

Commencement: 30 July 1980



CHAPTER 112

CITIZENSHIP

JR 16 of 1980
Act 16 of 1983
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CITIZENSHIP

To provide for citizenship by naturalization, renunciation of citizenship, and the establishment of a Citizenship Commission.

PART 1 – PRELIMINARY

1. Interpretation

- (1) In this Act unless the context otherwise requires –
- "Commission" means the Citizenship Commission established by section 2;
 - "child" means a person who has not attained 18 years;
 - "citizen" means a citizen of Vanuatu;
 - "Constitution" means the Constitution of Vanuatu;
 - "oath of allegiance" means the oath of allegiance prescribed in Schedule 1;
 - "Vanuatu" means the Republic of Vanuatu;
- (2) For the purpose of this Act –
- (a) a person is of age if he has attained the age of 18 years; and
 - (b) a person is not of full capacity if he is a mentally disordered or defective person, so found and not discharged as sane, under the provisions of any Act relating to mental treatment.

PART 2 – CITIZENSHIP COMMISSION

2. Establishment of Citizenship Commission

There is hereby established a commission to be known as the Citizenship Commission.

3. Membership of the Commission

- (1) The Commission shall consist of a chairman and not less than four nor more than six other members all appointed by the President on the advice of the Prime Minister.
- (2) Subject to subsection (1) members of the Commission shall hold office for a period of 3 years and shall be eligible for reappointment.
- (3) A person shall not be eligible to be appointed a member of the Commission unless he is a citizen of Vanuatu.

4. Resignation and removal of members of the Commission

- (1) A member of the Commission may resign his office by notice in writing signed by him and delivered to the President.
- (2) The President may remove a member of the Commission with effect from a date notified by him in the Vanuatu Gazette.

5. Functions and powers of the Commission

- (1) The Commission shall carry out such functions as are provided for it in this or any other Act.

- (2) The Commission shall have such powers as are conferred on it specifically or by necessary implication by this or any other Act and shall generally in addition have such powers as shall enable it to exercise any of its functions.

6. Ministerial directions and requests

- (1) The Prime Minister may give directions to the Commission of a general nature concerning the exercise of its functions or powers and the Commission shall comply with such directions.
- (2) The Prime Minister may in writing require the Commission to advise him on any matter relating to citizenship and the Commission shall comply with such requirement.

7. Meetings and procedure

- (1) The Commission shall hold such meetings as its chairman shall consider necessary.
- (2) The quorum for meetings shall be the chairman and half the other members of the Commission.
- (3) If the chairman for good cause cannot attend a meeting the Prime Minister shall appoint a member to act as chairman for that meeting.
- (4) The Commission shall decide matters before it by a simple majority of the members present and voting. In cases of equality of voting the chairman shall have a casting vote.
- (5) Subject to such rules as the Prime Minister may make by Order the Commission may determine its own procedure with regard to the convening and conduct of meetings.

8. Allowances

Members of the Commission who are not public officers shall be paid such allowances and expenses as the Prime Minister may determine after consultation with the Minister responsible for finance.

PART 3 – CITIZENSHIP BY ADOPTION AND NATURALIZATION

9. Application

This part applies only to a person who is not, or who is no longer, eligible to become a citizen by virtue of article 10 of the Constitution.

10. Application for citizenship by woman married to a citizen

Any woman who after the Day of Independence is married to a citizen shall be entitled on making application in the prescribed manner to be registered as a citizen.

11. Adopted children

A child adopted under the provisions of any Act relating to the adoption of children after the commencement of this Act and who is not a citizen on the day of adoption becomes a citizen on that day if the adopter or, in the case of a joint adoption the male adopter, is a citizen on that day.

12. Application for, and granting of, citizenship by naturalization

- (1) A person of full age and capacity may apply in the prescribed manner to the Commission to be naturalized as a citizen.
- (2) Where on an application made pursuant to subsection (1) and as a result of such inquiries as the Commission may cause to be made, the Commission is satisfied that the person making the application –

- (a) is, on the date of application, and has been during a period of 10 years immediately prior to that date, ordinarily resident in Vanuatu;
- (b) intends to continue to reside in Vanuatu;
- (c) is of good character;
- (d) unless prevented by physical or mental disability, is able to speak and understand sufficiently for normal conversational purposes, Bislama, English, French or a vernacular of Vanuatu;
- (e) has a respect for the culture and the ways of life of Vanuatu;
- (f) is not or is unlikely to become a charge on public funds;
- (g) has a reasonable knowledge and understanding of the rights, privileges, responsibilities and duties of citizens;
- (h) has renounced or agreed to renounce any citizenship which he may possess; and
- (i) has taken and subscribed to an oath of allegiance or made a solemn affirmation in the form set out in Schedule 1;

the Commission may grant the application, but otherwise shall refuse it.

- (3) Subject to subsection (4) if a male applicant requests when applying for citizenship that –
 - (a) his wife; or
 - (b) any child of his named in the application,becomes a citizen by naturalization, any such person named in the request shall become a citizen when the applicant becomes a citizen by naturalization.
- (4) A wife shall not become a citizen in accordance with subsection (3) unless the application includes a statement by her that she wishes to become a citizen.
- (5) When an application made pursuant to subsection (1) is granted the Commission shall register the applicant as a citizen, issue a certificate of naturalization in the form in Schedule 2 to the applicant and to any person who also becomes a citizen pursuant to subsection (3).
- (6) A person to whom a certificate of naturalization is issued becomes naturalized as a citizen on the date stated in the certificate.
- (7) For the purposes of this section, the date of an application is the date on which it is lodged with the Commission.
- (8) For the purpose of determining the period of residence in Vanuatu of any person –
 - (a) any period during which the person has been in custody awaiting deportation or removal from Vanuatu shall be disregarded; and
 - (b) a period shall not be disregarded by reason only that the person resided in Vanuatu during that period without having complied with any law relating to immigration.
- (9) For the purposes of subsection (2)(i) an oath of allegiance may be administered by, and a solemn affirmation may be made before –
 - (a) any person authorised to administer oaths under the law; or
 - (b) a secretary of a Local Government Council; or
 - (c) a District Commissioner.

13. Retention by Commission of citizenship certificate

The Commission may retain a certificate issued in accordance with section 12(5) until it is satisfied that the person named therein has renounced any other citizenship or nationality he may have at the time of issue of the certificate.

PART 4 – LOSS AND RENUNCIATION OF AND REGAINING OF CITIZENSHIP

14. Loss of citizenship

- (1) In addition to the reasons set out in article 13 of the Constitution a citizen who is of age and of full capacity shall lose his citizenship if he –
 - (a) takes an oath or makes a declaration or affirmation of allegiance to another country or to the Sovereign or Head of State of another country;
 - (b) does, agrees to or adopts any act by which he becomes a national or citizen of another country;
 - (c) enters or serves in the armed forces of another country except with the express approval of the Prime Minister acting in accordance with the advice of the Council of Ministers; or
 - (d) except as permitted by any Act, votes in a national, provincial, state or local election, or accepts elective office, of another country.
- (2) A person who is found by a court to have obtained citizenship by any false representation, fraud or concealment of a material fact on his part shall cease to be a citizen 30 days after such finding unless the Prime Minister being satisfied that the offence was of a minor nature and that the revealing of the true facts would not have affected the grant of naturalization publishes a declaration confirming that person's citizenship in the Vanuatu Gazette within such 30 days.
- (3) The provisions of this section shall not apply to any act done under compulsion of law of another country.

15. Loss of citizenship in other cases

A person who has acquired citizenship by naturalization shall lose that citizenship if he travels across a national boundary making use of a passport of any foreign state.

16. Deprivation of citizenship

The Prime Minister may deprive a citizen by naturalization of his citizenship by declaration in the Vanuatu Gazette within 15 days of that person being sentenced to a term of imprisonment of 10 years or more.

17. Renunciation of citizenship

- (1) Subject to subsections (2) and (3), a citizen who is of age and full capacity may, in the prescribed manner renounce his citizenship.
- (2) A person may not renounce his citizenship unless –
 - (a) he already holds some other nationality or citizenship; or
 - (b) the renunciation is for the purpose of his obtaining some other nationality or citizenship.
- (3) During a time of war, citizenship may not be renounced without the prior consent of the Prime Minister.

18. Regaining of citizenship by married woman

- (1) This section applies to a woman –
 - (a) who is a citizen;
 - (b) who marries a person who is a national or citizen of another country; and
 - (c) who becomes on or during the marriage a national or citizen of the country of which her spouse was at the time a national or citizen.
- (2) A woman to whom this section applies may make application in the prescribed manner to the Commission to regain her citizenship and the Commission, if satisfied that she is such a woman and that her marriage has broken down, may grant the application.
- (3) Where the Commission grants an application under this section the applicant becomes a citizen on the date decided by the Commission which shall be notified in the Vanuatu Gazette.

PART 5 – GENERAL

19. Certificate of citizenship status

- (1) A person whose status or entitlement in relation to citizenship is, or may be, in doubt may apply to the Prime Minister for a certificate under this section.
- (2) If the Prime Minister is satisfied that the applicant is, or is entitled to become, a citizen he may issue a certificate stating that the person is or may become a citizen by virtue of a provision specified in the certificate.
- (3) A certificate given pursuant to this section shall be evidence that on the material date the person concerned was, is or may become a citizen in accordance with the terms of the certificate.

20. Honorary citizenship

The President may on the advice of the Prime Minister confer honorary citizenship on any person with such privileges or exemptions as may be prescribed.

21. Registers

- (1) The Commission shall cause to be kept and maintained a register or registers, in such form as the Prime Minister shall consider appropriate in which shall be recorded the particulars of all persons who –
 - (a) become citizens;
 - (b) regain citizenship;
 - (c) lose or renounce citizenship.
- (2) The Commission shall publish the names of persons registered in accordance with this section in the Vanuatu Gazette not later than 30 days after registration.
- (3) The registers referred to in subsection (1) shall be open for inspection to the public in such manner and on the payment of such fees as may be prescribed.
- (4) Extracts from the registers referred to in subsection (1) may be certified and issued to an applicant on payment of the prescribed fee.
- (5) Extracts issued in accordance with subsection (4) shall be accepted by the courts as evidence of what is stated in them.

22. Offence and penalty

- (1) Any person who, for the purpose of being registered or obtaining the registration of any other person as a citizen under this Act, knowingly gives any false information to any person commits an offence and shall be liable on conviction to a fine not exceeding VT 75,000 or to imprisonment for a term not exceeding 5 years or to both.
- (2) Any citizen of Vanuatu (whether or not a naturalized citizen) who travels across a national boundary making use of a passport of any foreign state and without being authorized in writing by the Minister commits an offence and shall be liable on conviction to a fine not exceeding VT 25,000 or to imprisonment for a term not exceeding 2 years or to both.

23. Regulations

The Prime Minister may by Order, not inconsistent with this Act, prescribe all matters that may be required to be prescribed by this Act or for the better carrying out or giving effect to its provisions.

24. Fees

Without derogating from the generality of section 23 the Prime Minister may by order prescribe fees to be charged in respect of forms and other matters required or necessary for the better carrying into effect the provisions of the Act.

SCHEDULE 1

(Section 12(2)(i))

REPUBLIC OF VANUATU

Citizenship Act, Cap. 112

OATH OF ALLEGIANCE

I,
do this day of 20 swear that I will be faithful and bear true
allegiance to the President and the Republic of Vanuatu, So help me God.

Signed

SOLEMN AFFIRMATION

I,
do this day of 20 solemnly affirm that I will be faithful and bear
true allegiance to the President and the Republic of Vanuatu.

Signed

SCHEDULE 2

(Section 12(5))

REPUBLIC OF VANUATU

Citizenship Act, Cap. 112

CITIZENSHIP CERTIFICATE

IT IS HEREBY CERTIFIED THAT was
on the day of 20..... granted Citizenship in
accordance with the Constitution and section 12 of the Citizenship Act, Cap. 112.

.....
Chairman
Citizenship Commission

.....
Member
Citizenship Commission