

[FN1] s.40-40A substituted for s. 40 by Nationality, Immigration and Asylum Act (2002 c.41), Pt 1 s 4 (1)

(A) Nationality, Asylum and Immigration Act (2006 c. 13)

#### *s 40A Deprivation of citizenship: appeal*

#### **40A Deprivation of citizenship: appeal**

(1) A person who is given notice under section 40(5) of a decision to make an order in respect of him under section 40 may appeal against the decision to the Asylum and Immigration Tribunal.

(2) Subsection (1) shall not apply to a decision if the Secretary of State certifies that it was taken wholly or partly in reliance on information which in his opinion should not be made public:

- (a) in the interests of national security,
- (b) in the interests of the relationship between the United Kingdom and another country, or
- (c) otherwise in the public interest.

(3) The following provisions of the Nationality, Immigration and Asylum Act 2002 (c. 41) shall apply in relation to an appeal under this section as they apply in relation to an appeal under section 82 or 83 of that Act:

(a) section 87 (successful appeal: direction) (for which purpose a direction may, in particular, provide for an order under section 40 above to be treated as having had no effect),

(b) sections 103A to 103E (review and appeal),

(c) section 106 (rules),

(d) section 107 (practice directions), and

(e) section 108 (forged document: proceedings in private). [FN1], (A)

[FN1] s.40-40A substituted for s.40 by Nationality, Immigration and Asylum Act (2002 c.41), Pt 1 s 4 (1)

(A) Asylum and Immigration (Treatment of Claimants, etc.) Act (2004c. 19); Nationality, Asylum and Immigration Act (2006 c. 13)

*s 41 Regulations and Orders in Council.*

(1) The Secretary of State may by regulations make provision generally for carrying into effect the purposes of this Act, and in particular provision--

(a) for prescribing anything which under this Act is to be prescribed;

(b) for prescribing the manner in which, and the persons to and by whom, applications for registration or naturalisation under any provision of this Act may or must be made;

(c) for the registration of anything required or authorised by or under this Act to be registered;

(d) for the administration and taking of oaths of allegiance under this Act, as to the time within which oaths of allegiance must be taken, and for the registration of oaths of allegiance;

(e) for the giving of any notice required or authorised to be given to any person under this Act;

(f) for the cancellation of the registration of, and the cancellation and amendment of certificates of naturalisation relating to, persons deprived of citizenship or of the status of a British National (Overseas) under this Act, and for requiring such certificates to be delivered up for those purposes;

(g) for the births and deaths of persons of any class or description born or dying in a country mentioned in Schedule 3 to be registered there by the High Commissioner for Her Majesty's government in the United Kingdom or by members of his official staff;

(h) for the births and deaths of persons of any class or description born or dying in a foreign country to be registered there by consular officers or other officers in the service of Her Majesty's government in the United Kingdom;

(i) for enabling the births and deaths of British citizens, [British overseas territories citizens] [FN1], British Nationals (Overseas), British Overseas citizens, British subjects and British protected

persons born or dying in any country in which Her Majesty's government in the United Kingdom has for the time being no diplomatic or consular representatives to be registered--

(i) by persons serving in the diplomatic, consular or other foreign service of any country which, by arrangement with Her Majesty's government in the United Kingdom, has undertaken to represent that government's interest in that country, or

(ii) by a person authorised in that behalf by the Secretary of State;

j) as to the consequences of failure to comply with provision made under any of paragraphs (a) to (i). (A)

(2) The Secretary of State may with the consent of the Treasury by regulations make provision for the imposition, recovery and application of fees in connection with any of the following matters, namely--

(a) any application made to the Secretary of State under this Act; other than an application for the purpose of acquiring the status of a British National (Overseas).

(b) the effecting in the United Kingdom of any registration authorised by or under this Act; other than registration as a British National (Overseas)

(c) the making in the United Kingdom of any declaration, the grant there of any certificate, or the taking there of any oath of allegiance authorised to be made, granted or taken by or under this Act;

(d) the supplying in the United Kingdom of a certified or other copy of any notice, certificate, order, declaration or entry given, granted or made under or by virtue of this Act or any of the former nationality Acts;

(e) the carrying out of searches in or of any registers or other records, being registers or records held in the United Kingdom by or on behalf of the Secretary of State, which are or may be relevant for the purpose of determining the status of any person under this Act or any of the former nationality Acts;

(f) the supplying by or on behalf of the Secretary of State of an opinion in writing concerning the status of any person under this Act or any of the former nationality Acts, or a certified or other copy of such an opinion.

(3) Regulations under subsection (1) or (2) may make different provision for different circumstances; and:

(a) regulations under subsection (1) may provide for the extension of any time-limit for the taking of oaths of allegiance; and

(b) regulations under subsection (2) may provide for any fees imposed by the regulations to be payable at such times as may be prescribed.

(4) Her Majesty may by Order in Council provide for any Act or Northern Ireland legislation to which this subsection applies to apply, with such adaptations and modifications as appear to Her necessary, to births and deaths registered:

(a) in accordance with regulations made in pursuance of subsection (1)(g) to (i) of this section or subsection (1)(f) and (g) of section 29 of the 1948 Act; or

(b) at a consulate of Her Majesty in accordance with regulations made under the British Nationality and Status of Aliens Acts 1914 to 1943 or in accordance with instructions of the Secretary of State; or

(c) by a High Commissioner for Her Majesty's government in the United Kingdom or members of his official staff in accordance with instructions of the Secretary of State;

and an Order in Council under this subsection may exclude, in relation to births and deaths so registered, any of the provisions of section 45.

(5) Subsection (4) applies to:

(a) the Births and Deaths Registration Act 1953, the Registration Service Act 1953 and the Registration of Births, Deaths and Marriages (Scotland) Act 1965; and

(b) so much of any Northern Ireland legislation for the time being in force (whether passed or made before or after commencement) as relates to the registration of births and deaths.

(6) The power to make regulations under subsection (1) or (2) shall be exercisable by statutory instrument.

(7) Any regulations or Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

(A) Added by Nationality, Asylum and Immigration Act (2006 c. 13)

*s 42 Registration and naturalisation: general provisions.*

(1) Subject to subsection (2):

(a) a person shall not be registered under any provision of this Act as a citizen of any description or as a British subject; and

(b) a certificate of naturalisation shall not be granted to a person under any provision of this Act,

unless:

(i) any fee payable by virtue of this Act in connection with the registration or, as the case may be, the grant of the certificate has been paid; and

(ii) the person concerned has within the prescribed time taken an oath of allegiance in the form indicated in Schedule 5.

(2) So much of subsection (1) as requires the taking of an oath of allegiance shall not apply to a person who:

(a) is not of full age; or

(b) is already a British citizen, a [British overseas territories citizen] [FN1], a British National (Overseas) a British Overseas citizen, a British subject, or a citizen of any country of which Her Majesty is Queen.

(3) Any provision of this Act which provides for a person to be entitled to registration as a citizen of any description or as a British subject shall have effect subject to the preceding provisions of this section.

(4) A person registered under any provision of this Act as a British citizen, or as a [British overseas territories citizen] [FN2] or as a British Overseas citizen, or as a British National (Overseas), or as a British subject, shall be a citizen of that description or, as the case may be, a British National (Overseas) or a British subject as from the date on which he is so registered.

(5) A person to whom a certificate of naturalisation as a British citizen or as a [British overseas territories citizen] [FN3] is granted under any provision of this Act shall be a citizen of that description as from the date on which the certificate is granted.

(6) A person who applies for registration or naturalisation as a [British overseas territories citizen] [FN4] under any provision of this Act by virtue (wholly or partly) of his having a connection with Hong Kong, may not be naturalised or registered, as the case may be, unless he makes his application on or before 31st March 1996.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN2] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN3] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN4] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

#### *s 43 Exercise of functions of Secretary of State by Governors and others.*

(1) Subject to subsection (3), the Secretary of State may, in the case of any of his functions under this Act with respect to any of the matters mentioned in subsection (2), make arrangements for that function to be exercised:

(a) in any of the Islands, by the Lieutenant-Governor in cases concerning British citizens or British citizenship;

(b) in any British overseas territory, by the Governor in cases concerning [British overseas territories citizens] [FN1] or [British overseas territories citizenship] [FN2] and in cases concerning British Nationals (Overseas) or the status of a British National (Overseas).

(2) The said matters are:

(a) registration and naturalisation; and

(b) renunciation, resumption and deprivation of British citizenship or [British overseas territories citizenship] [FN3].

(c) renunciation and deprivation of the status of a British National (Overseas).

(3) Nothing in this section applies in the case of any power to make regulations or rules conferred on the Secretary of State by this Act.

(4) Arrangements under subsection (1) may provide for any such function as is there mentioned to be exercisable only with the approval of the Secretary of State.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN2] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN3] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

*s 44 Decisions involving exercise of discretion.*

(1) Any discretion vested by or under this Act in the Secretary of State, a Governor or a Lieutenant-Governor shall be exercised without regard to the race, colour or religion of any person who may be affected by its exercise.

[...] [FN1]

[FN1] repealed by Nationality, Immigration and Asylum Act (2002 c.41), Pt 1 s 7 (1)

*s 44A Waiver of requirement for full capacity.*

Where a provision of this Act requires an applicant to be of full capacity, the Secretary of State may waive the requirement in respect of a specified applicant if he thinks it in the applicant's best interests.

(Added by Immigration, Asylum and Nationality Act (2006 c. 13))

*s 45 Evidence.*

(1) Every document purporting to be a notice, certificate, order or declaration, or an entry in a register, or a subscription of an oath of allegiance, given, granted or made under this Act or any of the former nationality Acts shall be received in evidence and shall, unless the contrary is proved, be deemed to have been given, granted or made by or on behalf of the person by whom or on whose behalf it purports to have been given, granted or made.

(2) Prima facie evidence of any such document may be given by the production of a document purporting to be certified as a true copy of it by such person and in such manner as may be prescribed.

(3) Any entry in a register made under this Act or any of the former nationality Acts shall be received as evidence (and in Scotland as sufficient evidence) of the matters stated in the entry.

(4) A certificate given by or on behalf of the Secretary of State that a person was at any time in Crown service under the government of the United Kingdom or that a person's recruitment for such service took place in the United Kingdom shall, for the purposes of this Act, be conclusive evidence of that fact.

*s 46 Offences and proceedings.*

(1) Any person who for the purpose of procuring anything to be done or not to be done under this Act--

- (a) makes any statement which he knows to be false in a material particular; or
- (b) recklessly makes any statement which is false in a material particular,

shall be liable on summary conviction in the United Kingdom to imprisonment for a term not exceeding three months or to a fine not exceeding [level 5 on the standard scale] [FN1], or both.

(2) Any person who without reasonable excuse fails to comply with any requirement imposed on him by regulations made under this Act with respect to the delivering up of certificates of naturalisation shall be liable on summary conviction in the United Kingdom to a fine not exceeding [level 4 on the standard scale] [FN2].

(3) In the case of an offence under subsection (1):

(a) any information relating to the offence may in England and Wales be tried by a magistrates' court if it is laid within six months after the commission of the offence, or if it is laid within three years after the commission of the offence and not more than two months after the date certified by a chief officer of police to be the date on which evidence sufficient to justify proceedings came to the notice of an officer of his police force; and

(b) summary proceedings for the offence may in Scotland be commenced within six months after the commission of the offence, or within three years after the commission of the offence and not more than two months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify proceedings came to his knowledge; and

(c) a complaint charging the commission of the offence may in Northern Ireland be heard and determined by a magistrates' court if it is made within six months after the commission of the offence, or if it is made within three years after the commission of the offence and not more than two months after the date certified by an officer of police not below the rank of assistant chief constable to be the date on which evidence sufficient to justify the proceedings came to the notice of the police in Northern Ireland.

(4) For the purposes of subsection (3)(b) proceedings shall be deemed to be commenced on the date on which a warrant to apprehend or to cite the accused is granted, if such warrant is executed without undue delay; and a certificate of the Lord Advocate as to the date on which such evidence as is mentioned in subsection (3)(b) came to his knowledge shall be conclusive evidence.

(5) For the purposes of the trial of a person for an offence under subsection (1) or (2), the offence shall be deemed to have been committed either at the place at which it actually was committed or at any place at which he may be.

(6) In their application to the Bailiwick of Jersey subsections (1) and (2) shall have effect with the omission of the words "on summary conviction".

*S. 46(1) amended by S.I. 1986/948, art. 7(7)(b)*

[FN1] Words substituted by Criminal Justice Act 1982 (c.48), s. 46, Criminal Procedure (Scotland) Act 1975 (c.21), s. 289G and S.I. 1984/703 (N.I. 3), art. 5

[FN2] Words substituted by Criminal Justice Act 1982 (c.48), s. 46, Criminal Procedure (Scotland) Act 1975 (c.21), s. 289G and S.I. 1984/703 (N.I. 3), art. 5

*s 47 Legitimated children.*

(1) A person born out of wedlock and legitimated by the subsequent marriage of his parents shall, as from the date of the marriage, be treated for the purposes of this Act as if he had been born legitimate.

(2) A person shall be deemed for the purposes of this section to have been legitimated by the subsequent marriage of his parents if by the law of the place in which his father was domiciled at the time of the marriage the marriage operated immediately or subsequently to legitimate him, and not otherwise.

S.47 extended by British Nationality (Falkland Islands) Act 1983 (c.6), s. 4(2)(a)-(f), British Nationality (Hong Kong) Act 1990 (c.34), s. 2(3); amended by S.I. 1986/948, art. 7(7)(c)

*s 48 Posthumous children.*

Any reference in this Act to the status or description of the father or mother of a person at the time of that person's birth shall, in relation to a person born after the death of his father or mother, be construed as a reference to the status or description of the parent in question at the time of that

parent's death; and where that death occurred before, and the birth occurs after, commencement, the status or description which would have been applicable to the father or mother had he or she died after commencement shall be deemed to be the status or description applicable to him or her at the time of his or her death.

S. 48 extended by British Nationality (Falkland Islands) Act 1983 (c.6), s. 4(2)(a)-(f), British Nationality (Hong Kong) Act 1990 (c.34), s. 2(3); amended by S.I. 1986/948, art. 7(7)(c)

s 49

49.-- [...] [FN1]

[FN1] Repealed by British Nationality Act 1981 (c.61), s. 52(7)(8), Sch. 8 para. 8, Sch. 9

s 50 *Interpretation.*

Marginal Notes:

1) 1970 c.14

(1) In this Act, unless the context otherwise requires:

"the 1948 Act" means the British Nationality Act 1948;

"alien" means a person who is neither a Commonwealth citizen nor a British protected person nor a citizen of the Republic of Ireland;

"appointed day" means the day appointed by the Secretary of State under section 8 of the British Overseas Territories Act 2002 for the commencement of Schedule 1 to that Act;

"association" means an unincorporated body of persons;

"British National (Overseas)" means a person who is a British National (Overseas) under the Hong Kong (British Nationality) Order 1986, and "status of a British National (Overseas)" shall be construed accordingly;

"British Overseas citizen" includes a person who is a British Overseas citizen under the Hong Kong (British Nationality) Order 1986;

"British overseas territory" means a territory mentioned in Schedule 6;

"British protected person" means a person who is a member of any class of persons declared to be British protected persons by an Order in Council for the time being in force under section 38 or is a British protected person by virtue of the Solomon Islands Act 1978;

"commencement", without more, means the commencement of this Act;

"Commonwealth citizen" means a person who has the status of a Commonwealth citizen under this Act;

"company" means a body corporate;

"Crown service" means the service of the Crown, whether within Her Majesty's dominions or elsewhere;

"Crown service under the government of the United Kingdom" means Crown service under Her Majesty's government in the United Kingdom or under Her Majesty's government in Northern Ireland or under the Scottish Administration;

"enactment" includes an enactment comprised in Northern Ireland legislation;

"foreign country" means a country other than the United Kingdom, a British overseas territory, a country mentioned in Schedule 3 and the Republic of Ireland;

"the former nationality Acts" means:

(a) the British Nationality Acts 1948 to 1965;

(b) the British Nationality and Status of Aliens Acts 1914 to 1943; and

(c) any Act repealed by the said Acts of 1914 to 1943 or by the Naturalization Act 1870;

"Governor", in relation to a British overseas territory, includes the officer for the time being administering the government of that territory;

"High Commissioner" includes an acting High Commissioner;

"immigration laws":

(a) in relation to the United Kingdom, means the Immigration Act 1971 and any law for purposes similar to that Act which is for the time being or has at any time been in force in any part of the United Kingdom;

(b) in relation to a British overseas territory, means any law for purposes similar to the Immigration Act 1971 which is for the time being or has at any time been in force in that territory;

"the Islands" means the Channel Islands and the Isle of Man;

"minor" means a person who has not attained the age of eighteen years;

"prescribed" means prescribed by regulations made under section 41;

"qualifying territory" means a British overseas territory other than the Sovereign Base Areas of Akrotiri and Dhekelia;

"settled" shall be construed in accordance with subsections (2) to (4);

"ship" includes a hovercraft;

"statutory provision" means any enactment or any provision contained in:

(a) subordinate legislation (as defined in section 21(1) of the Interpretation Act 1978); or

(b) any instrument of a legislative character made under any Northern Ireland legislation;

"the United Kingdom" means Great Britain, Northern Ireland and the Islands, taken together;

"United Kingdom consulate" means the office of a consular officer of Her Majesty's government in the United Kingdom where a register of births is kept or, where there is no such office, such office as may be prescribed.

(2) Subject to subsection (3), references in this Act to a person being settled in the United Kingdom or in a British overseas territory are references to his being ordinarily resident in the United Kingdom or, as the case may be, in that territory without being subject under the immigration laws to any restriction on the period for which he may remain.

(3) Subject to subsection (4), a person is not to be regarded for the purposes of this Act--

(a) as having been settled in the United Kingdom at any time when he was entitled to an exemption under section 8(3) or (4)(b) or (c) of the Immigration Act 1971 or, unless the order under section 8(2) of that Act conferring the exemption in question provides otherwise, to an exemption under the said section 8(2), or to any corresponding exemption under the former immigration laws; or

(b) as having been settled in a British overseas territory at any time when he was under the immigration laws entitled to any exemption corresponding to any such exemption as is mentioned in paragraph (a) (that paragraph being for the purposes of this paragraph read as if the words from "unless" to "otherwise" were omitted).

(4) A person to whom a child is born in the United Kingdom after commencement is to be regarded for the purposes of section 1(1) as being settled in the United Kingdom at the time of the birth if--

(a) he would fall to be so regarded but for his being at that time entitled to an exemption under section 8(3) of the Immigration Act 1971; and

(b) immediately before he became entitled to that exemption he was settled in the United Kingdom; and

(c) he was ordinarily resident in the United Kingdom from the time when he became entitled to that exemption to the time of the birth;

but this subsection shall not apply if at the time of the birth the child's father or mother is a person on whom any immunity from jurisdiction is conferred by or under the Diplomatic Privileges Act 1964

(5) It is hereby declared that a person is not to be treated for the purpose of any provision of this Act as ordinarily resident in the United Kingdom or in a British overseas territory at a time when he is in the United Kingdom or, as the case may be, in that territory in breach of the immigration laws.

(6) For the purposes of this Act:

(a) a person shall be taken to have been naturalised in the United Kingdom if, but only if, he is:

(i) a person to whom a certificate of naturalisation was granted under any of the former nationality Acts by the Secretary of State or, in any of the Islands, by the Lieutenant-Governor; or

(ii) a person who by virtue of section 27(2) of the British Nationality and Status of Aliens Act 1914 was deemed to be a person to whom a certificate of naturalisation was granted, if the certificate of naturalisation in which his name was included was granted by the Secretary of State; or

(iii) a person who by virtue of section 10(5) of the Naturalization Act 1870 was deemed to be a naturalised British subject by reason of his residence with his father or mother;

(b) a person shall be taken to have been naturalised in a British overseas territory if, but only if, he is--

(i) a person to whom a certificate of naturalisation was granted under any of the former nationality Acts by the Governor of that territory or by a person for the time being specified in a direction given in relation to that territory under paragraph 4 of Schedule 3 to the West Indies Act 1967 or for the time being holding an office so specified; or

(ii) a person who by virtue of the said section 27(2) was deemed to be a person to whom a certificate of naturalisation was granted, if the certificate of naturalisation in which his name was included was granted by the Governor of that territory; or

(iii) a person who by the law in force in that territory enjoyed the privileges of naturalisation within that territory only;

and references in this Act to naturalisation in the United Kingdom or in a British overseas territory shall be construed accordingly.

(7) For the purposes of this Act a person born outside the United Kingdom aboard a ship or aircraft:

(a) shall be deemed to have been born in the United Kingdom if:

(i) at the time of the birth his father or mother was a British citizen; or

(ii) he would, but for this subsection, have been born stateless,

and (in either case) at the time of the birth the ship or aircraft was registered in the United Kingdom or was an unregistered ship or aircraft of the government of the United Kingdom; but

(b) subject to paragraph (a), is to be regarded as born outside the United Kingdom, whoever was the owner of the ship or aircraft at that time, and irrespective of whether or where it was then registered.

[...] [FN1]

[(7A) For the purposes of this Act a person born outside a qualifying territory aboard a ship or aircraft:

(a) shall be deemed to have been born in that territory if--

(i) at the time of the birth his father or mother was a British citizen or a British overseas territories citizen; or

(ii) he would, but for this subsection, have been born stateless,

and (in either case) at the time of the birth the ship or aircraft was registered in that territory or was an unregistered ship or aircraft of the government of that territory; but

(b) subject to paragraph (a), is to be regarded as born outside that territory, whoever was the owner of the ship or aircraft at the time, and irrespective of whether or where it was then registered.

(7B) For the purposes of this Act a person born outside a British overseas territory, other than a qualifying territory, aboard a ship or aircraft--

(a) shall be deemed to have been born in that territory if:

(i) at the time of the birth his father or mother was a British overseas territories citizen; or

(ii) he would, but for this subsection, have been born stateless,

and (in either case) at the time of the birth the ship or aircraft was registered in that territory or was an unregistered ship or aircraft of the government of that territory; but

(b) subject to paragraph (a), is to be regarded as born outside that territory, whoever was the owner of the ship or aircraft at the time, and irrespective of whether or where it was then registered.] [FN2]

(8) For the purposes of this Act an application under any provision thereof shall be taken to have been made at the time of its receipt by a person authorised to receive it on behalf of the person to whom it is made; and references in this Act to the date of such an application are references to the date of its receipt by a person so authorised.

(9) For the purpose of this Act:

(a) the relationship of mother and child shall be taken to exist between a woman and any child (legitimate or illegitimate) born to her; but

(b) subject to section 47, the relationship of father and child shall be taken to exist only between a man and any legitimate child born to him;

and the expressions "mother", "father", "parent", "child" and "descended" shall be construed accordingly.

(10) For the purposes of this Act:

(a) a period "from" or "to" a specified date includes that date; and

(b) any reference to a day on which a person was absent from the United Kingdom or from a British overseas territory or from the British overseas territories is a reference to a day for the whole of which he was so absent.

(11) For the purposes of this Act:

(a) a person is of full age if he has attained the age of eighteen years, and of full capacity if he is not of unsound mind; and

(b) a person attains any particular age at the beginning of the relevant anniversary of the date of his birth.

(12) References in this Act to any country mentioned in Schedule 3 include references to the dependencies of that country.

(13) Her Majesty may by Order in Council subject to annulment in pursuance of a resolution of either House of Parliament amend Schedule 6 in any of the following circumstances, namely:

(a) where the name of any territory mentioned in it is altered; or

(b) where any territory mentioned in it is divided into two or more territories.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), Sch 1 Para 5 (3)

[FN2] words substituted by British Overseas Territories Act (2002 c.8), Sch 1 Para 5 (3)

*s 51 Meaning of certain expressions relating to nationality in other Acts and instruments.*

(1) Without prejudice to subsection (3)(c), in any enactment or instrument whatever passed or made before commencement "British subject" and "Commonwealth citizen" have the same meaning, that is--

(a) in relation to any time before commencement:

(i) a person who under the 1948 Act was at that time a citizen of the United Kingdom and Colonies or who, under any enactment then in force in a country mentioned in section 1(3) of that Act as then in force, was at that time a citizen of that country; and

(ii) any other person who had at that time the status of a British subject under that Act or any other enactment then in force;

(b) in relation to any time after commencement, a person who has the status of a Commonwealth citizen under this Act.

(2) In any enactment or instrument whatever passed or made after commencement:

"British subject" means a person who has the status of a British subject under this Act;

"Commonwealth citizen" means a person who has the status of a Commonwealth citizen under this Act.

(3) In any enactment or instrument whatever passed or made before commencement:

(a) "citizen of the United Kingdom and Colonies" --

(i) in relation to any time before commencement, means a person who under the 1948 Act was at that time a citizen of the United Kingdom and Colonies;

(ii) in relation to any time after commencement, means a person who under the British Nationality Acts 1981 and 1983[ or the British Overseas Territories Act 2002] [FN1] is a British citizen, a British overseas territories citizen of a British Overseas citizen; or who under the Hong Kong (British Nationality) Order 1986 is a British National (Overseas)

(b) any reference to ceasing to be a citizen of the United Kingdom and Colonies shall, in relation to any time after commencement, be construed as a reference to becoming a person who is neither a British citizen nor a British overseas territories citizen nor a British National (Overseas) nor a British Overseas citizen;

(c) any reference to a person who is a British subject (or a British subject without citizenship) by virtue of section 2, 13, or 16 of the 1948 Act or by virtue of, or of section 1 of, the British Nationality Act 1965 shall, in relation to any time after commencement, be construed as a reference to a person who under this Act is a British subject.

(4) In any statutory provision, whether passed or made before or after commencement, and in any other instrument whatever made after commencement "alien", in relation to any time after commencement, means a person who is neither a Commonwealth citizen nor a British protected person nor a citizen of the Republic of Ireland.

(5) The preceding provisions of this section:

(a) shall not apply in cases where the context otherwise requires; and

(b) shall not apply to this Act or to any instrument made under this Act.

[FN1] words inserted by British Overseas Territories Act (2002 c.8), Sch 1 Para 6

#### *s 52 Consequential amendments, transitional provisions, repeals and savings.*

(1) In any enactment or instrument whatever passed or made before commencement, for any reference to section 1(3) of the 1948 Act (list of countries whose citizens are Commonwealth citizens under that Act) there shall be substituted a reference to Schedule 3 to this Act, unless the context makes that substitution inappropriate.

(2) Subject to subsection (3), Her Majesty may by Order in Council make such consequential modifications of:

(a) any enactment of the Parliament of the United Kingdom passed before commencement;

(b) any provision contained in any Northern Ireland legislation passed or made before commencement; or

(c) any instrument made before commencement under any such enactment or provision, as appear to Her necessary or expedient for preserving after commencement the substantive effect of that enactment, provision or instrument.

(3) Subsection (2) shall not apply in relation to:

(a) the Immigration Act 1971; or

(b) any provision of this Act not contained in Schedule 7

(4) Any Order in Council made under subsection (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Any provision made by Order in Council under subsection (2) after commencement may be made with retrospective effect as from commencement or any later date.

(6) [...] [FN1]

(7) This Act shall have effect subject to the transitional provisions contained in Schedule 8

(8) [...] [FN2]

(9) Without prejudice to section 51, nothing in this Act affects the operation, in relation to any time before commencement, of any statutory provision passed or made before commencement.

(10) Nothing in this Act shall be taken as prejudicing the operation of sections 16 and 17 of the Interpretation Act 1978 (which relate to the effect of repeals).

(11) In this section "modifications" includes additions, omissions and alterations.

[FN1] Provides for amendments of enactments specified in Sch. 7

[FN2] Repeals enactments specified in Sch. 9

*s 53 Citation, commencement and extent.*

(1) This Act may be cited as the British Nationality Act 1981

(2) This Act, except the provisions mentioned in subsection (3), shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and references to the commencement of this Act shall be construed as references to the beginning of that day.

(3) Section 49 and this section shall come into force on the passing of this Act.

(4) This Act extends to Northern Ireland.

(5) The provisions of this Act, except those mentioned in subsection (7), extend to the Islands and all [British overseas territories] [FN1]; and section 36 of the Immigration Act 1971 (power to extend provisions of that Act to Islands) shall apply to the said excepted provisions as if they were provisions of that Act.

(7) The provisions referred to in subsections (5) are:

(a) section 39 and Schedule 4;

(b) section 52(7) and Schedule 8 so far as they relate to the Immigration Act 1971; and

(c) section 52(8) and Schedule 9 so far as they relate to provisions of the Immigration Act 1971 other than Schedule 1

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 1 (1) (b)

#### *Para 1*

(1) Subject to paragraph 2, the requirements for naturalisation as a British citizen under section 6(1) are, in the case of any person who applies for it:

(a) the requirements specified in sub-paragraph (2) of this paragraph, or the alternative requirement specified in sub-paragraph (3) of this paragraph; and

(b) that he is of good character; and

(c) that he has a sufficient knowledge of the English, Welsh or Scottish Gaelic language; and

(d) that either:

(i) his intentions are such that, in the event of a certificate of naturalisation as a British citizen being granted to him, his home or (if he has more than one) his principal home will be in the United Kingdom; or

(ii) he intends, in the event of such a certificate being granted to him, to enter into, or continue in, Crown service under the government of the United Kingdom, or service under an international organisation of which the United Kingdom or Her Majesty's government therein is a member, or service in the employment of a company or association established in the United Kingdom.

(2) The requirements referred to in sub-paragraph (1)(a) of this paragraph are:

(a) that the applicant was in the United Kingdom at the beginning of the period of five years ending with the date of the application, and that the number of days on which he was absent from the United Kingdom in that period does not exceed 450; and

(b) that the number of days on which he was absent from the United Kingdom in the period of twelve months so ending does not exceed 90; and

(c) that he was not at any time in the period of twelve months so ending subject under the immigration laws to any restriction on the period for which he might remain in the United Kingdom; and

(d) that he was not at any time in the period of five years so ending in the United Kingdom in breach of the immigration laws.

(3) The alternative requirement referred to in sub-paragraph (1)(a) of this paragraph is that on the date of the application he is serving outside the United Kingdom in Crown service under the government of the United Kingdom.

#### *Para 2*

If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of paragraph 1 do all or any of the following things, namely:

(a) treat the applicant as fulfilling the requirement specified in paragraph 1(2)(a) or paragraph 1(2)(b), or both, although the number of days on which he was absent from the United Kingdom in the period there mentioned exceeds the number there mentioned;

(b) treat the applicant as having been in the United Kingdom for the whole or any part of any period during which he would otherwise fall to be treated under paragraph 9(1) as having been absent;

(c) disregard any such restriction as is mentioned in paragraph 1(2)(c), not being a restriction to which the applicant was subject on the date of the application;

(d) treat the applicant as fulfilling the requirement specified in paragraph 1(2)(d) although he was in the United Kingdom in breach of the immigration laws in the period there mentioned;

(e) waive the need to fulfil the requirement specified in paragraph 1(1)(c) if he considers that because of the applicant's age or physical or mental condition it would be unreasonable to expect him to fulfil it.

### *Para 3*

Subject to paragraph 4, the requirements for naturalisation as a British citizen under section 6(2) are, in the case of any person who applies for it:

(a) that he was in the United Kingdom at the beginning of the period of three years ending with the date of the application, and that the number of days on which he was absent from the United Kingdom in that period does not exceed 270; and

(b) that the number of days on which he was absent from the United Kingdom in the period of twelve months so ending does not exceed 90; and

(c) that on the date of the application he was not subject under the immigration laws to any restriction on the period for which he might remain in the United Kingdom; and

(d) that he was not at any time in the period of three years ending with the date of the application in the United Kingdom in breach of the immigration laws; and

(e) the requirement specified in paragraph 1(1)(b).

### *Para 4*

Paragraph 2 shall apply in relation to paragraph 3 with the following modifications, namely:

(a) the reference to the purposes of paragraph 1 shall be read as a reference to the purposes of paragraph 3;

(b) the references to paragraphs 1(2)(a), 1(2)(b) and 1(2)(d) shall be read as references to paragraphs 3(a), 3(b) and 3(d) respectively;

(c) paragraph 2(c) and (e) shall be omitted; and

(d) after paragraph (e) there shall be added:

"(f) waive the need to fulfil all or any of the requirements specified in paragraph 3(a) and (b) if on the date of the application the person to whom the applicant is married is serving in service to

which section 2(1)(b) applies, that person's recruitment for that service having taken place in the United Kingdom".

#### *Para 5*

(1) Subject to paragraph 6, the requirements for naturalisation as a [British overseas territories citizen] [FN1] under section 18(1) are, in the case of any person who applies for it:

(a) the requirements specified in sub-paragraph (2) of this paragraph, or the alternative requirement specified in sub-paragraph (3) of this paragraph; and

(b) that he is of good character; and

(c) that he has a sufficient knowledge of the English language or any other language recognised for official purposes in the relevant territory; and

(d) that either:

(i) his intentions are such that, in the event of a certificate of naturalisation as a [British overseas territories citizen] [FN2] being granted to him, his home or (if he has more than one) his principal home will be in the relevant territory; or

(ii) he intends, in the event of such a certificate being granted to him, to enter into, or continue in, Crown service under the government of that territory, or service under an international organisation of which that territory or the government of that territory is a member, or service in the employment of a company or association established in that territory.

(2) The requirements referred to in sub-paragraph (1)(a) of this paragraph are:

(a) that he was in the relevant territory at the beginning of the period of five years ending with the date of the application, and that the number of days on which he was absent from that territory in that period does not exceed 450; and

(b) that the number of days on which he was absent from that territory in the period of twelve months so ending does not exceed 90; and

(c) that he was not at any time in the period of twelve months so ending subject under the immigration laws to any restriction on the period for which he might remain in that territory; and

(d) that he was not at any time in the period of five years so ending in that territory in breach of the immigration laws.

(3) The alternative requirement referred to in sub-paragraph (1)(a) of this paragraph is that on the date of the application he is serving outside the relevant territory in Crown service under the government of that territory.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

[FN2] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

#### *Para 6*

If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of paragraph 5 do all or any of the following things, namely:

(a) treat the applicant as fulfilling the requirement specified in paragraph 5(2)(a) or paragraph 5(2)(b), or both, although the number of days on which he was absent from the relevant territory in the period there mentioned exceeds the number there mentioned;

(b) treat the applicant as having been in the relevant territory for the whole or any part of any period during which he would otherwise fall to be treated under paragraph 9(2) as having been absent;

(c) disregard any such restriction as is mentioned in paragraph 5(2)(c), not being a restriction to which the applicant was subject on the date of the application;

(d) treat the applicant as fulfilling the requirement specified in paragraph 5(2)(d) although he was in the relevant territory in breach of the immigration laws in the period there mentioned;

(e) waive the need to fulfil the requirement specified in paragraph 5(1)(c) if he considers that because of the applicant's age or physical or mental condition it would be unreasonable to expect him to fulfil it.

#### *Para 7*

Subject to paragraph 8, the requirements for naturalisation as a [British overseas territories citizen] [FN1] under section 18(2) are, in the case of any person who applies for it:

(a) that he was in the relevant territory at the beginning of the period of three years ending with the date of the application, and that the number of days on which he was absent from that territory in that period does not exceed 270; and

(b) that the number of days on which he was absent from that territory in the period of twelve months so ending does not exceed 90; and

(c) that on the date of the application he was not subject under the immigration laws to any restriction on the period for which he might remain in that territory; and

(d) that he was not at any time in the period of three years ending with the date of the application in that territory in breach of the immigration laws; and

(e) the requirement specified in paragraph 5(1)(b).

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

#### *Para 8*

Paragraph 6 shall apply in relation to paragraph 7 with the following modifications, namely--

(a) the reference to the purposes of paragraph 5 shall be read as a reference to the purposes of paragraph 7;

(b) the references to paragraphs 5(2)(a), 5(2)(b) and 5(2)(d) shall be read as references to paragraphs 7(a), 7(b) and 7(d) respectively;

(c) paragraph 6(c) and (e) shall be omitted; and

(d) after paragraph (e) there shall be added:

"(f) waive the need to fulfil all or any of the requirements specified in paragraph 7(a) and (b) if on the date of the application the person to whom the applicant is married is serving in service to

which section 16(1)(b) applies, that person's recruitment for that service having taken place in a [British overseas territory] [FN1]."

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 1 (1) (b)

*Para 9*

(1) For the purposes of this Schedule a person shall (subject to paragraph 2(b)) be treated as having been absent from the United Kingdom during any of the following periods, that is to say--

(a) any period when he was in the United Kingdom and either was entitled to an exemption under section 8(3) or (4) of the Immigration Act 1971 (exemptions for diplomatic agents etc. and members of the forces) or was a member of the family and formed part of the household of a person so entitled;

(b) any period when he was detained:

(i) in any place of detention in the United Kingdom in pursuance of a sentence passed on him by a court in the United Kingdom or elsewhere for any offence;

(ii) in any hospital in the United Kingdom under a hospital order made under Part III of the Mental Health Act 1983 or section 175 or 376 of the Criminal Procedure (Scotland) Act 1975 or Part III of the Mental Health (Northern Ireland) Order 1986, being an order made in connection with his conviction of an offence; or

(iii) under any power of detention conferred by the immigration laws of the United Kingdom;

(c) any period when, being liable to be detained as mentioned in paragraph (b)(i) or (ii) of this sub-paragraph, he was unlawfully at large or absent without leave and for that reason liable to be arrested or taken into custody;

(d) any period when, his actual detention under any such power as is mentioned in paragraph (b)(iii) of this sub-paragraph being required or specifically authorised, he was unlawfully at large and for that reason liable to be arrested.

(2) For the purposes of this Schedule a person shall (subject to paragraph 6(b)) be treated as having been absent from any particular [British overseas territory] [FN1] during any of the following periods, that is to say:

(a) any period when he was in that territory and either was entitled to an exemption under the immigration laws of that territory corresponding to any such exemption as is mentioned in sub-paragraph (1)(a) or was a member of the family and formed part of the household of a person so entitled;

(b) any period when he was detained:

(i) in any place of detention in the relevant territory in pursuance of a sentence passed on him by a court in that territory or elsewhere for any offence;

(ii) in any hospital in that territory under a direction (however described) made under any law for purposes similar to Part III of the Mental Health Act 1983 which was for the time being in force in that territory, being a direction made in connection with his conviction of an offence and corresponding to a hospital order under that Part; or

(iii) under any power of detention conferred by the immigration laws of that territory;

(c) any period when, being liable to be detained as mentioned in paragraph (b)(i) or (ii) of this sub-paragraph, he was unlawfully at large or absent without leave and for that reason liable to be arrested or taken into custody;

(d) any period when, his actual detention under any such power as is mentioned in paragraph (b)(iii) of this sub-paragraph being required or specifically authorised, he was unlawfully at large and for that reason liable to be arrested.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 1 (1) (b)

#### *Para 10*

In this Schedule "the relevant territory" has the meaning given by section 18(3).

#### *Para 1*

(1) Where a person born in the United Kingdom after commencement would, but for this paragraph, be born stateless, then, subject to sub-paragraph (3):

(a) if at the time of the birth his father or mother is a citizen or subject of a description mentioned in sub-paragraph (2), he shall be a citizen or subject of that description; and accordingly

(b) if he is born legitimate and at the time of the birth each of his parents is a citizen or subject of a different description so mentioned, he shall be a citizen or subject of the same description so mentioned as each of them is respectively at that time.

(2) The descriptions referred to in sub-paragraph (1) are a [British overseas territories citizen] [FN1], a British Overseas citizen and a British subject under this Act.

(3) A person shall not be a British subject by virtue of this paragraph if by virtue of it he is a citizen of a description mentioned in sub-paragraph (2).

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

#### *Para 2*

(1) Where a person born in a [British overseas territory] [FN1] after commencement would, but for this paragraph, be born stateless, then, subject to sub-paragraph (3):

(a) if at the time of the birth his father or mother is a citizen or subject of a description mentioned in sub-paragraph (2), he shall be a citizen or subject of that description; and accordingly

(b) if he is born legitimate and at the time of the birth each of his parents is a citizen or subject of a different description so mentioned, he shall be a citizen or subject of the same description so mentioned as each of them is respectively at that time.

(2) The descriptions referred to in sub-paragraph (1) are a British citizen, a British Overseas citizen and a British subject under this Act.

(3) A person shall not be a British subject by virtue of this paragraph if by virtue of it he is a citizen of a description mentioned in sub-paragraph (2).

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 1 (1) (b)

### *Para 3*

(1) A person born in the United Kingdom or a British overseas territory after commencement shall be entitled, on an application for his registration under this paragraph, to be so registered if the following requirements are satisfied in his case, namely--

(a) that he is and always has been stateless; and

(b) that on the date of the application he [...] [FN1]was under the age of twenty-two; and

(c) that he was in the United Kingdom or a British overseas territory (no matter which) at the beginning of the period of five years ending with that date and that (subject to paragraph 6) the number of days on which he was absent from both the United Kingdom and the British overseas territories in that period does not exceed 450.

(2) A person entitled to registration under this paragraph:

(a) shall be registered under it as a British citizen if, in the period of five years mentioned in sub-paragraph (1), the number of days wholly or partly spent by him in the United Kingdom exceeds the number of days wholly or partly spent by him in the British overseas territories;

(b) in any other case, shall be registered under it as a British overseas territories citizen.

[FN1] words repealed by Nationality, Immigration and Asylum Act (2002 c.41), Sch 9 Para 1

### *Para 4*

(1) A person born outside the United Kingdom and the British overseas territories after commencement shall be entitled, on an application for his registration under this paragraph, to be so registered if the following requirements are satisfied, namely:

(a) that that person is and always has been stateless; and

(b) that at the time of that person's birth his father or mother was a citizen or subject of a description mentioned in sub-paragraph (4); and

(c) that that person was in the United Kingdom or a British overseas territory (no matter which) at the beginning of the period of three years ending with the date of the application and that (subject to paragraph 6) the number of days on which he was absent from both the United Kingdom and the British overseas territories in that period does not exceed 270.

(2) A person entitled to registration under this paragraph:

(a) shall be registered under it as a citizen or subject of a description available to him in accordance with sub-paragraph (3); and

(b) if more than one description is so available to him, shall be registered under this paragraph as a citizen of whichever one or more of the descriptions so available to him is or are stated in the application under this paragraph to be wanted.

(3) For the purposes of this paragraph the descriptions of citizen or subject available to a person entitled to registration under this paragraph are--

(a) in the case of a person whose father or mother was at the time of that person's birth a citizen of a description mentioned in sub-paragraph (4), any description of citizen so mentioned which applied to his father or mother at that time;

(b) in any other case, a British subject under this Act.

(4) The descriptions referred to in sub-paragraphs (1) to (3) are a British citizen, a [British overseas territories citizen] [FN1], a British Overseas citizen and a British subject under this Act.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (3)

#### *Para 5*

(1) A person born before commencement shall be entitled, on an application for his registration under this paragraph, to be so registered if the circumstances are such that, if--

(a) this Act had not been passed, and the enactments repealed or amended by this Act had continued in force accordingly; and

(b) an application for the registration of that person under section 1 of the British Nationality (No. 2) Act 1964 (stateless persons) as a citizen of the United Kingdom and Colonies had been made on the date of the application under this paragraph,

that person would have been entitled under that section to be registered as such a citizen.

(2) A person entitled to registration under this paragraph shall be registered under it as such a citizen as he would have become at commencement if, immediately before commencement, he had been registered as a citizen of the United Kingdom and Colonies under section 1 of the British Nationality (No. 2) Act 1964 on whichever of the grounds mentioned in subsection (1)(a) to (c) of that section he would have been entitled to be so registered on in the circumstances described in sub-paragraph (1)(a) and (b) of this paragraph.

#### *Para 6*

[6. If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of paragraph 3 or 4 treat the person who is the subject of the application as fulfilling the requirement specified in sub-paragraph (1)(c) of that paragraph although the number of days on which he was absent from both the United Kingdom and the British overseas territories in the period there mentioned exceeds the number there mentioned.] [FN1]

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 1 (1) (b)

#### *Para 1*

Antigua and Barbuda

Australia

The Bahamas

Bangladesh

Barbados

Belize

Botswana

Brunei  
[Cameroon] [FN1]  
Canada  
Republic of Cyprus  
Dominica  
Fiji  
The Gambia  
Ghana  
Grenada  
Guyana  
India  
Jamaica  
Kenya  
Kiribati  
Lesotho  
Malawi  
Malaysia  
Maldives  
Malta  
Mauritius  
[Mozambique] [FN2]  
Nauru  
New Zealand  
Nigeria  
Pakistan  
Papua New Guinea  
Saint Christopher and Nevis  
Saint Lucia  
Saint Vincent and the Grenadines  
Seychelles  
Sierra Leone  
Singapore  
Solomon Islands  
South Africa

Sri Lanka

Swaziland

Tanzania

Tonga

Trinidad and Tobago

Tuvalu

Uganda

Vanuatu

Western Samoa

Zambia

Zimbabwe

Namibia

[FN1] words inserted by SI 1998/3161 (British Nationality (Cameroon and Mozambique Order), Art 2

[FN2] words inserted by SI 1998/3161 (British Nationality (Cameroon and Mozambique Order), Art 2

#### *Para 1*

1. [...] [FN1]

[FN1] Amends Immigration Act 1971 (c. 77), ss. 3(1)(5)(6)(7)(8), 4(4), 5(2), 6(2), 8(2)(3)(4), 9(2)(4), 14(2), 24(1), 29(1), 33(1), Sch. 2 paras. 2(1)(a), 3(1), 6(1), 12(2), 13(2), 26(1), Sch. 4 paras. 1(1)(2), 3(1), 4

#### *Para 2*

2. [...] [FN1]

[FN1] Amends Immigration Act 1971 (c. 77), ss. 3(1)(5)(6)(7)(8), 4(4), 5(2), 6(2), 8(2)(3)(4), 9(2)(4), 14(2), 24(1), 29(1), 33(1), Sch. 2 paras. 2(1)(a), 3(1), 6(1), 12(2), 13(2), 26(1), Sch. 4 paras. 1(1)(2), 3(1), 4

#### *Para 3*

(1) [...] [FN1]

(2) [...] [FN2]

[FN1] Amends Immigration Act 1971 (c. 77), ss. 13(2), 22(4)(a)(5)(a), 26(1)(d), Sch. 2 para. 19(2)

[FN2] Amends Immigration Act 1971 (c. 77), s. 33(1)

#### *Para 4*

4. [...] [FN1]

[FN1] Amends Immigration Act 1971 (c. 77), s. 3(7)

#### *Para 5*

5. [...] [FN1]

[FN1] Amends Immigration Act 1971 (c. 77), s. 8(5)

#### *Para 6*

6. [...] [FN1]

[FN1] Substitutes Immigration Act 1971 (c. 77), s. 25(5)(a)-(c) for s. 25(5)(a)-(e)

#### *Para 7*

(a) [...] [FN1]

(b) [...] [FN2]

[FN1] Amends Immigration Act 1971 (c. 77), s. 33(1)

[FN2] Inserts Immigration Act 1971 (c. 77), s. 33(2A)

*Para 1*

The form of the oath of allegiance is as shown below, with the insertion, after the words "on becoming", of whichever of the following expressions is appropriate, namely:

"a British citizen"

"a [British overseas territories citizen] [FN1]"

"a British Overseas citizen"

"a British subject".

Oath of allegiance

I, A.B., swear by Almighty God that, on becoming I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second Her Heirs and Successors according to law.

[FN1] words substituted by British Overseas Territories Act (2002 c.8), s 2 (2)

*Para 1*

Anguilla

Bermuda

British Antarctic Territory

British Indian Ocean Territory

Cayman Islands

Falkland Islands[...] [FN1]

Gibraltar

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St. Helena and Dependencies

South Georgia and the South Sandwich Islands

The Sovereign Base Areas of Akrotiri and Dhekelia (that is to say the areas mentioned in section 2(1) of the Cyprus Act 1960)

Turks and Caicos Islands

Virgin Islands.

[FN1] words repealed by SI 2001/3497 (British Nationality Act 1981 (Amendment of Schedule 6) Order), Art 2 (a)

*Para 1*

(1) This paragraph applies to any application:

(a) for registration under any provision of the British Nationality Acts 1948 to 1965 as a citizen of the United Kingdom and Colonies or as a British subject; or

(b) for a certificate of naturalisation under section 10 of the 1948 Act,

which is received before commencement by a person authorised to receive it on behalf of the person to whom it is made but which at commencement has not been determined.

(2) In relation to any application to which this paragraph applies:

(a) the British Nationality Acts 1948 to 1965 and all regulations and arrangements in force under them immediately before commencement shall (so far as applicable) continue to apply; and

(b) this Act shall not apply;

but on the granting of such an application and the taking under those Acts of such other steps as are necessary for the person in question to become:

(i) a citizen of the United Kingdom and Colonies by virtue of any provision of those Acts; or

(ii) a British subject by virtue of registration under any provision of those Acts,

that person, instead of becoming a citizen or subject of that description, shall become under this Act such a citizen or subject as he would have become at commencement if, immediately before commencement, he had been such a citizen or subject as is mentioned in paragraph (i) or (ii), as the case may be.

(3) Sub-paragraph (2) shall have effect as if the references in it to the British Nationality Acts 1948 to 1965 did, and as if the reference in paragraph (b) of it to this Act did not, include section 49 of this Act.

## *Para 2*

Where a person who has been registered or to whom a certificate of naturalisation has been granted before the passing of this Act has at commencement not yet taken the oath of allegiance, paragraph 1(2) shall apply as if the application on which he was registered or the certificate was granted were an application to which paragraph 1 applies.

## *Para 3*

(1) This paragraph applies to a person born less than a year before commencement if:

(a) the birth occurred in a place in a foreign country (within the meaning of the 1948 Act); and

(b) at the time of the birth his father was a citizen of the United Kingdom and Colonies by descent only; and

(c) the birth was not registered at a United Kingdom consulate before commencement.

(2) If the birth of a person to whom this paragraph applies is registered at a United Kingdom consulate within one year of its occurrence, he shall be deemed for the purposes of this Act to have been, immediately before commencement, a citizen of the United Kingdom and Colonies by virtue of section 5 of the 1948 Act (citizenship by descent).

(3) References in this paragraph to the 1948 Act are references to that Act as in force at the time of the birth in question.

*Para 4*

(1) Where:

(a) a person has before commencement duly made a declaration under section 4(2) of the Cyprus Act 1960 of his intention to resume citizenship of the United Kingdom and Colonies; but

(b) at commencement the declaration has not been registered,

the Secretary of State shall cause the declaration to be registered.

(2) If:

(a) a person who in consequence of anything done before he attained the age of sixteen years ceased by virtue of an Order in Council under section 4 of the Cyprus Act 1960 to be a citizen of the United Kingdom and Colonies makes, in such a manner as the Secretary of State may direct, a declaration of his intention to accept the citizenship available to him under this paragraph; and

(b) the declaration is made by him after commencement and within one year after his attaining the age of twenty-one years,

the Secretary of State shall cause the declaration to be registered.

(3) On the registration under sub-paragraph (1) or (2) of any such declaration as is there mentioned the person who made it shall become under this Act such a citizen as he would have become at commencement if, immediately before commencement, he had been a citizen of the United Kingdom and Colonies by virtue of section 4(2) of the Cyprus Act 1960.

#### *Para 5*

Any application for a certificate of patriality under the Immigration Act 1971 duly made but not determined before commencement shall be treated as if it were an application for a certificate of entitlement under that Act as amended by this Act.

#### *Para 6*

Where a person who has been refused a certificate of patriality under the Immigration Act 1971 before commencement has immediately before commencement a right of appeal under Part II (appeals) of that Act against the refusal, the provisions of that Part shall have effect in relation to the refusal as if he had applied for, and been refused, a certificate of entitlement under that Act as amended by this Act. [FN1] [FN2]

[FN1] In relation to the Isle of Man, Para. 6 repealed

[FN2] repealed by SI 1991/2630 (Immigration (Isle of Man) Order), Sch 1 (II) Para 1

#### *Para 7*

Any appeal under Part II of the Immigration Act 1971 against a refusal of a certificate of patriality under that Act which is pending immediately before commencement shall be treated as if it were an appeal against a refusal of a certificate of entitlement under that Act as amended by this Act. [FN1] [FN2]

[FN1] In relation to the Isle of Man, Para. 7 repealed.

[FN2] repealed by SI 1991/2630 (Immigration (Isle of Man) Order), Sch 1 (II) Para 1

#### *Para 8*

In relation to appeals against any decision taken or other thing done under the Immigration Act 1971 before commencement, other than a refusal of a certificate of patriality under that Act, the provisions of that Act shall continue to apply as in force immediately before commencement, and not as amended by this Act. [FN1] [FN2]

[FN1] In relation to the Isle of Man, Para. 8 repealed.

[FN2] repealed by SI 1991/2630 (Immigration (Isle of Man) Order), Sch 1 (II) Para 1

## **SPAGNA**

### **CÓDIGO CIVIL**

#### **Libro Primero. De las personas**

#### **Título Primero. De los españoles y extranjeros**

### **Artículo 17.**

Son españoles de origen:

a) Los nacidos de padre o madre españoles.

b) Los nacidos en España de padres extranjeros si, al menos, uno de ellos hubiera nacido también en España. Se exceptúan los hijos de funcionario diplomático o consular acreditado en España.

c) Los nacidos en España de padres extranjeros, si ambos carecieren de nacionalidad o si la legislación de ninguno de ellos atribuye al hijo una nacionalidad.

d) Los nacidos en España cuya filiación no resulte determinada. A estos efectos, se presumen nacidos en territorio español los menores de edad cuyo primer lugar conocido de estancia sea territorio español.

2. La filiación o el nacimiento en España, cuya determinación se produzca después de los dieciocho años de edad, no son por sí solos causa de adquisición de la nacionalidad española. El interesado tiene entonces derecho a optar por la nacionalidad española de origen en el plazo de dos años a contar desde aquella determinación.

### **Artículo 18.**

La posesión y utilización continuada de la nacionalidad española durante diez años, con buena fe y basada en un título inscrito en el Registro Civil, es causa de consolidación de la nacionalidad aunque se anule el título que la originó.

### **Artículo 19.**

1. El extranjero menor de dieciocho años adoptado por un español adquiere, desde la adopción, la nacionalidad española de origen.

2. Si el adoptado es mayor de dieciocho años podrá optar por la nacionalidad española de origen en el plazo de dos años a partir de la constitución de la adopción.

## **Artículo 20.**

*(Redacción según Ley 36/2002, de 8 de octubre, de modificación del Código Civil en materia de nacionalidad)*

1. Tienen derecho a optar por la nacionalidad española:

- a) Las personas que estén o hayan estado sujetas a la patria potestad de un español.
- b) Aquellas cuyo padre o madre hubiera sido originariamente español y nacido en España.
- c) Las que se hallen comprendidas en el segundo apartado de los artículos 17 y 19.

2. La declaración de opción se formulará:

a) Por el representante legal del optante, menor de catorce años o incapacitado. En este caso, la opción requiere autorización del encargado del Registro Civil del domicilio del declarante, previo dictamen del Ministerio Fiscal. Dicha autorización se concederá en interés del menor o incapaz.

b) Por el propio interesado, asistido por su representante legal, cuando aquél sea mayor de catorce años o cuando, aun estando incapacitado, así lo permita la sentencia de incapacitación.

c) Por el interesado, por sí solo, si está emancipado o es mayor de dieciocho años. La opción caducará a los veinte años de edad, pero si el optante no estuviera emancipado según su ley personal al llegar a los dieciocho años, el plazo para optar se prolongará hasta que transcurran dos años desde la emancipación.

d) Por el interesado, por sí solo, dentro de los dos años siguientes a la recuperación de la plena capacidad. Se exceptúa el caso en que haya caducado el derecho de opción conforme al párrafo c.

3. No obstante lo dispuesto en el apartado anterior, el ejercicio del derecho de opción previsto en el apartado 1.b de este artículo no estará sujeto a límite alguno de edad.

## **Artículo 21.**

1. La nacionalidad española se adquiere por carta de naturaleza, otorgada discrecionalmente mediante Real Decreto, cuando en el interesado concurren circunstancias excepcionales.

2. La nacionalidad española también se adquiere por residencia en España, en las condiciones que señala el artículo siguiente y mediante la concesión otorgada por el Ministro de Justicia, que podrá denegarla por motivos razonados de orden público o interés nacional.

3. En uno y otro caso la solicitud podrá formularla:

- a) El interesado emancipado o mayor de dieciocho años
- b) El mayor de catorce años asistido por su representante legal.
- c) El representante legal del menor de catorce años.

d) El representante legal del incapacitado o el incapacitado, por sí solo o debidamente asistido, según resulte de la sentencia de incapacitación.

En este caso y en el anterior, el representante legal sólo podrá formular la solicitud si previamente ha obtenido autorización conforme a lo previsto en la letra a del apartado 2 del artículo anterior.

4. Las concesiones por carta de naturaleza o por residencia caducan a los ciento ochenta días siguientes a su notificación, si en este plazo no comparece el interesado ante funcionario competente para cumplir los requisitos del artículo 23.

## **Artículo 22.**

*(Redacción según Ley 36/2002, de 8 de octubre, de modificación del Código Civil en materia de nacionalidad)*

1. Para la concesión de la nacionalidad por residencia se requiere que ésta haya durado diez años. Serán suficientes cinco años para los que hayan obtenido la condición de refugiado y dos años cuando se trate de nacionales de origen de países iberoamericanos, Andorra, Filipinas, Guinea Ecuatorial o Portugal o de sefardíes.

2. Bastará el tiempo de residencia de un año para:

- a) El que haya nacido en territorio español.
- b) El que no haya ejercitado oportunamente la facultad de optar.
- c) El que haya estado sujeto legalmente a la tutela, guarda o acogimiento de un ciudadano o institución españoles durante dos años consecutivos, incluso si continuare en esta situación en el momento de la solicitud.
- d) El que al tiempo de la solicitud llevare un año casado con español o española y no estuviere separado legalmente o de hecho.
- e) El viudo o viuda de española o español, si a la muerte del cónyuge no existiera separación legal o de hecho.
- f) El nacido fuera de España de padre o madre, abuelo o abuela, que originariamente hubieran sido españoles.

3. En todos los casos, la residencia habrá de ser legal, continuada e inmediatamente anterior a la petición.

A los efectos de lo previsto en el párrafo d del apartado anterior, se entenderá que tiene residencia legal en España el cónyuge que conviva con funcionario diplomático o consular español acreditado en el extranjero.

4. El interesado deberá justificar, en el expediente regulado por la legislación del Registro Civil, buena conducta cívica y suficiente grado de integración en la sociedad española.

5. La concesión o denegación de la nacionalidad por residencia deja a salvo la vía judicial contencioso-administrativa.

## **Artículo 23.**

*(Redacción según Ley 36/2002, de 8 de octubre, de modificación del Código Civil en materia de nacionalidad)*

Son requisitos comunes para la validez de la adquisición de la nacionalidad española por opción, carta de naturaleza o residencia:

a) Que el mayor de catorce años y capaz para prestar una declaración por sí jure o prometa fidelidad al Rey y obediencia a la Constitución y a las leyes.

b) Que la misma persona declare que renuncia a su anterior nacionalidad. Quedan a salvo de este requisito los naturales de países mencionados en el apartado 1 del artículo 24.

c) Que la adquisición se inscriba en el Registro Civil español.

#### **Artículo 24.**

*(Redacción según Ley 36/2002, de 8 de octubre, de modificación del Código Civil en materia de nacionalidad)*

1. Pierden la nacionalidad española los emancipados que, residiendo habitualmente en el extranjero, adquieran voluntariamente otra nacionalidad o utilicen exclusivamente la nacionalidad extranjera que tuvieran atribuida antes de la emancipación. La pérdida se producirá una vez que transcurran tres años, a contar, respectivamente, desde la adquisición de la nacionalidad extranjera o desde la emancipación. No obstante, los interesados podrán evitar la pérdida si dentro del plazo indicado declaran su voluntad de conservar la nacionalidad española al encargado del Registro Civil.

La adquisición de la nacionalidad de países iberoamericanos, Andorra, Filipinas, Guinea Ecuatorial o Portugal no es bastante para producir, conforme a este apartado, la pérdida de la nacionalidad española de origen.

2. En todo caso, pierden la nacionalidad española los españoles emancipados que renuncien expresamente a ella, si tienen otra nacionalidad y residen habitualmente en el extranjero.

3. Los que habiendo nacido y residiendo en el extranjero ostenten la nacionalidad española por ser hijos de padre o madre españoles, también nacidos en el extranjero, cuando las leyes del país donde residan les atribuyan la nacionalidad del mismo, perderán, en todo caso, la nacionalidad española si no declaran su voluntad de conservarla ante el encargado del Registro Civil en el plazo de tres años, a contar desde su mayoría de edad o emancipación.

4. No se pierde la nacionalidad española, en virtud de lo dispuesto en este precepto, si España se hallare en guerra.

#### **Artículo 25.**

*(Redacción según Ley 36/2002, de 8 de octubre, de modificación del Código Civil en materia de nacionalidad)*

1. Los españoles que no lo sean de origen perderán la nacionalidad:

a) Cuando durante un período de tres años utilicen exclusivamente la nacionalidad a la que hubieran declarado renunciar al adquirir la nacionalidad española.

b) Cuando entren voluntariamente al servicio de las armas o ejerzan cargo político en un Estado extranjero contra la prohibición expresa del Gobierno.

2. La sentencia firme que declare que el interesado ha incurrido en falsedad, ocultación o fraude en la adquisición de la nacionalidad española produce la nulidad de tal adquisición, si bien no se derivarán de ella efectos perjudiciales para terceros de buena fe. La acción de nulidad deberá ejercitarse por el Ministerio Fiscal de oficio o en virtud de denuncia, dentro del plazo de quince años.

#### **Artículo 26.**

*(Redacción según Ley 36/2002, de 8 de octubre, de modificación del Código Civil en materia de nacionalidad)*

1. Quien haya perdido la nacionalidad española podrá recuperarla cumpliendo los siguientes requisitos:

a) Ser residente legal en España. Este requisito no será de aplicación a los emigrantes ni a los hijos de emigrantes. En los demás casos podrá ser dispensado por el Ministro de Justicia cuando concurren circunstancias excepcionales.

b) Declarar ante el encargado del Registro Civil su voluntad de recuperar la nacionalidad española.

c) Inscribir la recuperación en el Registro Civil.

2. No podrán recuperar o adquirir, en su caso, la nacionalidad española sin previa habilitación concedida discrecional mente por el Gobierno, los que se encuentren incurso en cualquiera de los supuestos previstos en el artículo anterior.

#### **Artículo 27.**

Los extranjeros gozan en España de los mismos derechos civiles que los españoles, salvo lo dispuesto en las leyes especiales y en los Tratados.

**Artículo 28.**

Las corporaciones, fundaciones y asociaciones, reconocidas por la ley y domiciliadas en España, gozarán de la nacionalidad española, siempre que tengan el concepto de personas jurídicas con arreglo a las disposiciones del presente Código.

Las asociaciones domiciliadas en el extranjero tendrán en España la consideración y los derechos que determinen los tratados o leyes especiales.

**LEY 52/2007, de 26 de diciembre, por la que se reconocen y amplían derechos y se establecen medidas en favor de quienes padecieron persecución o violencia durante la guerra civil y la dictadura**

**Disposición adicional séptima. Adquisición de la nacionalidad española.**

1. Las personas cuyo padre o madre hubiese sido originariamente español podrán optar a la nacionalidad española de origen si formalizan su declaración en el plazo de dos años desde la entrada en vigor de la presente Disposición adicional. Dicho plazo podrá ser prorrogado por acuerdo de Consejo de Ministros hasta el límite de un año.

2. Este derecho también se reconocerá a los nietos de quienes perdieron o tuvieron que renunciar a la nacionalidad española como consecuencia del exilio.

---

[1] Il testo aggiornato della legge sulla cittadinanza (*Staatsangehörigkeitsgesetz*), da ultimo modificata con l'articolo 3 della legge del 17 dicembre 2008, è consultabile all'indirizzo Internet: <http://bundesrecht.juris.de/bundesrecht/rustag/gesamt.pdf>.

[2] Il testo aggiornato della legge sull'immigrazione (*Zuwanderungsgesetz*) è reperibile all'indirizzo Internet: <http://217.160.60.235/BGBL/bgbl1f/bgbl104s1950.pdf>.

[3] In sostituzione della Legge sugli stranieri (*Ausländergesetz*), abrogata dalla nuova legge sull'immigrazione (*Zuwanderungsgesetz*), è entrata in vigore la legge sul soggiorno (*Aufenthaltsgesetz*) del 30 luglio 2004, da ultimo modificata con l'articolo 1a della legge del 22 dicembre 2008. Il testo della legge sul soggiorno è reperibile all'indirizzo Internet: [http://bundesrecht.juris.de/bundesrecht/aufenthg\\_2004/gesamt.pdf](http://bundesrecht.juris.de/bundesrecht/aufenthg_2004/gesamt.pdf).

[4] Il testo completo della legge è consultabile, in lingua tedesca, all'indirizzo internet: <http://217.160.60.235/BGBL/bgbl1f/bgbl107s1970.pdf>

[5] Il Ministero federale dell'interno, in collaborazione con il Ministero degli Affari esteri, elabora periodicamente una lista dei paesi che non consentono la rinuncia alla cittadinanza. Attualmente, sono l'Afghanistan, l'Algeria, l'Eritrea, l'Iran, Cuba, il Libano, il Marocco, la Siria e la Tunisia.

[6] <http://www.opsi.gov.uk/acts/acts2002/20020008.htm>

[7] <http://www.opsi.gov.uk/acts/acts2002/20020041.htm>

[8] <http://www.opsi.gov.uk/acts/acts2002/20060013.htm>

[9] <http://www.lifeintheuktest.gov.uk>

[10] Si tratta di una delle modifiche al codice civile introdotte con la legge 36/2002. La finalità dichiarata della legge è quella di "facilitare la conservazione e la trasmissione della cittadinanza spagnola", in ottemperanza a quanto previsto nell'articolo 42 della Costituzione spagnola, che impegna lo Stato nella salvaguardia dei diritti economici e sociali dei lavoratori spagnoli all'estero e nel favorire il loro rientro in patria.

[11] Testo allegato nella sezione "Documentazione".

[12] Tale possibilità è stata inserita con la legge 36/2002, al fine di consentire agli interessati di non perdere la cittadinanza spagnola in maniera, per così dire, automatica, cioè solo in conseguenza del trascorrere di un periodo di tempo determinato.

[13] Anche tale disposizione è stata introdotta con la legge 36/2002, sempre con l'intento di evitare la perdita della cittadinanza in modo automatico.

[14] Titles in square brackets are not official titles.

[15] 2 Section 4, sub-section 3, sentence 2 of the Nationality Act does not incorporate the amendments made in the course of amending the Act to Reform the Law on Civil Status of 19 February 2007 (Federal Law Gazette I, page 122) which will enter into effect on 1 January 2009, when the text will read as follows: "Acquisition of German citizenship will be recorded in the birth registry where the birth of the child is documented."

[16] Section 10(1) no. 7 and Section 10(5) of the Nationality Act shall enter into effect as of 1 September 2008.

[17] Il testo della presente legge è tratto, con alcune modifiche, dal seguente sito:  
<http://www.uniset.ca/naty/BN1981revd.htm>.