

To the Registrar of Senators' Interests,

Statement in relation to citizenship – 45th Parliament

I declare that at the time I nominated for election in this 45th Parliament I was an Australian citizen.

Section 1—Senator's details

Surname: GALLAGHER	
Other Names: KATHERINE (KATY) RUTH	State: ACT

Section 2—Senator's birth and citizenship details

Place of birth: CANBERRA AUSTRALIA	Citizenship held at birth: AUSTRALIAN
Date of birth: 18 / 03 / 1970 Day Month Year	Date of Australian naturalisation: <i>(if not an Australian citizen by birth)</i> / / Day Month Year

Section 3(a)—Senator's parents' birth details

	Mother	Father
Place of birth:	WITHIN THE DISTRICT OF THE BRITISH CONSULATE, GUAYAQUIL, ECUADOR	STOKE-ON-TRENT, UNITED KINGDOM
Date of birth:	20 / 02 / 1943 Day Month Year	01 / 10 / 1939 Day Month Year

Notes

- (1) The information which you are required to provide is contained in a resolution agreed to by the Senate on 13 November 2017
- (2) If there is insufficient space on this form for the information you are required to provide, you may attach additional pages for that purpose. An electronic file of this form is available on www.aph.gov.au/senators_interests.
- (3) Forward the original, signed copy of all pages of this statement to the Registrar of Senators' Interests, SG.39 Parliament House, Canberra ACT 2600

Section 3(b)—Senator’s grandparents’ birth details

	Maternal grandmother	Maternal grandfather
Place of birth:	UNITED KINGDOM	UNITED KINGDOM
Date of birth:	1 / 12 / 1914 Day Month Year	23 / 9 / 1904 Day Month Year

	Paternal grandmother	Paternal grandfather
Place of birth:	UNITED KINGDOM	IRELAND
Date of birth:	18 / 11 / 1914 Day Month Year	15 / 8 / 1897 Day Month Year

Section 3(c)—Other factors that may be relevant eg: adoption, IVF, or assumption of citizenship through marriage.

I am not now and have never been married.

Section 3(d)—Please list the steps you have taken to assure yourself you have not inherited citizenship of another country from a parent or grandparent.

ECUADORIAN CITIZENSHIP

On 4 September 2017 I made a statement in which I described the steps I had taken to determine that I had not inherited Ecuadorian citizenship from my mother (**Attachment A**).

As I explained in that statement:

My mother was born in 1943 to British citizens who were in Ecuador, where my grandfather was temporarily working on behalf of the Bank of London. My mother's birth was registered at the British consulate at Guayaquil. Her birth certificate, which was issued by the British consul, describes her birth as a birth within the British consulate at Guayaquil. To the best of my knowledge, my mother's birth was never registered with the Ecuadorian government. I'm unable to locate any record of an Ecuadorian birth certificate despite interrogating family records. It's my understanding that an Ecuadorian birth certificate was never obtained for my mother. Sadly, my mother passed away in 2005, aged 62 years, three years before the 2008 changes to the Ecuadorian constitution cited in the recent media reports. During her life, she never took any steps to attain citizenship of Ecuador. My mother was never an Ecuadorian citizen and, accordingly, I could not obtain Ecuadorian citizenship by descent through my mother.

I am not and have never been an Ecuadorian citizen. However, given recent questions about my citizenship in the media, further legal advice was sought to put to bed a question that was already beyond doubt. A formal opinion has been obtained from an expert on Ecuadorian law, Dr Gabriel Echeverria, together with a legal opinion from Dr Matthew Collins QC on my citizenship status and eligibility to sit as a senator under section 44(i) of the Constitution. Both of these opinions confirm the earlier legal advice received during candidate vetting and confirmed that my mother was not an Ecuadorian citizen, that I did not obtain Ecuadorian citizenship by descent through my mother and that I am not and have never been an Ecuadorian citizen.

Dr Echeverria is the European Union Democracy Observatory on Citizenship's Ecuador and Chile country expert and authored the observatory's Report on citizenship law: Ecuador. He is regarded as the international expert on Ecuadorian citizenship law. The expert opinion of Dr Echeverria concludes that I am not an Ecuadorian citizen nor am I entitled to apply to become an Ecuadorian citizen.

Dr Collins QC practises at the Melbourne bar and at the bar of England and Wales. Dr Collins QC has considered Dr Echeverria's expert report in relation to the circumstances of my mother's birth and has concluded there is no question of my eligibility to serve in this parliament under Australian law, that I am not disqualified under section 44 of the Australian Constitution and that I am constitutionally qualified to sit as a Senator.

A copy of the advice of Dr Echeverria, Dr Collins QC and a copy of my mother's birth certificate are (**Attachment B**, **Attachment C** and **Attachment D**).

Section 4(a)—Foreign citizenship

Have you ever been a citizen of any country other than Australia?

- NO** — Proceed to Section 6
- YES** — List the countries that you have been a citizen of, and evidence of the date and manner in which your citizenship was renounced or otherwise came to an end.

Country	Manner of renunciation or other manner in which the foreign citizenship came to an end	Date	Evidence attached
British citizenship	On 20 April 2016 I took all necessary steps to renounce British citizenship by descent from my father by completing a <i>Form RN Declaration of Renunciation of British Citizenship</i> and dispatching it to the UK Home Office, together with credit card details for payment of the processing fee and relevant supporting documents.	20 April 2016.	<u>Attachment E</u>

NB: Evidence of the date and manner in which your citizenship was renounced or otherwise came to an end **should** be attached to this form. Please date and initial each page of any attachment.

Section 4(b)—Foreign citizenship at time of nomination

On the date you nominated for election in this 45th Parliament were you a citizen of any country other than Australia?

- NO** — Proceed to Section 4(c)
- YES** — Provide evidence of any steps you have taken to renounce the citizenship of the country prior to the date of nomination:

Country	Action	Date	Evidence attached

Country	Action	Date	Evidence attached
United Kingdom	<p>I took all necessary steps to renounce British citizenship, in accordance with the requirements of British law, prior to nominating for election to the Senate. I had therefore absolved myself of any impediment under section 44(i) of the Australian Constitution, in accordance with the "reasonable steps" test articulated by the High Court of Australia in the leading judgment of <u>Sykes v Cleary</u> and affirmed in the subsequent judgments of <u>Sue v Hill</u>, <u>Re Roberts</u> and <u>Re Canavan & Ors</u>.</p> <p>Requirements for renunciation under British law On 20 April 2016 I completed a <i>Form RN Declaration of Renunciation of British Citizenship</i> and dispatched it to the UK Home Office by International Express Post, together with credit card details for payment of the processing fee and relevant supporting documents.</p> <p>According to advice obtained from Mr Adrian Berry of the English Bar, upon dispatching the Form RN on 20 April 2016 I had taken all steps necessary to renounce British citizenship, according to the requirements of British law.</p> <p>Mr Adrian Berry is a leading expert on British Nationality Law. A copy of his professional profile is attached at <u>Attachment F</u>.</p> <p>A copy of Mr Berry's written advice is provided at <u>Attachment G</u>. Mr Berry concludes, at paragraph 11 of his advice:</p> <p><i>...the information found in the completed Form RN, taken together the copy of her birth certificate, contained all the information required as a matter of law by the British Nationality Act 1981 and the British Nationality (General) Regulations 2003 to enable the Secretary of State to register the declaration of renunciation.</i></p> <p>Reasonable steps test As I took all necessary steps to renounce British citizenship in accordance with the requirements of British law, prior to nomination, I had therefore absolved myself of any impediment under section 44(i) of the Australian Constitution.</p>	20 April 2016	<u>Attachment E</u>

Country	Action	Date	Evidence attached
	<p>A copy of Mr Berry's advice was provided to Mr Matthew Albert and Dr Matt Collins QC of the Melbourne Bar. On the basis of that advice, Mr Albert and Dr Collins QC advise that (at paragraph 17 of their opinion):</p> <p><i>... Senator Gallagher had, prior to the date for nominations for the 2016 federal election, taken all of the steps that were required to be taken by her (not just the reasonable steps required) under British law in order to renounce her British citizenship.</i></p> <p>Accordingly, Mr Albert and Dr Collins QC conclude that I was constitutionally qualified to nominate for election at the 2016 Federal Election and was validly elected to the Senate.</p> <p>A copy of Mr Albert and Dr Collins QC's advice is provided at <u>Attachment H</u>.</p>		
<p>NB: Evidence of the steps taken to renounce foreign citizenship prior to the date of nomination should be attached to this form. Please date and initial each page of any attachment.</p>			

Section 4(c)—Are you now a citizen of any country other than Australia?

- NO** — Proceed to Section 5
- YES** — Provide evidence and details of steps taken to renounce citizenship:

Country	Action	Date	Evidence attached
<p>NB: Evidence of the steps taken to renounce foreign citizenship prior to the date of nomination should be attached to this form. Please date and initial each page of any attachment.</p>			

Section 5—Senator with foreign citizenship at nomination or now

Complete this section if you answered YES in section 4(b) or 4(c)

Basis on which the Member contends she or he is not disqualified under s 44(i)	Evidence attached

Section 6—General declaration

I declare that I have completed this statement to the best of my knowledge and have attached all evidence relevant to my declarations.

Signed

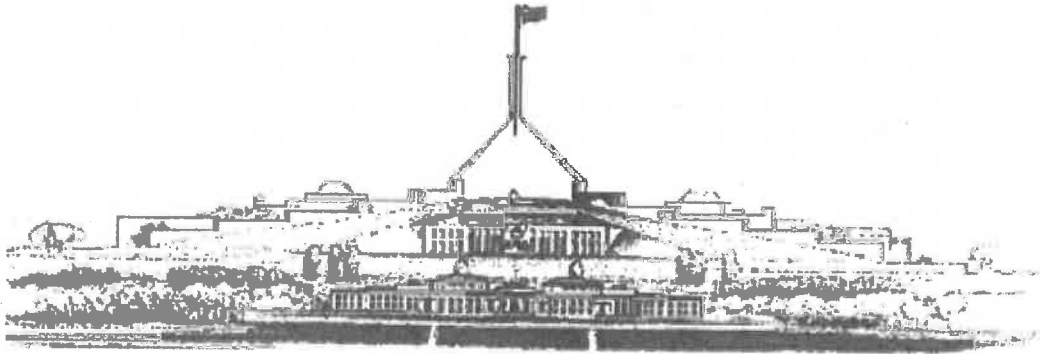
Date

	1 / 12 / 17 Day Month Year
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COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

PARLIAMENTARY REPRESENTATION

Qualifications of Senators

SPEECH

Monday, 4 September 2017

BY AUTHORITY OF THE SENATE

SPEECH

Date Monday, 4 September 2017	Source Senate
Page 6063	Proof No
Questioner	Responder
Speaker Gallagher, Sen Katy	Question No.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (10:24): by leave—In rising to make this statement I note that the High Court sitting as the Court of Disputed Returns will shortly consider the eligibility of a number of parliamentarians, including those who have inherited citizenship by descent through their parents, in the 2016 election. Since the Senate last met, there have been media reports attempting to cast doubt about my citizenship status and, in turn, my eligibility to sit in this Senate. This is the first opportunity I've had to update the Senate on the matters raised since the publication six days ago of an immigration card signed by mother on entering Australia almost 50 years ago. I thank the Senate for giving me the opportunity to do so. I do so to assure the parliament and the people of the ACT of my eligibility to be elected and to serve as a senator in this parliament.

As I informed the Senate in my inaugural speech, I am the Canberra-born daughter of Betsy and Charles Gallagher, who were both born British citizens and who both later became Australian citizens. As part of the ALP's candidate vetting process, I provided information about my parents' and grandparents' places of birth. For my mother, this was in Guayaquil, Ecuador in 1943. As I said in the statement I issued last week, as a result of the investigations by the Labor Party, which included obtaining legal advice, it was determined my mother was not an Ecuadorian citizen and that I had not obtained Ecuadorian citizenship by descent from my mother.

My mother was born in 1943 to British citizens who were in Ecuador, where my grandfather was temporarily working on behalf of the Bank of London. My mother's birth was registered at the British consulate at Guayaquil. Her birth certificate, which was issued by the British consul, describes her birth as a birth within the British consulate at Guayaquil. To the best of my knowledge, my mother's birth was never registered with the Ecuadorian government. I'm unable to locate any record of an Ecuadorian birth certificate despite interrogating family records. It's my understanding that an Ecuadorian birth certificate was never obtained for my mother. Sadly, my mother passed away in 2005, aged 62 years, three years before the 2008 changes to the Ecuadorian constitution cited in the recent media reports. During her life, she never took any steps to attain citizenship of Ecuador. My mother was never an Ecuadorian citizen and, accordingly, I could not obtain Ecuadorian citizenship by descent through my mother.

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Dr Echeverria is the European Union Democracy Observatory on Citizenship's Ecuador and Chile country expert and authored the observatory's *Report on citizenship law: Ecuador*. He is regarded as the international expert on Ecuadorian citizenship law. The expert opinion of Dr Echeverria concludes that I am not an Ecuadorian citizen nor am I entitled to apply to become an Ecuadorian citizen.

Dr Collins QC practises at the Melbourne bar and at the bar of England and Wales. Dr Collins QC has considered Dr Echeverria's expert report in relation to the circumstances of my mother's birth and has concluded there is no question of my eligibility to serve in this parliament under Australian law, that I am not disqualified under section 44 of the Australian Constitution and that I am constitutionally qualified to sit as a senator.

Since the Senate last met I've also been asked about renunciation of any entitlement to British citizenship. I can confirm that I had renounced any entitlement I may have had to British citizenship by descent from my father. In the mid-1990s I investigated the option of moving to the UK to work. I made inquiries at the time to the British High Commission about living and working in the UK for an extended period. I received the advice that, in order

to become a British citizen, I would need to go through a formal application process and that, if I did apply, my application would probably be granted, although it was not automatic. About this time, my father became sick and subsequently died, and so I did not pursue this any further as I needed to remain in Australia with my mother. I never took any steps to become a British citizen and accordingly I was of the understanding that I was not a British citizen.

Prior to entering the Senate on a casual vacancy in March 2015, I was not advised that I needed to renounce any entitlement to foreign citizenship. However, during the pre-election candidate vetting in 2016, the ALP vetting team considered my individual situation and the fact that, since my father had died some 20 years earlier, it was going to be difficult to substantiate his particular circumstances. They advised that, out of an abundance of caution, I should fill out and return form RN, renunciation of British citizenship, to put beyond any doubt that I could obtain British citizenship by descent via my father. Despite my clear understanding that I was not a British citizen, I followed the advice of the ALP vetting team and submitted the paperwork to the UK Home Office together with the required payment on 20 April 2016. I was advised that submitting the declaration of renunciation to the Home Office meant that I had taken all reasonable steps to renounce any entitlement to British citizenship.

I am not a citizen of Ecuador; I am not a citizen of the United Kingdom; I am only an Australian citizen, and I am eligible to serve in this parliament as a senator for the ACT, and it's an honour and a privilege to do so. I thank the Senate.

The PRESIDENT: Thank you, Senator Gallagher. We now return to Senator Hanson. Thank you for your patience, Senator Hanson. You were moving a motion to suspend standing orders.

Report on Senator Katy Gallagher's citizenship status in relation to the current Ecuadorian legislation

Author

Gabriel Echeverria, Ph.D.

*Ecuador Country Expert, EUDO-Citizenship Project, European University Institute, Florence, Italy
SMMS Research associate, University of Trento, Trento, Italy*

Date

3/09/2017

Background

According to Article 44 of the Australian constitution "Any person who: (i) is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; [...] shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives"¹. In relation to this constitutional provision, earlier this year, Senator Larissa Waters and Senator Scott Ludlam, both members of the Greens party, had to resign after realizing they had hold dual citizenship. Last week, another case allegedly similar to the two mentioned was raised. Labor Senator Katy Gallagher is suspected of holding Ecuadorian citizenship since her mother was born in Guayaquil, Ecuador, in 1943 and the Ecuadorian Constitution states at Article. 7: "The following persons are Ecuadorians by birth: 1. Persons born in Ecuador. 2. Persons born abroad of a mother or father born in Ecuador and their descendants up to the third degree of consanguinity. [...]"².

It is possible to confirm such suspicion? In other words, according to the Ecuadorian legislation, is Senator Katy Gallagher "a subject or a citizen or entitled to the rights or privileges of a subject or a citizen" of Ecuador?

To answer this question, this report will:

- **firstly**, analyse the evolution of the Ecuadorian legislation regarding the regulation of citizenship in order to establish which is the current legal framework;
- **secondly**, discuss what are the general, abstract, implications of the Ecuadorian legal framework for persons born abroad of a mother or a father born in Ecuador;
- **thirdly**, in the light of the previous analysis, directly address Senator Katy Gallagher's case.

¹ Australian Constitution, Art. 44.

² Ecuadorian Constitution, Art. 7.

1. The evolution of the Ecuadorian Citizenship Regime

a) *Historical Background*

The citizenship regime³ of Ecuador has been characterized by a combination of *ius soli*⁴ and *ius sanguinis*⁵ principles together with a relatively generous naturalisation policy since the very first years of the Republic. This particularity has been maintained over time and the regime has not undergone major changes in its history. As in many Latin American countries, Ecuadorian regulations concerning citizenship have always been a constitutional matter and ordinary laws have played a relatively marginal role.

After independence from Spain and the division of Gran Colombia, Ecuador became an independent Republic and approved its first constitution in 1830. This included *ius soli* and naturalisation as the two channels of acquisition of citizenship. A number of special provisions aimed at soldiers, citizens of Gran Colombia, or foreigners who lived in the national territory during the independence wars were adopted to allow a stabilization of the population. Five years later in 1835 the approval of a new constitution fixed the main characteristics of the Ecuadorian citizenship regime for years to come. There were three main pillars: *ius soli*, *ius sanguinis* and naturalisation.

In the subsequent decades until 1929, the endemic instability of Ecuadorian politics and society led to a total of nine constitutions being approved successively. However, none of them introduced relevant modifications to the citizenship regime. The small modifications usually concerned the requirements and the procedures connected to each channel of citizenship acquisition.

In 1929, after a period of turmoil which concluded with a military coup d'état, the so-called *Revolución Juliana*, a new constitution was approved. For the first time it introduced regulation of citizenship loss. Although the years after its approval brought new instability to the country, no further modifications were introduced for more than twenty years, until 1945, a true record in the history of Ecuador. The constitutions approved in 1945 and 1946 did not significantly change the citizenship regime, but an important modification was introduced in the constitution approved in 1966, after four years of military dictatorship. Two years previously, Ecuador had signed a bilateral treaty with Spain which allowed dual nationality on a reciprocal basis. The new constitutional text absorbed the content of the treaty and generalized its underlying principle. This constitution finally recognized universal access to political rights as it abolished the long-lasting literacy requirement.³⁹ No other relevant modifications were introduced.

A new authoritarian regime governed between 1972 and 1978 and during this period, in 1976, a law that developed the constitutional provisions and regulated the administrative procedures concerning naturalisation was approved. The trademark of the Naturalisation Law, which is still in force today, was its characterization of naturalisation as a discretionary power of the executive.

The return to democracy in 1978 was celebrated with the drawing up of a new constitution. This was the last one that made a distinction between the concepts of 'citizen' and 'national.' It

³ By citizenship regime we understand the entire body of legal provisions (e.g. constitutional laws, international laws, ordinary laws, administrative regulations, etc.) and legal practices (judiciary sentences, customary laws, etc.) that, as a whole, concur to regulate citizenship in a given country.

⁴ The so-called birthright citizenship: the right of anyone born in the territory of a state to the nationality or citizenship of that state.

⁵ The so-called right of blood: the right of a child to acquire the nationality or citizenship detained by his or her parents.

recognized universal access to political rights as it abolished the long-lasting literacy requirement. Beyond this, no other relevant modifications were introduced. Although in the following years Ecuadorian politics became more stable, the social and economic situation was still precarious. The 1980s saw the beginning and consolidation of a mass migratory phenomenon. Many Ecuadorians left for the US and Europe in search of a better future. The development of expatriate communities raised new demands and issues previously not considered by the Ecuadorian state. The efforts of emigrant associations and their pressure on the government from the early nineties produced an important change in the citizenship regime. In 1995, the Ecuadorian Parliament erased the reciprocity requirement and recognized the possibility for emigrants who naturalise in any other country to maintain Ecuadorian citizenship.

After a new phase of political instability, a new constitution was approved in 1998. It eliminated the historical distinction between nationals and citizens and so all Ecuadorians without exception were considered citizens. Regarding citizenship acquisition, the three traditional modalities were ratified. Dual nationality was possible both for foreigners who naturalised as Ecuadorians and whose country allowed dual nationality on a reciprocal basis and for Ecuadorians who naturalise or had naturalised elsewhere. This last provision enabled a retroactive application of the dual nationality principle.

At the beginning of the new century, Ecuador went through a dramatic economic crisis which had an enormous political and social impact. Between 2000 and 2006, six presidents alternated in power and almost a fifth of the total population left the country in search of a better future abroad. The crisis only came to an end after the election of President Rafael Correa in 2006. Sustained by his popularity, the young president promoted a wide range of political, economic and social reforms. The cornerstone of his programme, the so-called 'Citizens Revolution' (*Revolución ciudadana*), was the convocation of a Constitutional Assembly and the drafting of a new constitution that was approved by a plebiscite in 2008. Correa was then re-elected twice more and governed until spring 2017. During Correa's years the citizenship regime of Ecuador was completely reshaped by the promulgation of the new constitution and by the approval, in February 2017, of the new Law on Human Mobility (*Ley Orgánica de Movilidad Humana*) which amended the Naturalization Law of 1976.

b) The current citizenship regime

At present, the citizenship regime of Ecuador is regulated by the **Constitution** approved in 2008 and in particular by the second chapter, entitled 'Citizens' (*Ciudadanos y Ciudadanas*).

The constitutional provisions are further specified and developed by the **Human Mobility Law** (*Ley Orgánica de Movilidad Humana*) of 2017 and by a **number of administrative regulations** that detail every bureaucratic requirement and procedure.

With the approval of the new Constitution in 2008, the provisions of the old Constitution of 1998, as well as the provisions of all the previous constitutions in the history of Ecuador, are to be considered substituted in their entirety.

The regime includes three modes of citizenship acquisition and one mode of citizenship loss. The modes of acquisition are *ius soli*, *ius sanguinis* and naturalisation. Each mode has a number of limitations and specific procedures. The only mode of citizenship loss is voluntary renunciation by naturalised Ecuadorians. A new citizen's naturalisation card can also be withdrawn if he is discovered to have used fraudulent documentation in his application. Concerning dual citizenship,

current regulations allow Ecuadorian citizens who obtain another citizenship to maintain that of Ecuador.

2. Citizenship acquisition in the current Ecuadorian citizenship regime

Citizenship acquisition in the current Ecuadorian citizenship regime is regulated by: a) the Constitution; b) the Human Mobility Law; c) a number of other laws and administrative regulations.

a) *The Constitution (2008)*

Article 6 defines the concept of citizenship and establishes two modes of citizenship acquisition: **by birth or by naturalisation**. Article 7 regulates acquisition by birth. Article 8 acquisition by naturalisation.

- Article 6 – Defines Ecuadorian citizenship (nationality), establishes the main modes of citizenship acquisition and enables dual citizenship.

The text states: “All female and male Ecuadorians are citizens and shall enjoy the rights set forth in the Constitution. Ecuadorian nationality is a political and legal bond between individuals and the State, without detriment to their belonging to any of the other indigenous nations that coexist in plurinational Ecuador. Ecuadorian nationality is obtained by birth or naturalization and shall not be forfeited because of marriage or its dissolution or by acquiring another nationality”.

As it is possible to observe, the Constitution defines Ecuadorian citizenship as a legal bond between individuals and the state. Thanks to this bond, individuals become entitled to enjoy the rights recognized by the Constitution. Two modes of citizenship acquisition are established: by birth and by naturalization. Neither marriage nor the acquisition of another nationality imply the renunciation to Ecuadorian citizenship. Accordingly, an Ecuadorian citizen that acquires another nationality becomes a dual citizen.

- Article 7 – Regulates citizenship acquisition by birth and establishes three channels through which individuals can obtain Ecuadorian citizenship

The text states: *“The following persons are Ecuadorians at birth:”*

“1) Persons born in Ecuador.”

This provision regulates the *ius soli* principle. No exceptions or specification are indicated. This provision then applies to every person born in Ecuador, no matters in which year and under which circumstances.

“2) Persons born abroad to a mother or father born in Ecuador and their descendants up to the third degree of consanguinity.”

This provision regulates the *ius sanguinis* principle. Unlike the previous constitution, which differentiated between three cases and established specific requirements for each, today there is an almost unrestricted automatic application of *ius sanguinis*, including for descendants up to the third degree of people who were born in Ecuador. This generous

policy can be interpreted as an important concession on the part of the state to the claims of the expatriate community during the climax of the emigration crisis.

“3) Persons belonging to communities, peoples or nations recognized by the State living in border areas.”

Finally, this third category includes individuals pertaining to communities, peoples or nations that live in remote and difficult-to-access areas of the country. Although the constitution does not specify which these groups are, the Organic Law on the Public Institutions of the Indigenous Peoples of Ecuador that define themselves as Nations with Ancestral Roots (*Ley Orgánica De Las Instituciones Públicas De Pueblos Indígenas Del Ecuador Que Se Autodefinen Como Nacionalidades De Raíces Ancestrales*) recognizes fourteen nations. As previously mentioned, this is the first time in the history of Ecuador that an explicit recognition is made of these populations as proper nations. This provision opens an interesting conceptual issue. Since Ecuadorian nationality is given to individuals pertaining to other nations, then it appears to be a sort of ‘supra-national nationality.’

- Article 8 - Regulates naturalisation and establishes five channels through which individuals can obtain Ecuadorian citizenship

The text states: *“The following persons are Ecuadorians by naturalisation:”*

“1) Those who obtain a naturalisation card”

This sub-article regulates the general procedure for foreigners who reside in Ecuador and wish to naturalise as Ecuadorian. No details of the requirements, procedures or special provisions are provided.

“2) Under-age foreigners adopted by a female or male Ecuadorian, who shall keep their Ecuadorian nationality as long as they do not express a wish to the contrary.”

A second case addressed by the constitution is that of under-age foreign children adopted by Ecuadorian citizens. It can be seen that in this case naturalisation is automatic but the ‘new’ citizen is allowed to renounce Ecuadorian citizenship if that is his/her wish.

“3) Those born abroad to a mother or father who is Ecuadorian by naturalisation shall keep their Ecuadorian nationality while they are minors, as long as they do not express a wish to the contrary.”

The third case regards under-age children of naturalised Ecuadorians who are born outside the national territory (otherwise, the *ius soli* principle would apply). They can directly apply for and be awarded Ecuadorian citizenship, but they are also allowed to renounce it if they wish to.

“4) Those who marry, or have a common-law marriage with, an Ecuadorian female or male in accordance with the law.”

The fourth channel for naturalisation is marriage or common-law marriage with an Ecuadorian citizen. Neither in this case does the constitutional text mention any details, for instance on the timing, requirements, etc.

"5) Those who obtain Ecuadorian nationality for having provided important services to the country on the basis of their talent or individual effort."

Finally, Ecuadorian citizenship can be granted to individuals who have provided important services to the country. The concept of 'services' is not defined.

Article 8 concludes with two other important specifications. The first is that *"Those who acquire Ecuadorian nationality shall not be obligated to forfeit their nationality of origin."* Dual nationality of naturalised Ecuadorians is *de facto* universally and unconditionally recognized. The second is that *"Ecuadorian nationality acquired by naturalisation shall be forfeited by express renunciation."* This provision implies that only Ecuadorian citizenship acquired by naturalization can be forfeited, whereas Ecuadorian citizenship acquired by birth cannot.

b) The Human Mobility Law (2017)

The Human Mobility Law (*Ley Orgánica de Movilidad Humana*), approved in February 2017 replaces a number of previous laws, in particular: the Naturalization Law (1976); the Foreigners Law (2004); the Migratory Law (2005); the Travel Documentation Law (2005).

With respect to the matter treated in this chapter, i.e. citizenship acquisition, the articles of the Human Mobility Law only affect citizenship acquisition through naturalization. In particular, Articles 70 to 82 of the specific Section VI thoroughly specify the requirements, limitations and procedure to obtain the Ecuadorian citizenship through naturalization.

c) Other laws and administrative regulations

A number of other Ecuadorian laws and administrative regulations directly or indirectly affect citizenship acquisition. Among these, two deserve particular attention: the Civil Information and Identities Management Law and the Inter-Departmental Agreement N. 000004.

- Civil Information and Identities Management Law (2016) (*Ley Orgánica de Gestión de Identidades y Datos Civiles*)

This law establishes the procedures that regulate **birth registration**, the formal act that recognizes a person as an Ecuadorian citizen by birth.

Article 31, entitled *"Terms for birth registration"* distinguishes three categories of birth registration. Ordinary Registration, the registration realized by the parents of a child within 90 days after birth. Extraordinary Registration, the registration realized before the 18th birthday of a person. After 18th birthday registration in which case the registration will be "judicially managed".⁶

⁶ Civil Information and Identities Management Law (*Ley Orgánica de Gestión de Identidades y Datos Civiles*), Art. 31.

Article 33, entitled “*Authority before which a birth is registered*” establishes the authority before which a birth registration must be realized. Three cases are contemplated. When the birth takes place within the national territory, the birth registration will be realized at the Civil Registrar. When the birth takes place on an Ecuadorian ship or airplane, the registration will be realized before the captain who acts as a delegate. When the birth take place outside of the national territory “*the son or daughter of an Ecuadorian father or mother and their descendants, until the third grade of consanguinity, will register before the diplomatic and consular agents of Ecuador abroad*”⁷.

Article 34, entitled “*Birth registration of the son or daughter of an Ecuadorian father or mother born on a foreign territory*”, states: “When the birth registration of the son or daughter of an Ecuadorian father or mother born on a foreign territory did not take place before the diplomatic or consular agents of Ecuador, the birth registration will be possible before the competent authority of the Civil Registrar in Ecuador, after the satisfaction of the established requirements for these cases”.

- Inter-Departmental Agreement N.000004 – Department of Foreign Affairs, Commerce and Integration (2011) (Acuerdo Interministerial N.000004 – Ministerio de Relaciones Exteriores, Comercio e Integración)

As stated by Article 1, the Inter-Departmental Agreement establishes the procedures to: “1) *Acknowledgment of Ecuadorian citizenship by birth*; 2) *Acknowledgment of Ecuadorian citizenship by Naturalization*; 3) *Acknowledgment of Ecuadorian citizenship for marriage*; 4) *Grant of Ecuadorian citizenship through Naturalization Grant*; 5) *Recover of Ecuadorian citizenship*; 6) *Renunciation to Ecuadorian citizenship* [...]”⁸.

As concerns the recognition of Ecuadorian citizenship by birth, the Inter-Departmental Agreement states⁹:

1. Acknowledgment of Ecuadorian citizenship by birth

Legal references: *It is acknowledged the right to acquire the Ecuadorian citizenship by birth in conformity to what established by Article 6 of the Constitution, which states: “Ecuadorian nationality is obtained by birth or naturalization...”, in agreement to what stated by Article 7 “The following persons are Ecuadorians by birth: [...] Persons born abroad to a mother or father born in Ecuador and their descendants up to the third degree of consanguinity.*

1.1 Required Documents:

Two copies of the Acknowledgment of Ecuadorian Citizenship by Birth Form, two colour photographs with white background.

1.2 Annexes

⁷ Civil Information and Identities Management Law, Art. 33.

⁸ Inter-Departmental Agreement N.000004 – Department of Foreign Affairs, Commerce and Integration (2011) (Acuerdo Interministerial N.000004 – Ministerio de Relaciones Exteriores, Comercio e Integración), Art. 1.

⁹ Inter-Departmental Agreement N.000004 – Department of Foreign Affairs, Commerce and Integration (2011), Art. 1.

- 1.2.1 *Birth registration certificate of the applicant, appropriately apostilled or legalized and translated to Spanish, when necessary.*
- 1.2.2 *A Civil Registrar Certificate of the applicant's father or the mother, or of a familiar until the third grade of consanguinity, where is stated that him or her is an Ecuadorian citizen by birth or a colour photocopy of his or her citizenship card.*
- 1.2.3 *Four original recent colour photographs, passport size, with white background of the applicant [...]*

A document that proves the custody of the father or the mother or the proxy in case the applicant is underage

To resume:

- Citizenship acquisition in the current Ecuadorian citizenship regime is regulated by the Constitution, the Human Mobility Law and a number of other laws and regulations among which, the Civil Information and Identities Management Law and the Inter-Departmental Agreement N.000004, are particularly important.
- The Constitution establishes the fundamental rights regarding citizenship acquisition. Ecuadorian citizenship can be acquired through:
 - *ius soli* for all children born in the national territory;
 - *ius sanguinis* for individuals born abroad to a mother or father born in Ecuador and their descendants up to the third degree of consanguinity;
 - *ius sanguinis* for individuals belonging to communities, peoples or nations recognized by the state;
 - naturalisation.
- The Human Mobility Law, the Civil Information and Identities Management Law and the Inter-Departmental Agreement N.000004 regulate the requirements, procedures and limitations that make the rights included in the Constitution effective. It is important to underline that the rights of citizenship acquisition included in the Constitution do not imply that a person who is entitled to them becomes automatically a citizen. The clearest example of this fact is that a child or an adult who has not properly accomplished his or her birth registration procedure is not officially recognized as an Ecuadorian citizen. This is especially relevant for persons entitled to acquire Ecuadorian citizenship by birth who have born outside Ecuador. In this case, in fact, the procedure is more complex and voluntary.
- Concerning the citizenship acquisition for “individuals born abroad to a mother or father born in Ecuador and their descendants up to the third degree of consanguinity”, the Inter-Departmental Agreement N.000004 introduces a limitation to this right. One of the documents required to fulfil the “Acknowledgment of Ecuadorian citizenship by birth” procedure to a person born outside Ecuador is the Civil Registrar Certificate or Citizenship card of his or her mother or father where is clearly stated that him or her is an Ecuadorian Citizen. This implies that, in order to acquire Ecuadorian citizenship, it is not enough that a person has a father or a mother born in Ecuador, the father or the mother needs also to be an Ecuadorian citizen.

3. Senator Katy Gallagher's case

Let's now directly address Senator Katy Gallagher's case.

According to the current Ecuadorian citizenship regime, is Senator Katy Gallagher "a subject or a citizen or entitled to the rights or privileges of a subject or a citizen" of Ecuador?

1. Premises:

- Katherine Ruth Gallagher ("Katy") was born in Canberra Australia on 18 March 1970. She is an Australian citizen and has never applied for Ecuadorian citizenship.
 - Senator Katy Gallagher' mother, Elizabeth Mary Gallagher (nee Rankin) ("Elizabeth") was born in Ecuador on 20 February 1943 and died in 2005. She was a dual British and Australian citizen and never applied for Ecuadorian citizenship.
2. According to the Ecuadorian constitution, Article 7, numeral 2, since her mother was born in Ecuador, Senator Katy Gallagher is entitled to become an Ecuadorian citizen. This, by no means, signifies that Katy Gallagher is "a subject or a citizen or entitled to the rights or privileges of a subject or a citizen" of Ecuador. What signifies is that, *de jure*, if Senator Katy Gallagher would like to become an Ecuadorian citizen and she is able to follow the necessary procedures and to present the required documents, she could. Only after being officially recognized as an Ecuadorian citizen she would be "a subject or a citizen or entitled to the rights or privileges of a subject or a citizen" of Ecuador.
3. At this moment, however, *de facto*, if Senator Katy Gallagher would like to become an Ecuadorian citizen, that would very difficult. As established by the Inter-Departmental Agreement N.000004, in order to acquire Ecuadorian citizenship, it is not enough that a person has a father or a mother born in Ecuador, the father or the mother needs also to be an Ecuadorian citizen. This implies that for Senator Katy Gallagher to become and Ecuadorian citizen, her mother, Elizabeth Gallagher, who died in 2005, would first need to be recognized post-mortem as an Ecuadorian citizen. This procedure is extremely complex and not clearly regulated. Only after her mother had been recognized as an Ecuadorian citizen, Senator Katy Gallagher would be able to successfully apply for Ecuadorian citizenship. It is important to remember that for both her mother and for Senator Katy Gallagher the described procedures to become Ecuadorian citizens would be accomplished on voluntary basis.

In conclusion, at present time, neither the mother of Senator Katy Gallagher was, nor Senator Katy Gallagher is an Ecuadorian citizen. According to the Ecuadorian Constitution, Senator Katy Gallagher's mother was entitled to become an Ecuadorian citizen and Senator Katy Gallagher is entitled to become an Ecuadorian citizen. In practical terms, Senator Katy Gallagher's mother, since she was born in Ecuador, on request of her sons, could be recognized post-mortem as an Ecuadorian citizen. The procedure is very complex and not clearly regulated. If Senator Katy Gallagher would like to become an Ecuadorian citizen, according to the Inter-Departmental Agreement N.000004, she would need her mother to be recognized post-mortem as an Ecuadorian citizen first. Only at that point, she could request, on voluntary basis, to become an Ecuadorian citizen. **Therefore, at this moment, according to the Ecuadorian citizenship regime, Senator Katy Gallagher is neither an Ecuadorian citizen nor she could apply for Ecuadorian Citizenship.**

References:

- Acuerdo Interministerial N.000004 – Ministerio de Relaciones Exteriores, Comercio e Integración
- Australian Constitution
- Echeverría, G. (2017), *Report on Citizenship Law: Ecuador*. Florence: European University Institute
- Ecuadorian Constitution
- Ley Orgánica de Movilidad Humana
- Ley Orgánica de Gestión de Identidades y Datos Civiles

List of attached documentation:

- Ecuadorian Constitution
- Ley Orgánica de Movilidad Humana
- Ley Orgánica de Gestión de Identidades y Datos Civiles
- Acuerdo Interministerial N.000004 – Ministerio de Relaciones Exteriores, Comercio e Integración

IN THE MATTER OF ADVICE TO SENATOR KATY GALLAGHER AND THE AUSTRALIAN LABOR PARTY CONCERNING THE OPERATION OF SECTION 44 OF THE CONSTITUTION OF THE COMMONWEALTH OF AUSTRALIA

Overview

1. My advice has been sought as to whether Senator Katy Gallagher is disqualified from sitting as a senator by operation of section 44(i) of the Constitution, because her mother, though not a citizen of the Republic of Ecuador, was born in that country in 1943 to parents who were British nationals. The Senator's mother died in 2005.
2. For the reasons developed below, my view is that the Senator is not disqualified and is, within the meaning of section 44 of the Constitution, capable of sitting as a senator.

Applicable principles

3. Section 44(i) of the Constitution provides:

Any person who -

- (i) is under any acknowledgement of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or citizen of a foreign power...

...

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

4. As I understand it, the Senator is not, and it is not suggested that she is, under any acknowledgement of allegiance, obedience, or adherence to a foreign power, or a subject or a citizen of any foreign power. The question is whether, by reason of the fact that the Senator's mother was born in Ecuador, the Senator is 'entitled to the rights or privileges' of a subject or citizen of Ecuador.
5. Leaving to one side extreme hypothetical scenarios that have no application here,¹ it is settled law that, in determining the status of a person for the purposes of section 44(i) of the Constitution, the governing law is the law of the foreign State concerned.²
6. The principle is a logical one. As an incidence of their sovereign status, States determine the circumstances in which persons are, or may become, entitled to the rights or privileges afforded to the subjects and citizens of the State. Apart from being a long-recognised tenet of the common law, this principle is enshrined in article 2 of the Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws of 12 April 1930, to which Australia is a party.³

¹ For example, if a foreign country were to purport to confer citizenship on all Australians; or if a foreign citizenship law did not conform with international norms.

² *R v Burgess; ex parte Henry* (1936) 55 CLR 608, 649 (Latham CJ), 673 (Dixon J); *Sykes v Cleary (No 2)* (1992) 176 CLR 77, 105-6, 107 (Mason CJ, Toohey and McHugh JJ), 110, 112 (Brennan J), 127 (Deane J), 131 (Dawson J), 135 (Gaudron J).

³ 'Any question as to whether a person possesses the nationality of a particular State shall be determined in accordance with the law of that State.'

7. Where Australian courts are called upon to adjudicate a question arising under foreign law, the content of the foreign law is a question of fact requiring proof.⁴ Although evidence of foreign law may be adduced by the production of foreign legislation or judgments,⁵ expert evidence on the content of foreign law is admissible, and occurs as a matter of course in all but the simplest of cases.⁶
8. If there is any dispute about the content of a foreign law, an Australian court will resolve that dispute as it would any other question of disputed fact.⁷
9. There is little law in relation to the meaning of the expression 'entitled to the rights or privileges of a subject or citizen of a foreign power' in section 44(i) (**entitlement limb**). Two interpretations have been postulated.
10. On the narrower interpretation, the entitlement limb requires that a person presently enjoy the rights or privileges of a subject or citizen of a foreign power.
11. On the broader interpretation, the entitlement limb may capture persons who could, as a matter of present entitlement, acquire the rights or privileges of a subject or citizen of a foreign power by taking some active step.
12. The narrower interpretation derives support from the reasons for judgment of Brennan J in *Sykes v Cleary (No 2)*. His Honour described the entitlement limb as covering 'those who, though not foreign nationals *are under* the protection of a foreign power' [emphasis added].⁸ The italicised words imply a presently existing, rather than contingent, right.
13. It is not necessary for me to express a view about which interpretation is correct. For reasons which will become apparent, my view is that Senator Gallagher is not disqualified from sitting as a senator, whether under either the narrower or the broader interpretation of section 44(i).

Application to Senator Gallagher

14. I have been provided with the report of Dr Gabriel Echeverria dated 3 September 2017.
15. Dr Echeverria is the Ecuador and Chile country expert for the European Union Democracy Observatory Citizenship Project, and the author of the 2017 *Report on Citizenship Law: Ecuador*. Having regard to his doctoral and post-doctoral research and professional experience, I am not in any doubt that an Australian court would accept that Dr Echeverria is an expert on the citizenship law of Ecuador.⁹
16. Dr Echeverria explains that a person does not become an Ecuadorian citizen merely by virtue of having a parent who was born in Ecuador. He explains that, under Ecuadorian law, Senator Gallagher could only apply to become an Ecuadorian citizen if her mother

⁴ See eg *Lazard Brothers & Co v Midland Bank Ltd* [1933] AC 289 (HL), 298–8; *Lloyd v Guibert* (1865) LR 1 QB 115 (Ex), 129.

⁵ *Evidence Act 1995* (Cth) ss 174–6.

⁶ The matter often arises, for example, in defamation proceedings concerning multi-jurisdictional publications (eg, via the internet). See my textbook, *Collins on Defamation* (Oxford University Press, 2014) at Chapter 27, 'Proof of Foreign Law'.

⁷ See eg *Bumper Development Corp Ltd v Commissioner of Police of the Metropolis* [1991] 4 All ER 638 (CA), 644.

⁸ (1992) 176 CLR 77, 110.

⁹ See *Evidence Act 1995* (Cth) s 79: an expert is a person with 'specialised knowledge based on the

were first recognised under Ecuadorian law as an Ecuadorian citizen. As the Senator's mother was not a citizen of Ecuador during her life, the Senator could only apply to acquire Ecuadorian citizenship if her mother were first recognised, post mortem, as an Ecuadorian citizen. The process for requesting that a deceased person who was not an Ecuadorian citizen during her life be recognised as a citizen post mortem is described by Dr Echeverria as being 'very complex and not clearly regulated'.

17. Dr Echeverria concludes:

Therefore, at this moment, according to the Ecuadorian citizenship regime, Senator Katy Gallagher is neither an Ecuadorian citizen nor she could [sic] apply for Ecuadorian Citizenship.

18. The effect of Dr Echeverria's report is, in my view, that the Senator is not disqualified from sitting as a senator under section 44(i) of the Constitution.

19. Applying the narrower interpretation of the entitlement limb, Senator Gallagher does not presently enjoy the rights or privileges of a subject or citizen of Ecuador. Even if the broader interpretation were correct, she could not, as a matter of present entitlement, acquire any such rights by taking an active step, because her mother was not at any time an Ecuadorian citizen.

20. I have been referred to media commentary from the past week that quotes Professor Mary Crock of Sydney University.¹⁰ Assuming she has been correctly quoted, Professor Crock has expressed the view that if the broader interpretation of the entitlement limb is correct, the Senator may be in breach of section 44(i) of the Constitution. It seems clear, however, that the view Professor Crock expressed was based upon a false premise, namely that the Senator could, if she wished, apply to become an Ecuadorian citizen as a matter of present entitlement. As Dr Echeverria has explained, the Senator has no such entitlement.

21. I have also been referred to a 'legal memo' prepared for *The New Daily* by Dr Hernán Pérez Loose.¹¹ Dr Pérez's memo assumed that the Senator's mother acquired Ecuadorian nationality by birth.¹² That assumption is, according to Dr Echeverria, incorrect, because although she was born in Ecuador, Senator Gallagher's mother was not recognised under Ecuadorian law as an Ecuadorian citizen. I note that, in recent days, Dr Pérez has been quoted as saying that the memo he prepared for *The New Daily* was 'hypothetical' and that 'cases may vary according to the circumstances.'¹³

Dated: 4 September 2017



M J COLLINS
Aickin Chambers
Melbourne

¹⁰ *Daily Telegraph*, 31 August 2017 (Sharri Markson).

¹¹ See <http://thenewdaily.com.au/news/national/2017/08/31/katy-gallagher-citizenship-legal-advice/>.

¹² *ibid*, [5].

¹³ See <http://www.abc.net.au/news/2017-09-01/lawyer-katy-gallagher-ecuadorian-dual-citizen-hypothetical/8864872>.

Signatures which appear in this column may be illegible.

1943. BIRTHS within the District of the British		CONSULATE		at		GEORGETOWN			
No.	When and Where Born.	Name.	Sex.	Name and Surname of Father.	Name and Maiden Surname of Mother.	Rank or Profession of Father.	Signature, Description and Residence of Informant.	When Registered.	Signature of Registrar there.
1	Twentieth February, 1943. at Dr. Parker's Clinic, Georgetown.	Elizabeth Mary	Girl	Robert Madrian RANKIN.	Jean Stewart RANKIN formerly MORRIS.	Bank Accountant, born, York, England, 13rd, Portofino, September, 1904.	H. H. Rowland, Father. H. H. Rowland, Portofino, 201, Georgetown.	Twentieth day of February, 1943.	H. H. Rowland. H. H. Rowland. L.S.

I, Frederick Charles Overton, British Consul

Entry of the Birth of Elizabeth Mary

kept at this Consulate

at Georgetown

do hereby certify, That this is a true Copy of the

, No. 1 in the Register Book of Births No. 3

with Consular Seal, this Twentieth day of February, 1943.



H. H. Rowland
H. H. Rowland.





Home Office

Form RN
June 2015
Official Copy

Declaration of Renunciation of British Citizenship, British Overseas
Citizenship, British Overseas Territories Citizenship, British National
(Overseas) or British Subject Status

IMPORTANT: Please read the guide RN before you fill this form in. Both parts of the form should be completed, signed and submitted. Please write in BLOCK LETTERS.

If your declaration of renunciation is registered the Applicant's Copy of this form will be signed, stamped and returned to you, and will be formal evidence of the renunciation.

Note: Some of the information you provide on this form will be stored on a computer which is registered under the Data Protection Act.

1. I (full name)

KATHERINE RUTH GALLAGHER

of (full address)

[Redacted address]

Telephone number:

[Redacted telephone number]

Email address:

[Redacted email address]

was born on (date of birth)

18 03 1970

at (place and country of birth)

CANBERRA, AUSTRALIA

2. I am a: (please tick)

British citizen

British overseas citizen

British overseas territories citizen

British national (overseas)

British subject

I wish to renounce: (please tick)

British citizenship

British overseas citizenship

British overseas territories citizen

British national (overseas) status

British subject status

See section 1 of the Guide and enclose evidence of your citizenship(s) or status – see section 3

You must complete either section 3 or section 4. If both apply, please complete both. You should send evidence of any other citizenship held or about to be acquired.

3. I hold the following citizenship or nationality other than the citizenship or status I wish to renounce:

AUSTRALIAN

4. I am about to acquire the following citizenship or nationality after making this declaration:

--

5. If you are under 18 please state your date of marriage or civil partnership:

--	--	--	--	--	--	--	--	--	--

6. Declaration

Warning: To give false information on this form knowingly or recklessly is a criminal offence punishable with up to 3 months' imprisonment or a fine not exceeding £5000 or both (Section 46(1) of the British Nationality Act 1981 as amended).

I, (full name in BLOCK LETTERS) KATHERINE RUTH GALLAGHER
declare that to the best of my knowledge and belief the details given on this form are true.

Signature

[Redacted Signature]

Date

20 April 2016

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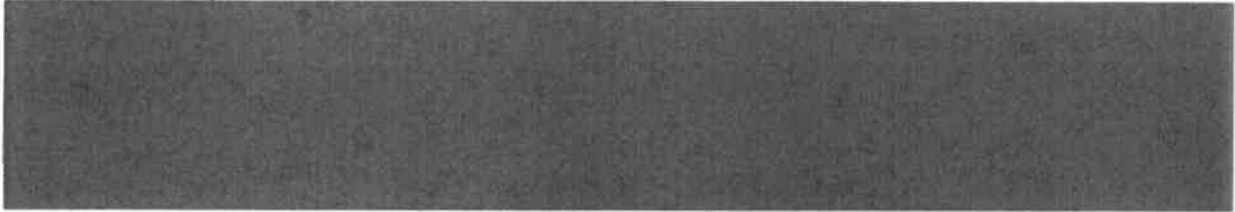
Declaration of Renunciation of British Citizenship, British Overseas
Citizenship, British Overseas Territories Citizenship, British National
(Overseas) or British Subject Status

This declaration, if signed and stamped below, is formal evidence of renunciation.

1. I (full name)

KATHERINE RUTH GALLAGHER

of (full address)



was born on (date of birth)

18 03 1970

at (place and country of birth)

CANBERRA, AUSTRALIA

2. I am a: (please tick)

British citizen

British overseas citizen

British overseas territories citizen

British national (overseas)

British subject

I wish to renounce: (please tick)

British citizenship

British overseas citizenship

British overseas territories citizen

British national (overseas) status

British subject status

3. I hold the following citizenship or nationality other than the citizenship or status I wish to renounce:

AUSTRALIAN

4. I am about to acquire the following citizenship or nationality after making this declaration:

5. I, (full name in BLOCK LETTERS) KATHERINE RUTH GALLAGHER
declare that to the best of my knowledge and belief the details given on this form are true.

Signature



Date

20 April 2016

Official confirmation of renunciation:

Signature



Home Office

PAYMENT SLIP CREDIT/SWITCH

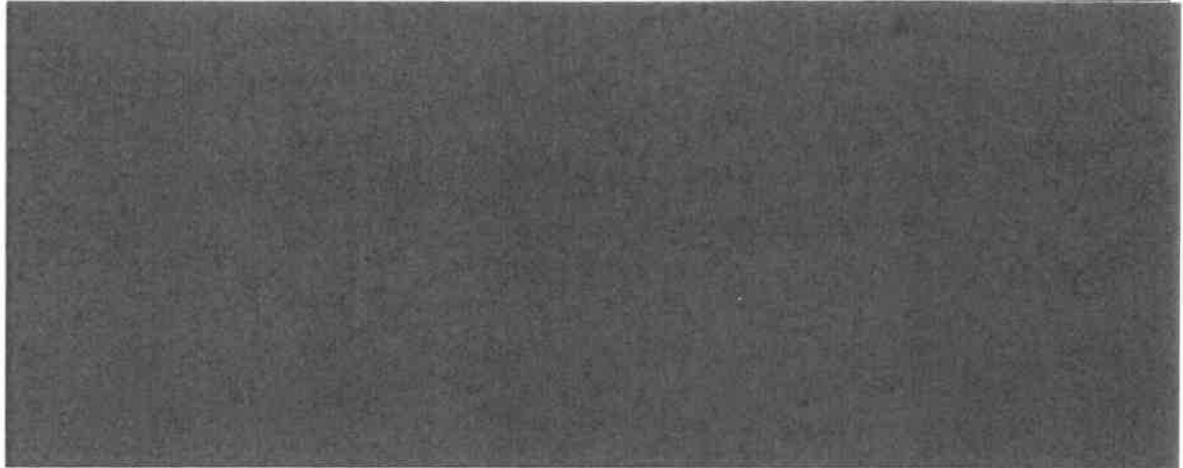
Applicant Name:	KATHERINE RUTH GALLAGHER	HO Ref:
Date of Birth:	18 / 03 / 1970	
Town & Country of Birth:	CANBERRA AUSTRALIA	

Please tick as appropriate:

Please debit my **MASTER CARD / VISA / DELTA / ELECTRON / SWITCH / SOLO** card (delete as appropriate): for the sum of £ 272.00



Card Number



I attach a cheque crossed a/c payee, Number for the sum of £..... made payable to: The Accounting Officer, Home Office.

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Account Holder Name:		
Account Holder Address:		
	Post Code:	

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OTHER

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NQ	Confirmation of non-acquisition of British citizenship	£198
NR	Reconsideration of an application for naturalisation or registration	£272
RROA	Reconsideration of an application for a certificate of entitlement to the right of abode	£272
	Correction to Nationality certificate	£198

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The Legal 500 and Chambers UK Bar Guide

Practice

Adrian's core public law practice spans a range of inter-related areas concerning citizenship, migration, human rights, international protection, and social assistance:

1. British Nationality, Conflict of Nationality Laws, and Statelessness
2. Investor, Entrepreneur, High Value, and Economic Migration (inc Work Permits)
3. EU Citizenship and Free Movement of Persons
4. Human Rights and Family Reunion
5. International Protection, Refugee Law and Asylum, and Extradition
6. Settlement, Permanent Residence, and Citizenship, for High Value Migrants
7. Student Migration
8. General UK Immigration Law
9. Homelessness, Housing, and Migrant Welfare
10. Community Care and Welfare Benefits

He acts and advises across the field of public law. He provides advice and advocacy services. He accepts instructions via a solicitor or other licenced professional client. In addition, he is acts for clients directly under the Bar Public Access scheme.

Adrian acts for individuals, communities and, where appropriate, NGOs and international organisations. He accepts instructions to assist persons with applications, reviews and legal remedies in courts and tribunals. He

also acts as a consultant to NGOs and international organisations, to assist with strategic litigation, analyses and reports of immigration and nationality law and practice, and actions plans for reform.

Adrian practises in the Administrative Court, the Immigration Tribunals, the Administrative Appeals Chamber of the Upper Tribunal, Appeal Courts, County Courts, and the Special Immigration Appeals Commission (SIAC). He has acted in cases before the Court of Justice of the European Union (CJEU) and with petitions to the European Court of Human Rights. A list of some of his notable cases is set out below.

He writes a blog on migration, citizenship and free movement called [Cosmopolis](#). He also has a website on [Nationality and Citizenship law](#). As an immigration barrister he is well known, not just for his casework, but also for his policy work and contribution to debates on immigration and nationality law.

What others say

Adrian is ranked in both legal directories for immigration. He is ranked in Tier 1 in the Legal 500 2016 and Band 1 in Chambers UK 2017.

In Chambers UK he has been described as having “real flair” and as being “excellent on EU points.” In the Legal 500 he has been described as ‘an “EU whiz-kid” who manages to “unscramble the EU and social security minefield with ease”, as having ‘an extensive British nationality law practice’, and as someone whose “commitment to ensuring that EU law can be used to benefit people who would otherwise be destitute is unwavering.”

In **Chambers UK 2017**, Adrian is described as “An exceptionally skilled junior, whose practice is heavily focused on British nationality and EU free movement law. He routinely receives instructions from large-scale corporations in major commercial immigration matters.” “An absolutely brilliant brain and a delightful personality – always a pleasure to work with.” “One of the finest legal minds of our time.”

In the **Legal 500 2016**, it is written that “His knowledge of the EU aspects of immigration law is unrivalled.”

In **Chambers UK 2016**, it is written that “He remains one of the few true experts on nationality law.” “He knows EEA law inside out. He is a seasoned High Court advocate and is so well connected in the world of immigration law, domestically and throughout Europe.”

In **Legal 500 2015**, Adrian is described as “Analytical, and extremely clever at complex law; the best of any barrister at EU and nationality law.” Regarding his social housing practice, “His depth of knowledge is excellent.”

In **Chambers UK 2015**, it is written that Adrian “has an excellent reputation for his work on British nationality, international protection and asylum matters. He is often called upon to advise the UNHCR on statelessness, and he provides businesses, schools and individuals with information on Tier 1 and Tier 4 applications. He is described as “incredibly knowledgeable across all areas of UK immigration law and always willing to take the time to have something run by him.” “Very impressive on nationality issues and statelessness, and a very good advocate and communicator.”

In **Chambers UK 2014**, Adrian is described as a “guru on European immigration issues,” and as “thorough and highly knowledgeable.” “In EU law he really is the person.” Regarding his practice in social housing, he is described as “bright and articulate,” Adrian Berry has extensive knowledge of the eligibility of EU nationals to housing rights. “He’s really stepped up as a leading junior on EU-related housing cases.” “He’s consistently turning out quality Court of Appeal and European work.” Sources praise him for his ability to convey complex arguments in a concise, clear and persuasive manner.”

In **Legal 500 2014**, Adrian is highlighted in Social Housing where it is said that “his knowledge of European Law is exceptional and his drafting is precise and clear.” He is also highlighted in Immigration where it is noted that “judges listen to him.”

British Nationality law, Nationality law codes, and Statelessness

Adrian has an extensive practice in British nationality law, both (1) in historic Commonwealth-based claims and (2) in contemporary issues concerning the automatic acquisition of citizenship, naturalisation and registration, as well as deprivation and loss of British nationality. He advises on claims to be a British citizen, British Overseas citizen (BOC), British overseas territories citizen (BOTC), British National (Overseas) (BN(O)), British protected person (BPP) or British subject.

He also regularly advises on the conflict of nationality laws for people with multiple nationalities, who hold or seek to hold both British nationality and other foreign nationalities, where the other countries are intolerant of multiple nationalities. In these cases he acts in partnership with foreign lawyers to resolve the conflict of laws between nationality law codes, as well as issues concerning domicile and tax. He also advises on the use of passports as markers of nationality.

As regards statelessness issues, he acts and advises in relation to statelessness cases, including in relation to the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. He works on cases concerning stateless persons in detention, the regularization of stateless persons, and the welfare of stateless persons. He has worked with Asylum Aid and the Equal Rights Trust on statelessness issues and – as a member of the UNHCR London panel of counsel – he advises UNHCR on statelessness issues. He is a member of the Advisory Council of the European Network on Statelessness (ENS).

He has contributed to all chapters and parts of *Fransman's British Nationality Law* (3rd edition 2011), contributed the nationality law chapters to the *JCWI Handbook 2006*, contributed to *Jackson and Warr's Immigration Law and Practice* (2008) on the Right of Abode, contributed the nationality law chapters to the *Blackstone's Guide to the Borders, Citizenship and Immigration Act 2009* (OUP 2010), advised JCWI on government nationality proposals, and contributed to responses to government consultation papers and advised peers in the House of Lords for ILPA.

He has written on the relationship between British nationality and EU citizenship in *Deprivation of Nationality and Citizenship – The Role of EU Law* *Journal of Immigration Asylum and Nationality Law* Volume 28 Number 4 2015 pp. 355-366. In addition, he has provided advice in *Chagos Islanders v UK* (ECtHR) on the position of the Chagos Islanders in British nationality law.

He provides training on British nationality law and has taught nationality law as part of international public law to LLM students. He was a member of the group of nationality law experts reviewing the draft Protocol to the African Charter on Human and Peoples' Rights on the right to Nationality and the Prevention and Prohibition of Statelessness in Africa. He was a member of the Home Office Earned Citizenship Strategic Advisory Group.

Investor, Entrepreneur, High Value and Economic Migration (inc Work Permits)

Adrian acts for individuals, commercial undertakings, and institutions in relation to matters arising for economic migrants under the Points-Based System (Tiers 1, 2 and 5) and other routes. Among other things, he provides advice to individuals, sponsors, and banks and financial entities, in relation to the Tier 1 (Investor) route, the Tier 1 (Entrepreneur) route, Tier 2 work permits and Tier 2 Intra-Company Transfers (ICTs), and to individual and sponsors under other routes.

He regularly advises on the issues that arise for migrants and for employers in relation to unlawful employment and civil penalties (including county court appeals), including scenarios where the employer holds a sponsor licence. He also works with employment lawyers to advise on the cross-over between immigration sponsorship, breaches of immigration law, employment rights law, and dismissal law, in relation to migrants. He writes on economic migration issues. In addition, he provides strategic advice to professional associations, commercial entities and community interest groups on the use of the economic migration routes and the opportunities for lobbying the UK Home Office on areas of concern.

EU Citizenship and Free Movement

Adrian has an extensive practice in relation to both EU citizenship and the free movement of persons under EU law. He has appeared in numerous cases before the Court of Justice of the European Union (CJEU) (including

Chen, Teixeira and Dias) and in numerous reported cases in domestic UK courts. He has a particular interest in EU law as it applies to EU citizens and third country nationals in immigration and social welfare cases.

As regards immigration law, he advises on free movement of persons under Directive 2004/38/EC, deportation, rights of residence derived from other EU law provisions, Posted Workers rights, and the use of the Charter of Fundamental Rights to protect family members of EU migrants.

As regards social welfare cases, he also advises on entitlement to social assistance under EU law, the co-ordination of social security (Regulation 883/2004), and the right to equal treatment in social policy and education matters.

As regards EU citizenship, he advises on rights derived from EU citizenship (*Zambrano* related rights) and associated social welfare rights, see for example his case of *Pryce v Southwark* in the Court of Appeal.

He has provided advice and assistance on EU law issues to the AIRE Centre, FEANTSA, and ILPA, among others. He has written extensively about the welfare of EU migrants, see *Macdonald's Immigration Law and Practice; Housing Law Handbook* (Law Society 2009); *Support for Asylum Seekers and other Migrants* (Legal Action Group, 2009); and *Social Rights under Directive 2004/38/EC* Journal of Immigration Asylum and Nationality Law Volume 21 Number 3 2007 pp. 233-244.

Human Rights and Family Reunion

Adrian advises and acts across the range of human rights issues that affect his clients, deploying human rights arising under the ECHR, the EU Charter of Fundamental Rights, the Common Law and other human rights catalogues, as appropriate. In immigration proceedings he acts for clients with family reunion issues and those who seek to rely on the European Convention on Human Rights. He has a particular interest in the intersection between immigration proceedings and family proceedings, and the procedural protection afforded by article 8 ECHR, see for example ***Mohan v Secretary of State*** [2012] EWCv Civ 1363, Court of Appeal. He advises on human rights and fundamental rights to European NGOs working variously on nationality, statelessness and homelessness issues.

International Protection, Refugee Law and Asylum, Extradition

Adrian acts for a small number of clients with complex and sensitive asylum and international protection claims. Many of his clients have extensive political and economic interests in the country from which they have fled, have a high profile and are also liable to extradition. He works in partnership with extradition lawyers, immigration solicitors, country experts and commercial advisors to provide a comprehensive service. He provides advice and representation in matters arising under the 1951 Refugee Convention, the Refugee Qualification Directive (2004/83/EC) and the European Convention on Human Rights. He also acts in European Arrest Warrant (EAW) and Extradition cases and appeals. He also acts for a small number of clients with general asylum claims, including clients with multiple nationalities, statelessness issues, difficult issues in relation to a nexus to a Refugee Convention reason, and those subject to removal under the Dublin Regulation. He writes on Refugee law issues. He is a contributor to *Asylum Law and Practice* (Bloomsbury Professional, 2010).

Settlement, Permanent Residence and Citizenship for High Value Migrants

Adrian provides strategic advice on settlement and citizenship options for persons looking to secure settlement, permanent residence and citizenship in the UK and elsewhere. He works in partnership with lawyers in other jurisdictions and with tax and financial advisors to ensure that clients are able to undertake the strategic planning necessary to optimise their position.

Student Migration

As regards students and matters arising under Tier 4, Adrian advises and acts for individuals migrating to the UK. He also for schools, and colleges in relation to sponsor licences (issue, suspension and revocation

matters). In addition, he provides strategic advice to professional associations, commercial entities and community interest groups on the use of the student migration routes and the opportunities for lobbying the UK Home Office on areas of concern.

General Immigration Law

Adrian acts and advises clients with issues arising under general immigration law. In addition to the work described above, he advises and acts for clients seeking to enter and remain in the UK under the Immigration Rules and on the options outside of the Immigration Rules. He also acts for clients who are unlawfully detained, those facing deportation as 'foreign criminals' or facing removal proceedings, and those who cases require a detailed knowledge of the structure of immigration control under the Immigration Act 1971. He has also advised and represented OISC advisors in disciplinary matters before the First-tier Tribunal (Immigration Services). He is a contributor to *Macdonald's Immigration Law and Practice*.

He advises and acts for landlords subject to Home Office civil penalties under the 'right to rent' provisions of the 2014 Immigration Act.

Homelessness, Housing and Migrant Welfare

Adrian regularly acts and advises in all areas of homelessness and allocations law concerning matters that are amenable to judicial review and in statutory homelessness appeals in the county court. In particular, he specialises in eligibility issues for migrants, appearing in numerous, reported cases. He has also provided HLPAs with training and workshops on eligibility issues.

Adrian's expertise in social housing is in securing accommodation and housing for migrants. He provides a distinct service to solicitors with migrant clients based on being a one-stop shop on account of his fluency in housing, immigration, nationality, EU, ECHR and social security law. Where possible he solves problems in one of these areas by finding solutions in another.

In 2010 he was counsel in the first housing case (one of two linked cases) to reach the Court of Justice of the European Union from a British court, see [Teixeira v London Borough of Lambeth](#) [2010] EUECJ C-480/08 . In addition he has a string of reported cases demonstrating his expertise in helping migrants secure: homelessness assistance, asylum support accommodation, accommodation for children leaving care, and housing benefit. He is responsible for many of the homelessness 'eligibility' cases decided in the Court of Appeal in recent years.

Adrian has developed a deep interest in migrant welfare, housing and support matters under different statutory regimes. His clients often have issues that touch on the Housing Act 1996, Community Care provisions, the Children Act 1989, and asylum support matters. He has particular expertise in asylum support, has a detailed knowledge of the asylum support system and has written extensively on support for asylum seekers.

He is widely published on social housing for migrants having contributed to the chapter in *Macdonald's Immigration Law and Practice* on 'Asylum Support, Housing and Community Care'; contributed the chapter in *Asylum Law and Practice* (Bloomsbury Professional, 2010), on the accommodation, housing and support of migrants 'Treatment of Asylum Seekers'; and contributed the chapter in the *Housing Law Handbook* (Law Society, 2009), on 'Housing outside the Parts 6 and 7 of the Housing Act 1996'. He also wrote the chapter in *Support for Asylum Seekers and other Migrants* (Legal Action Group, 2009) on benefits, including housing benefit.

He has a particular specialism in EU law as it applies to EU citizens and third country nationals in social housing, welfare and immigration cases, appearing in numerous reported cases. He is the author of 'Social Rights under Directive 2004/38/EC' *Journal of Immigration Asylum and Nationality Law* Volume 21 Number 3 2007 pp. 233-244

Community Care and Welfare Benefits

Adrian acts and advises clients in the First-tier and Upper Tribunal in social security and pensions cases, including but not limited to cases that touch on immigration issues, EU law issues, pensions and points of statutory construction. He has also acted in such cases, many reported, before the Administrative Court, the Court of Appeal and by way of reference before the European Court of Justice. He contributed the chapter on benefits to *Support for Asylum Seekers and other Migrants* (Legal Action Group, 2009). He has a particular expertise in the co-ordination of social security for migrants under EU Regulation 883/2004. In community care matters, he acts and advises clients, and migrants, in particular on access to social assistance and entitlement under EU law.

Training and Teaching

Adrian provides training courses in British nationality law, EU law, immigration law, community care law, migrant welfare law, housing law, social security law and immigration law. He has provided accredited training for the Academy of European Law, Garden Court Chambers, ILPA, HLP, JCWI, Legal Action, law centres, and local authorities. Private training on tailored topics can be provided on request. He has taught International Migration Law to LLM students.

Publications

Books

- *Macdonald's Immigration Law and Practice* (2015) contributor
- *Fransman's British Nationality Law* (3rd edition, 2011) contributor to all chapters.
- *Asylum Law and Practice* (Bloomsbury Professional, 2010), contributed the chapter on 'Treatment of Asylum Seekers'
- *Blackstone's Guide to the Borders, Citizenship and Immigration Act 2009* (OUP, 2010) co-author (wrote the chapters on British nationality)
- *Housing Law Handbook* (Law Society, 2009), co-author, contributed the chapter on 'Housing outside the Parts 6 and 7 of the Housing Act 1996'
- *Support for Asylum Seekers and other Migrants* (Legal Action Group, 2009), contributed the chapter on benefits.
- *Blackstone's Guide to the Criminal Justice and Immigration Act 2008* (2009) (contributed the chapter on 'Foreign Criminals'/Special Immigration Status)
- *Jackson and Warr's Immigration Law and Practice* (4th Edition, 2008) (contributor, 'The right of abode'/British nationality)
- *JCWI Immigration, Nationality and Refugee Law Handbook 2006* (contributor, British nationality chapters)
- *Dealing with your Dismissal* (Hodder Headline 2000), author (concerning dismissal and redundancy law)

Articles

- *Deprivation of Nationality and Citizenship – The Role of EU Law* *Journal of Immigration Asylum and Nationality Law* Volume 28 Number 4 2015 pp. 355-366
- *The Right to Marry and Immigration Control: The Compatibility of Home Office policy with Article 12 and Article 14 ECHR in Baiji* *Journal of Immigration Asylum and Nationality Law* Volume 23 Number 1 2009 pp. 41-50
- *Border Trouble: The UK Borders Act 2007* *New Law Journal* 158 NLJ 201 8 February 2008
- *Social Rights under Directive 2004/38/EC* *Journal of Immigration Asylum and Nationality Law* Volume 21 Number 3 2007 pp. 233-244

Pro Bono and Community Work

- European Human Rights Advocacy Centre (EHAC)

Notable Cases include:

R(ML(Morocco) v Secretary of State for the Home Department [2016] EWHC 2177 (Admin), High Court. A period of 10 months' detention under immigration powers while the Secretary of State tried to obtain an emergency travel document for a stateless individual was not unlawful. **Lopes v London Borough of Croydon [2016] EWCA Civ 465, Court of Appeal.** The court determined the correct destination for appeals where there had been an appeal to the county court which had made a determination as to costs and the parties wished to appeal the costs order. **London Borough of Croydon v Y [2016] EWCA Civ 398, Court of Appeal.** A judge should have granted a local authority's application to strike out or stay an asylum seeker's challenge to an age assessment unless he consented to further age assessments where such an order was reasonably necessary to enable the local authority to defend the challenge and the asylum seeker's refusal to give his consent was unreasonable. The principles from *Starr v National Coal Board* [1977] 1 W.L.R. 63 were not confined to private law litigation. **Secretary of State for Home Department v Ojo [2015] EWCA Civ 1301, Court of Appeal.** The acquisition of a permanent right of residence depended on continuous residence with a qualifying status. Residence and immigration status were not analogous and a period during which the requisite financial dependency had been broken could not be ignored. **R(Bondada) v Secretary of State for the Home Department [2015] EWHC 2661 (Admin), High Court.** An applicant who had been born in India to a father who had acquired British citizenship prior to her birth established her entitlement to British citizenship by descent, pursuant to the British Nationality Act 1981 s.11(1), where her mother's passport from 1978 provided clear evidence of her parentage and her parents' marriage. **Secretary of State for Work and Pensions v SF [2015] UKUT 502 (AAC), Upper Tribunal.** Pregnancy and childbirth were not of themselves enough to take a woman off the employment market and so outside the scope of TFEU art.45; a woman was protected by her worker status until such time, not exceeding the "reasonable period" contemplated by *Saint Prix*, as she showed an intention not to be part of the employment market. **B(Eritrea) v Secretary of State [2015] EWCA Civ 141, Court of Appeal.** A Refugee was lawfully entitled to benefits from the date his status was established. **R(Kondrak) v Secretary of State [2014] EWHC 639 (Admin), High Court.** The detention of a Polish national pending administrative removal was unlawful from the outset. **R(Foo Ann Ku) v Secretary of State [2013] EWHC 3881 (Admin), High Court.** At the date of removal of a British Overseas Citizen (BOC) the Secretary of State had reason to believe that the individual would be admitted to Malaysia. **Pryce v London Borough of Southwark, Secretary of State for the Home Department intervening [2012] EWCA Civ 1572 (7 November 2012) Court of Appeal** Whether an unlawfully present parent of a British citizen/EU citizen child derived a right of residence from the need to enable the child to enjoy the genuine substance of his rights as an EU citizen in the country of his birth; whether EU citizenship after the case of *Zambrano* could confer a directly effective right of residence on that parent that rendered her eligible for homelessness assistance. **Mohan v Secretary of State for the Home Department [2012] EWCA Civ 1363 (23 October 2012) Court of Appeal** The extent of the procedural protection afforded by article 8 ECHR, when immigration expulsion proceedings are afoot but family proceedings concerning contact with a child are not yet complete. **SL v Westminster City Council, Medical Foundation for the Care of Victims of Torture and MIND intervening [2011] EWCA Civ 954 (10 August 2011) Court of Appeal** (acted for Medical Foundation by way of written submissions) The correct approach to the construction of s 21(1)(a) of the National Assistance Act 1948 as regards 'care and attention' and whether accommodation is 'otherwise available' when considering whether there is a duty to provide residential accommodation. **Secretary of State for Work and Pensions v Maria Dias [2011] EUECJ C-325/09 (21 July 2011) European Court of Justice** Whether periods of residence completed prior to the transposition of Directive 2004/38/EC contribute to the acquisition of the right of permanent residence. Whether periods of residence completed in reliance on a Residence Permit contribute to the acquisition of a right of permanent residence. **PM (EEA - spouse - "residing with") Turkey [2011] UKUT 89 (IAC)(7 March 2011) Upper Tribunal** Regulation 15(1)(b) of the Immigration (European Economic Area) Regulations 2006 applies to those who entered a genuine marriage where both parties have resided in the United Kingdom for five years since the marriage; the EEA national's spouse has resided as the family member of a qualified person or otherwise in accordance with the Regulations and the marriage has not been dissolved. The "residing with" requirement relates to presence in the UK; it does not require living in a common family home. **R(on the application of Birara) v Hounslow Borough Council [2010] EWHC 2113 (Admin)(16 July 2010) Administrative Court** Accommodation for Children Leaving Care: Whether a local authority's decision to cease to provide a young person previously under its care with support and accommodation once she turned 21 could not stand where, in reaching that conclusion, it had failed to have regard to its own policy to continue to fund education past 21 in exceptional circumstances. **Teixeira (European citizenship) [2010] EUECJ C-480/08 Teixeira v London Borough of Lambeth and another C-**

480/08 (23 February 2010) European Court of Justice Whether an EEA national who is both a former worker and the primary carer of her children who are in education, is eligible for homelessness assistance by virtue of enjoying a right to reside pursuant to Article 12 of Regulation (EEC) 1612/68. **R (Ghai v Newcastle City Council and Others & Secretary of State for Justice (Interested Party) & (1) Ramgharia Gurdwara, Hitchin (2) Alice Barker Welfare & Wildlife Trust (3) Equality & Human Rights Commission (4) Hindu Merchants Association (interveners) [2010] EWCA Civ 59 (2010) 3 All ER 380, (2010) 7 EG 101 (CS), Times, February 18, 2010 (10 February 2010) Court of Appeal** Whether the wishes of an orthodox Hindu that his remains be cremated on a traditional fire could be accommodated under the Cremation Act 1902 and the Cremation (England and Wales) Regulations 2008, whether the kind of structure that he found acceptable for his cremation was a "building" within s of the 1902 Act. **Malekout v Secretary of State for Work & Pensions [2010] EWCA Civ 162 (02 February 2010) Court of Appeal** Whether for payments to be disregarded under the Income Support (General) Regulations 1987 Sch.9 para.15(5A)(e) for the purposes of assessing a claimant's entitlement to income support, the agreement giving rise to the payments, and not just the payments themselves, had to have been made in consequence of personal injury to the claimant. **HS v Secretary of State (29 January 2010) SC/69/2008 Special Immigration Appeals Commission** Whether the exclusion a foreign national resident in the UK was in the interests of national security and compatible with Article 8 ECHR. **Low & Ors, R (on the application of) v Secretary of State for the Home Department [2010] EWCA Civ 4 (14 January 2010) Court of Appeal** Whether the decision of the Secretary of State to refuse residence documents to third country nationals otherwise unlawfully present in the UK was contrary to the freedom to provide services under Article 49 of the EC Treaty when such nationals were temporarily employed by an Irish company with a contract to provide services in the UK. **Novitskaya v London Borough of Brent & Anor [2009] EWCA Civ 1260 (01 December 2009) Court of Appeal** Whether a claim for housing benefit can be made without using explicit words to indicate that a claim for housing benefit is being made. The judgment benefits vulnerable persons who make defective claims for housing benefit. **Secretary of State for Work and Pensions v Dias [2009] EWCA Civ 807 (31 July 2009) Court of Appeal** Whether a EU Residence Permit confers eligibility for income support on a single female head of household who left work to care for her child by virtue of Article 16 of Directive 2004/38/EC or Article 18 of the EC Treaty; referred to the European Court of Justice. **Yesiloz v London Borough of Camden & Anor [2009] EWCA Civ 415 (20 May 2009) Court of Appeal** Whether a Turkish asylum seeker on temporary admission and subject to immigration control, as a citizen of a state that had ratified ECSMA, and in respect of whom some provision had been made in social security legislation, ought to be considered as having a right to reside for housing benefit purposes. **Barry v London Borough of Southwark [2008] EWCA Civ 1440 (19 December 2008) Court of Appeal** Whether an EEA national was eligible for homelessness assistance as a worker where he had worked for two weeks at a tennis championship and sought to retain worker status. **BY v Secretary of State for the Home Department [2008] UKSIAC 65/07 (07 November 2008) Special Immigration Appeal Commission** The application of EU law to an entry clearance application where national security forms the ground for exclusion. **Bajai & Ors, R (On The Application of) v Secretary of State For The Home Department [2008] UKHL 53 (30 July 2008) House of Lords** Whether the scheme introduced by the Secretary of State that limited the rights of those subject to immigration control to enter into a civil marriage infringed the European Convention on Human Rights 1950 Art.12 and was therefore unlawful. The objection inherent in the scheme applied just as much in the case of an illegal entrant as in the case of persons with very limited permission to remain. **Humphries & Ors v Secretary of State for Work and Pensions [2008] EWHC 1585 (Admin) (09 July 2008) Administrative Court** Child Support Agency (CSA) The application of the ex gratia compensation scheme and the use of administrative complaints procedures. **Ehlabor v Royal Borough of Kensington & Chelsea [2008] EWCA Civ 1074 (08 May 2008) Court of Appeal** Homelessness: whether a child born in the UK to a person subject to immigration control, who had never left the country, could be a 'person from abroad' for the purposes of homelessness legislation. **Secretary of State for Work and Pensions & Anor v Boyle & Anor [2008] EWCA Civ 210 (31 January 2008) Court of Appeal** Child Support Agency: The correct construction of secondary legislation where there is an interim maintenance assessment and information is provided to enable a full maintenance assessment to be made. **Christie v Department for Constitutional Affairs & Anor [2007] UKEAT 0140_07_2307 (23 July 2007) Employment Appeal Tribunal** Whether a part-time fee paid tribunal chairman was a 'worker' within the meaning of the Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 and the Part Time Workers Framework Directive (97/81/EC). **FD (Algeria) v Secretary of State for the Home Department [2007] EWCA Civ 981 (25 September 2007) Court of Appeal** Whether the Secretary of State can rely on the unlawful presence of an unmarried partner of an EEA national to refuse a

residence card, notwithstanding that they are in a durable relationship and whether the Secretary of State can apply the domestic immigration rules to the application (case settled). **Rowley & Ors v Secretary of State for Department of Work and Pensions [2007] EWCA Civ 598 (19 June 2007) Court of Appeal** Whether the Secretary of State for Work and Pensions owed a common law duty of care in negligence to an applicant for child support under the Child Support Act 1991 as such a duty would be inconsistent with the statutory scheme. **Baiai & Ors, R (on the application of) v Secretary of State for the Home Department & Anor [2006] EWHC 1035 (Admin) (10 May 2006) Administrative Court** Whether human rights damages are available and should be awarded to a person where there is a breach of Article 12 and Article 14 ECHR. **Paul-Coker, R (on the application of) v London Borough of Southwark [2006] EWHC 497 (Admin) (03 March 2006) [2006] HLR 32 Administrative Court** Homelessness, interim accommodation pending Review, there was an unreasonable refusal letter failing to adequately apply the ex parte Mohammed test in context of an arguable habitual residence of Claimant. **YD (Turkey) v Secretary of State for Home Department [2006] EWCA Civ 52 (08 February 2006) Court of Appeal:** Inherent power of Court of Appeal to order stay on removal where an appeal from AIT lodged out of time. **Mohamed, R (on the application of) v London Borough of Harrow [2005] EWHC 3194 (Admin) (13 December 2005)[2006] HLR 18 Administrative Court** Homelessness, Interim accommodation pending Review, whether EC workers and EU citizens excluded from consideration. **R (Conde) v Secretary of State [2005] EWHC 62 (Admin) [2005] HLR 452 Administrative Court:** Availability of Children Act services to work seekers from EU Member States. **Burns, R (on the application of) v London Borough of Southwark [2004] EWHC 1901 (Admin) (19 July 2004) Administrative Court:** Whether local authority entitled to rely on Home Office view of immigration status or whether it is required to make its own enquiries. **Chen and Others (Free movement of persons) [2004] EUECJ C-200/02 (19 October 2004) [2005] QB 325, [2005] All ER (EC) 129 [2004] 3 CMLR 1060 European Court of Justice:** Right to reside in UK of primary carer of an EU/Irish citizen in context of right to reside under Article 18 of the EC Treaty. **Zardasht, R (on the application of) v Secretary of State for Home Department [2004] EWHC 91 (Admin) (23 January 2004) [2004] All ER (D) 196 (Jan) Administrative Court:** Destitution of asylum seekers, ambit of Article 3 ECHR. **A, X and Y, & Ors v Secretary of State for the Home Department [2002] EWCA Civ 1502 (25 October 2002) Court of Appeal:** Article 15 ECHR, Derogation, Detention, Discrimination, Article 14 ECHR, Terrorism, National Security. **Secretary of State For The Home Department v. Rehman [2001] UKHL 47 (11th October, 2001) [2003] 1 AC 153, [2002] 1 All ER 122 House of Lords:** Deportation and National Security.

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- Administrative and Public Law
 - Employment law, discrimination and professional regulation
 - Garden Court International
 - Housing
 - Immigration: asylum and human rights
 - Immigration: business and private
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 - Welfare benefits
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EDUCATION

- MA (1994)
 - M. Litt. (1996)
-

PROFESSIONAL MEMBERSHIPS

- Administrative Law Bar Association (ALBA)
- Immigration Law Practitioners' Association (ILPA) (Chair)
- Social Security Law Practitioners' Association (SSLPA)
- Haldane Society

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IN THE MATTER OF SENATOR KATHERINE GALLAGHER
IN THE MATTER OF THE BRITISH NATIONALITY ACTS

OPINION

1. I am asked to give my opinion on the question of whether or not Senator Gallagher has renounced British citizenship in accordance with the requirements of the British Nationality Act 1981 and the British Nationality (General) Regulations 2003.
2. I have considered a number of documents that have been supplied to me. Among them are:
 - (1) Senator Gallagher's Australian passport,
 - (2) Her Birth Certificate,
 - (3) Her request to renounce British citizenship, on Form RN,
 - (4) A copy of her bank statement showing a payment to the United Kingdom Home Office on 6 May 2016 in respect of her request to renounce,
 - (5) A letter from the United Kingdom Home Office of 1 July 2016,
 - (6) Her reply to that letter of 20 July 2016,
 - (7) The Home Office letter of 16 August 2016,
 - (8) A returned, certified, Applicant's copy of the renunciation form, and
 - (9) A copy of a speech given by Senator Gallagher to the Senate of the Commonwealth of Australia on 4 September 2017.
3. The primary legislative requirements for renunciation of British citizenship are found in section 12 of the British Nationality Act 1981. which provides as follows:

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.

...

4. Further detail is provided in the British Nationality (General) Regulations 2003. Regulation 8 of those Regulations provides that any declaration of renunciation of British citizenship shall be made to the appropriate authority specified in Regulation 9 and shall satisfy the requirements of Schedule 5.
5. By Regulation 9 (as amended), where a person is present in a Commonwealth country, the appropriate authority to which the request to renounce should be made is the Home Office in the United Kingdom.
6. Schedule 5 of the British Nationality (General) Regulations 2003 provides:

SCHEDULE 5

REQUIREMENTS AS RESPECTS DECLARATIONS OF RENUNCIATION

1. A declaration shall be made in writing and shall state the name, address, date and place of birth of the declarant.
2. A declaration shall contain information showing that the declarant—
 - (a) is a British citizen, British Overseas citizen or British subject, as the case may be;
 - (b) is of full age or, if not, has been married;
 - (c) is of full capacity;
 - (d) will, after the registration of the declaration, have or acquire some citizenship or nationality other than British citizenship, British Overseas citizenship or British subject status, as the case may be.
3. A declaration shall contain a declaration that the particulars stated therein are true.

7. By Schedule 5 a declaration shall be made in writing and shall state the name, address, and the date and place of birth of the declarant. As material, the declaration must also contain information to show that the declarant is a British citizen, is of full age, is of full capacity, and that she will (after the registration of the declaration) have or acquire some citizenship other than British citizenship. The declaration must also contain a declaration that the particulars stated therein are true.
8. I have considered the documents and instructions provided to me.
9. The request for registration of a declaration of renunciation, made on Form RN, was made in the correct form on the 20 April 2016, the latter being the date on which the form was signed and dated.
10. Senator Gallagher included her Australian birth certificate with her request. That certificate contained information about her father's place of birth (Stoke-on-Trent, England), her mother's maiden name (Rankin) and her mother's married name (Gallagher). The information supplied was sufficient to determine that her father was a British national by virtue of birth in the UK and that he was married to her mother at the time of Senator Gallagher's birth (her mother's maiden name having been substituted by her father's last name).
11. In my opinion the information found in the completed Form RN, taken together the copy of her birth certificate, contained all the information required as a matter of law by the British Nationality Act 1981 and the British Nationality (General) Regulations 2003 to enable the Secretary of State to register the declaration of renunciation.
12. From the information found in the completed Form RN, taken together the copy of her birth certificate, at the time of her birth Senator Gallagher was born legitimate and automatically acquired Citizenship of the United Kingdom and Colonies by descent under section 5 of the British Nationality Act 1981, see paragraphs 16 and 17 below. She had supplied all the necessary *information* required of her, there being *no prescribed evidence* necessary to prove that information. She had done what she needed to do to secure renunciation; she was not obliged to do more. In order for

renunciation to take legal effect the Secretary of State had to cause the declaration to be registered but that was a matter for the Secretary of State, not Senator Gallagher.

13. It is clear that the Home Office took payment in order to process the request to renounce on 6 May 2016.
14. It is clear too that on 1 July 2016 the Home Office wrote requesting original documents in order to process the request to register the declaration of renunciation of British citizenship. The Home Office sought original copies of her birth certificate and her parents' marriage certificate. Strictly, this request for specific forms of evidence was unnecessary; the British Nationality (General) Regulations 2003 seek information not prescribed forms of evidence, see paragraphs 9 and 10 above.
15. On 20 July 2016 Senator Gallagher responded enclosing original versions of her father's birth certificate, her parents' marriage certificate, and her own birth certificate. Strictly, the supply of this evidence was unnecessary as the British Nationality (General) Regulations 2003 seek information not prescribed forms of evidence, see paragraphs 9 and 10 above. Senator Gallagher had already supplied the necessary information when she sought renunciation on 20 April 2016 and enclosed a copy of her birth certificate with that request.
16. On 16 August 2016 the Home Office wrote to Senator Gallagher to inform her that she was now registered as having renounced British citizenship under section 12(1) of the British Nationality Act 1981. Enclosed with that letter was the applicant's copy of the renunciation form RN, which had been stamped as being registered on 16 August 2016. On that date Senator Gallagher ceased to be a British citizen.
17. Senator Gallagher's British citizenship was derived from her father. She was born on the 18 March 1970 in Canberra, Australia. Her father had been born in the United Kingdom and possessed British nationality thereby. At the time of her birth she would have been a Citizen of the United Kingdom and Colonies ('CUKC') by descent under section 5 of the British Nationality Act 1948:

5 Citizenship by descent

(1) Subject to the provisions of this section, a person born after the commencement of this Act shall be a citizen of the United Kingdom and Colonies by descent if his father is a citizen of the United Kingdom and Colonies at the time of the birth:

Provided that if the father of such a person is a citizen of the United Kingdom and Colonies by descent only, that person shall not be a citizen of the United Kingdom and Colonies by virtue of this section unless—

...

18. To acquire CUKC status by descent a person must be a legitimate child of her parents' marriage, see s 32(2) of the British Nationality Act 1948. It is clear that Senator Gallagher was born legitimate. Her birth certificate shows that, at the time of her birth, her mother's maiden surname had been substituted by her father's surname.

19. On commencement of the Immigration Act 1971 on 1 January 1973, by section 2(1)(b)(i) of that Act (as then in force) she would have acquired the statutory right of abode in the United Kingdom:

2 Statement of right of abode, and related amendments as to citizenship by registration

(1) A person is under this Act to have the right of abode in the United Kingdom if—

(a) he is a citizen of the United Kingdom and Colonies who has that citizenship by his birth, adoption, naturalisation or (except as mentioned below) registration in the United Kingdom or in any of the Islands; or

(b) he is a citizen of the United Kingdom and Colonies born to or legally adopted by a parent who had that citizenship at the time of the birth or adoption, and the parent either—

(i) then had that citizenship by his birth, adoption, naturalisation or (except as mentioned below) registration in the United Kingdom or in any of the Islands; or

...

20. On commencement of the British Nationality Act 1981 on 1 January 1983 CUKCs with the right of abode in the United Kingdom were reclassified as British citizens under section 11(1) of that Act. On that date Senator Gallagher became a British citizen and ceased to be a CUKC.
21. On 16 August 2016, on the registration of her declaration of renunciation, she ceased to be a British citizen.
22. Therefore in my opinion, at present, Senator Gallagher is not a British citizen.

Adrian Berry
Garden Court Chambers
London

26 November 2017

**IN THE MATTER OF ADVICE TO THE AUSTRALIAN LABOR PARTY CONCERNING
THE RENUNCIATION OF BRITISH CITIZENSHIP BY SENATOR KATHERINE
GALLAGHER**

1. We have been asked to advise whether Senator Katherine Gallagher was eligible to nominate as a candidate for the Senate at the 2016 federal election, having regard to the fact that her father was born in England and in light of s 44 of the Commonwealth Constitution. On the basis of the materials with which we have been briefed, our opinion is that she was.

2. Section 44(i) of the Commonwealth Constitution relevantly provides that:

Any person who:

- (i) is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power...

shall be incapable of being chosen or of sitting as a senator...

3. We are instructed that Senator Gallagher's father was born in England and her mother was born in Ecuador. Senator Gallagher notified the Australian Labor Party of these matters at the time she sought to become an endorsed candidate in 2015.

4. One of us (Dr Collins) provided advice on 4 September 2017 in respect of the implications of Senator Gallagher's mother having been born in Ecuador. The substance of the advice was that Senator Gallagher was not disqualified from nominating as a candidate for the Senate by reason of that fact. Dr Collins was not asked to advise, at that time, in respect of the implications of Senator Gallagher's father having been born in England.

5. Senator Gallagher informed the Senate of the effect of Dr Collins' earlier advice on 4 September 2017. She went on to put on the Senate record that her father was 'born [a] British citizen'. She advised the Senate, in respect of her father's British citizenship, that she had been:

advised that, out of an abundance of caution, I should fill out and return form RN, renunciation of British citizenship, to put beyond any doubt that I could obtain British citizenship by descent via my father. Despite my clear understanding that I was not a British citizen, I followed the advice of the ALP vetting team and submitted the paperwork to the UK Home Office together with the required payment on 20 April 2016. I was advised that submitting the declaration of renunciation to the Home Office meant that I had taken all reasonable steps to renounce any entitlement to British citizenship.

6. We have been briefed with:

- a. a copy of the Declaration of Renunciation of British Citizenship form (form RN) completed and signed by Senator Gallagher and dated 20 April 2016;
- b. a copy of the certified copy of Senator Gallagher's Australian passport sent to the UK Home Office with that form;
- c. a copy of the certified copy of Senator Gallagher's Australian Capital Territory birth certificate sent to the UK Home Office with the renunciation form, which records her parents' names, including her mother's maiden and married names;

- d. a bank statement showing that an amount of \$545.14 was debited from Senator Gallagher's account by an entity called 'Visa-Nationality Directorat [sic] Liverpool Gbfrgm Amt-272.000000' on 6 May 2016;¹ and
 - e. an advice provided by an English barrister, Adrian Berry, dated 26 November 2017 concerning the application of British citizenship law in Senator Gallagher's case.
7. The last federal election was announced on 8 May 2016 and held on 2 July 2016. Nominations of candidates closed on 9 June 2016.
 8. On 1 July 2016 (the day before the election), Senator Gallagher was sent, by post, a letter by the UK Home Office in respect of her renunciation form and supporting materials. We are instructed that that letter was received by Senator Gallagher on 20 July 2016. It appears to be a letter in standard form, in that it makes requests of Senator Gallagher not directly relevant to her situation as a British citizen by descent. Relevantly though, it requested that the Senator provide original versions of her birth certificate and 'the marriage certificates of your parents ... in order to establish legitimacy'. The letter stated that failure to send the requested documents would result in the Home Office 'being unable to renounce your British Citizenship status.'
 9. On the day of receipt of that letter, 20 July 2016, Senator Gallagher posted original versions of the requested documents to the Home Office.
 10. On 16 August 2016, the Home Office wrote again to Senator Gallagher. The letter advised her that she had renounced her 'British Citizenship Status', with effect from that date. Attached to the letter was a stamped version of the form Senator Gallagher had completed and signed on 20 April 2016.
 11. It is clear from the above chronology that Senator Gallagher was, as at the date of her nomination for the 2016 election, a British citizen by descent. By operation of section 12(2) of the *British Nationality Act 1981* (UK), renunciation was only effective upon the registration of Senator Gallagher's declaration of renunciation on 16 August 2016.
 12. However, whether Senator Gallagher was eligible to nominate as a candidate for the 45th Parliament turns, in our view, on whether she had satisfied the requirement of section 44(i) of the Constitution, which is to be able to 'demonstrate ... that [prior to her nomination] she had] taken all steps that are reasonably required by the foreign law to renounce ... her foreign citizenship' and within his or her power.⁴
 13. The opinion by Adrian Berry, a barrister at Garden Court Chambers, London, has been provided to us on the question of the requirements of British law for renunciation of British citizenship by descent, as it applies to Senator Gallagher.

¹ That amount appears to be the Australian dollar equivalent to the amount identified on the renunciation form, namely £272.

² *Sykes v Cleary* [1992] HCA 60; 176 CLR 77 [24]–[27] (Mason CJ, Toohey and McHugh JJ).

³ *Re Canavan* [2017] HCA 45 [13], [19]. The unanimous High Court regarded this as being an accurate summary of the ratio of the majority in *Sykes v Cleary* (1992) 176 CLR 77, 'the authority of which was accepted by all parties'; see [19] and also [44]–[46], [67]–[69].

⁴ *Ibid* [72]; see also *Re Barrow* [2017] HCA 47 [8].

14. In summary, Mr Berry opines that all the requirements of British law for the renunciation of Senator Gallagher's British citizenship had been taken by Senator Gallagher by 20 April 2016. Mr Berry states that, as at 20 April 2016, Senator Gallagher had:

supplied all the necessary *information* required of her; there being *no prescribed evidence* necessary to prove that information. She had done what she needed to do to secure renunciation; she was not obliged to do more. In order for renunciation to take legal effect the Secretary of State had to cause the declaration to be registered but that was a matter for the Secretary of State, not Senator Gallagher.

15. Mr Berry considered the significance of the Home Office having requested, by its letter dated 1 July 2016, that Senator Gallagher provide additional evidence before processing her declaration of renunciation. Mr Berry expressed the view that:

Strictly, this request for prescribed forms of evidence was unnecessary; the British Nationality (General) Regulations 2003 seek information not prescribed forms of evidence...

Senator Gallagher had already supplied the necessary information when she sought renunciation on 20 April 2016 and enclosed a copy of her birth certificate with that request.

16. As we understand it, the substance of Mr Berry's opinion is that Senator Gallagher had done everything on her part that was necessary, under British law, in order to renounce her British citizenship, by 20 April 2016. The substance of Mr Berry's view is that the request for further evidence by the Home Office by its letter of 1 July 2016 was in the nature of an unnecessary bureaucratic request, not a legal requirement.
17. The law regarding s 44 is concerned with requirements of foreign law, not bureaucratic preferences. Assuming Mr Berry's opinion to be correct, it seems to us to confirm that Senator Gallagher had, prior to the date for nominations for the 2016 federal election, taken all of the steps that were required to be taken by her (not just the reasonable steps required) under British law in order to renounce her British citizenship.
18. On the assumption that we have correctly stated the law in [12] above, the fact that the renunciation did not take effect until a later date, because of the supervening imposition of an unnecessary bureaucratic request for further evidence by the Home Office, and the time it then took for the Home Office to process the request, is not to the point.
19. The correctness of our advice also rests on the assumption that Mr Berry's opinion is correct. If the matter fell to be tested in the High Court, sitting as the Court of Disputed Returns,⁵ the Court would look at Mr Berry's qualifications as an expert in British nationality law, the merits of any contradictory advice given by other experts and, if Mr Berry or any other experts were to give oral evidence and be subjected to cross-examination, their credibility as witnesses. While we cannot rule out the possibility that Mr Berry's opinion might be wrong, based on his qualifications and profile, it seems likely that Mr Berry is appropriately qualified as an expert in the relevant field. We have no reason to doubt the correctness of the views he has expressed.
20. We note that the steps that were in fact taken by Senator Gallagher accord with those identified by Keane J, in the recent reference concerning former Senator Malcolm Roberts, as ones he could have taken in order to renounce his foreign citizenship before his nomination.⁶ That is, prior to the close of nominations for the 2016 federal election, Senator

⁵ See *Commonwealth Electoral Act 1918* (Cth) Part 12, especially s 376.

⁶ *Re Roberts* [2017] HCA 39; 91 ALJR 1018 [120].

Gallagher had in fact done what Keane J said former Senator Roberts ought to have done. Our conclusion is also consistent with the approach of the High Court in its decision in respect of the nomination of Heather Hill.⁷

Dated: 29 November 2017



Matthew Collins*
Aickin Chambers



Matthew Albert*
Castan Chambers

⁷ *Sue v Hill* [1999] HCA 30; 199 CLR 462, see especially [104], [176].

* Liability limited by a scheme approved under Professional Standards Legislation.



UK Visas and Immigration
 The Capital Building
 Liverpool
 L3 9PP
 Tel 0300 123 2241
 Fax
 Email
 Web www.gov.uk/uk-visas-immigration

Ms K. R. Gallagher



Our Ref G1231112
 Your Ref
 Date 16 August 2016

Dear Ms Gallagher

Re: Ms Katherine Ruth Gallagher, British Citizen, 18 March 1970

Renunciation of British Citizenship Status

I am writing to inform you that the above named is now registered as having renounced British Citizenship Status.

Enclosed is the Declaration of renunciation bearing a stamp of registration. This confirms the date on which the applicant ceased to be a British Citizen, under Section 12(1) of the British Nationality Act 1981.

Any British travel documents that you may still hold should be returned to:

Her Majesty's Passport Office
 Globe House
 89 Eccleston Square
 London, SW1V 1PN

Renunciation of British nationality affects a person's right to live in the UK. If you live in the UK, you should contact us as soon as possible for information on how you are affected by your renunciation of British nationality and what steps you must take to confirm your immigration status. Details of how to contact us can be found on our website at www.gov.uk/uk-visas-immigration

Yours sincerely,

Dave Lloyd
 CT5
 UK Visas and Immigration
 Department 69
 Encl: Birth Certificates x 2, Marriage Certificate

You can find details of how to contact us on our website at <https://www.gov.uk/contact-ukvi>.
 When contacting us via email, please ensure the subject field contains your Home Office

reference number, your surname and the name of the person dealing with your application.

RENUNCIATION REF:



Home Office

3307434

G123112

16/8/16 CTS.

Form RN

June 2015

Applicant's Copy

**Declaration of Renunciation of British Citizenship, British Overseas
Citizenship, British Overseas Territories Citizenship, British National
(Overseas) or British Subject Status**

This declaration, if signed and stamped below, is formal evidence of renunciation.

1. I (full name)

K	A	T	H	E	R	I	N	E	R	U	T	H	G	A	L	L	A	G	H	E	R				
---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	--	--	--	--

of (full address)



was born on (date of birth)

1	6	0	3	1	9	9	0
---	---	---	---	---	---	---	---

at (place and country of birth)

CANBERRA, AUSTRALIA

2. I am a: (please tick)

- | | |
|---|--|
| <input checked="" type="checkbox"/> British citizen | <input type="checkbox"/> British overseas citizen |
| <input type="checkbox"/> British overseas territories citizen | <input type="checkbox"/> British national (overseas) |
| <input type="checkbox"/> British subject | |

I wish to renounce: (please tick)

- | | |
|---|---|
| <input checked="" type="checkbox"/> British citizenship | <input type="checkbox"/> British overseas citizenship |
| <input type="checkbox"/> British overseas territories citizen | <input type="checkbox"/> British national (overseas) status |
| <input type="checkbox"/> British subject status | |

3. I hold the following citizenship or nationality other than the citizenship or status I wish to renounce:

AUSTRALIAN

4. I am about to acquire the following citizenship or nationality after making this declaration:

5. I, (full name in BLOCK LETTERS) KATHERINE RUTH GALLAGHER
declare that to the best of my knowledge and belief the details given on this form are true.

Signature

[Redacted Signature]

Date

20 April 2016

Official confirmation of renunciation:

Signature

[Redacted Signature]

HOME OFFICE
16 AUG 2016
J. Jones
REGISTERED

Home Office