



# Nationality, Immigration and Asylum Act 2002

## 2002 CHAPTER 41

### PART 1

#### NATIONALITY

#### 4 Deprivation of citizenship

- (1) The following shall be substituted for section 40 of the British Nationality Act 1981 (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 the person has done anything seriously prejudicial to the vital interests of—
- (a) the United Kingdom, or
  - (b) a British overseas territory.
- (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,

*Status: Point in time view as at 31/08/2006.*

*Changes to legislation: Nationality, Immigration and Asylum Act 2002, Section 4 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (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.

#### **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 an adjudicator appointed under section 81 of the Nationality, Immigration and Asylum Act 2002 (immigration appeal).
- (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) A party to an appeal to an adjudicator under subsection (1) may, with the permission of the Immigration Appeal Tribunal, appeal to the Tribunal against the adjudicator’s determination on a point of law.
- (4) A party to an appeal to the Immigration Appeal Tribunal under subsection (3) may bring a further appeal on a point of law—
- (a) where the decision of the adjudicator was made in Scotland, to the Court of Session, or
  - (b) in any other case, to the Court of Appeal.
- (5) An appeal under subsection (4) may be brought only with the permission of—
- (a) the Tribunal, or
  - (b) if the Tribunal refuses permission, the court referred to in subsection (4)(a) or (b).

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- (6) An order under section 40 may not be made in respect of a person while an appeal under this section or section 2B of the Special Immigration Appeals Commission Act 1997 (c. 68)—
- (a) has been instituted and has not yet been finally determined, withdrawn or abandoned, or
  - (b) could be brought (ignoring any possibility of an appeal out of time with permission).
- (7) Rules under section 106 of the Nationality, Immigration and Asylum Act 2002 (immigration appeal: rules) may make provision about an appeal under this section.
- (8) Directions under section 107 of that Act (practice directions) may make provision about an appeal under this section.”
- (2) The following shall be inserted before section 3 of the Special Immigration Appeals Commission Act 1997 (jurisdiction: bail)—
- “2B
- A person may appeal to the Special Immigration Appeals Commission against a decision to make an order under section 40 of the British Nationality Act 1981 (c. 61) (deprivation of citizenship) if he is not entitled to appeal under section 40A(1) of that Act because of a certificate under section 40A(2).”
- (3) In section 5(1)(a) and (b) and (2) of that Act (procedure) after “section 2” there shall be inserted “ or 2B ”.
- (4) In exercising a power under section 40 of the British Nationality Act 1981 after the commencement of subsection (1) above the Secretary of State may have regard to anything which—
- (a) occurred before commencement, and
  - (b) he could have relied on (whether on its own or with other matters) in making an order under section 40 before commencement.

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