

MILITARY INTERIM GOVERNMENT OF FIJI DECREE NO. 8 2000

In exercise of the powers vested in the Interim Military Government under section 2 of the Interim Military Government and Finance Decree No. 3, I, Josia Voreqe Bainimarama, MSD, jssc, psc, Commander and Head of the Fiji Interim Military Government of Fiji hereby make the following Decree to amend the Citizenship Act 1998—

Short title and commencement

1. This Decree may be cited as the Citizenship Act (Amendment) Decree 2000 and is deemed to have commenced on the 29th day of May, 2000.

Amendment to the Citizenship Act

2. The Citizenship Act 1998 is amended by inserting the following Part—

"Part 9—ACQUISITION OF CITIZENSHIP*Retention of existing citizenship*

17. This Decree does not affect the citizenship of a person who was a citizen immediately before the commencement of this Decree.

Acquiring of citizenship

18.—(1) Citizenship may be acquired by—

- (a) birth;
- (b) registration; or
- (c) naturalisation.

(2) No other written law (other than this Decree) shall make provision for the acquisition of citizenship in any other way.

Citizenship by birth

19. Every child born in Fiji on or after the date of commencement of this Decree becomes a citizen at the date of birth, unless at the date of birth—

- (a) a parent of the child has the diplomatic immunity accorded to envoys of foreign sovereign powers accredited to the State; and
- (b) neither parent is a citizen.

Infant found abandoned in Fiji

20. An infant found abandoned in Fiji is deemed to have been born in Fiji, in the absence of proof to the contrary.

Citizenship by registration

- 21.—(1) A child born outside Fiji on or after the commencement of this Decree may become a citizen by registration if, at the date of the child's birth either parent was a citizen.
- (2) A foreign child adopted by a citizen when the child was under the age of 18 may become a citizen by registration.
- (3) A child who was under the age of 21 when either parent became a citizen may become a citizen by registration.
- (4) An application for registration under subsection (1), (2) or (3) may be made at any time during the child's lifetime and, if he or she is under the age of 21 at the date of the application, may be made on his or her behalf by a parent or guardian.
- (5) An application for registration under subsection (1), (2) or (3) made by the child concerned after he or she has reached the age of 21 must not be granted unless he or she has been lawfully present in Fiji for a total of 3 of the 5 years immediately before the application.
- (6) An application for citizenship by registration made by an adult who is a citizen of another country must be granted if—
- (a) the person was formerly a citizen of the State; and
 - (b) such person renounces the other citizenship.
- (7) An application for citizenship by registration made by an adult who is or has been married to a citizen must be granted if the applicant—
- (a) has been lawfully present in Fiji for a total of 3 of the 5 years immediately before the application; and
 - (b) complies with such other conditions as prescribed by regulations.
- (8) If, in accordance with this Decree, a person is required to renounce the citizenship of another country in order to become a citizen of the State but the law of that other country effectively prevents renunciation of that citizenship, the person is deemed to have renounced that citizenship if he or she declares, in the prescribed form, an intention not to exercise the entitlements of that citizenship.

Citizenship by naturalisation

- 22.—(1) A person may become a citizen by naturalisation.
- (2) A condition of naturalisation is that the person has been lawfully present in Fiji for a total of 5 of the 10 years immediately before the application.

Loss of citizenship

- 23.—(1) Subject to this section, a person forfeits citizenship if he or she voluntarily acquires the citizenship or nationality of another country.
- (2) A citizen of the State who, while a minor, acquires the citizenship of another country forfeits his or her citizenship of the State at the age of 22 unless, after reaching the age of 21 and before reaching the age of 22, he or she renounces the other citizenship.
- (3) An adult who involuntarily acquires the citizenship of another country does not forfeit his or her citizenship of the State unless he or she fails to renounce the other citizenship within 12 months of—
- (a) becoming aware of it; or
 - (b) being required by the Minister to renounce it, whichever first occurs.

Renunciation of citizenship

24. A person may renounce his or her citizenship only if he or she—
- (a) has reached the age of 21; and
 - (b) has been since birth a citizen of another country or has acquired the citizenship of another country by registration or naturalisation.

Rights to enter and reside in Fiji

25. The following persons may enter and reside in Fiji so long as they comply with conditions prescribed in any other written law governing entry and residence—
- (a) former citizens;
 - (b) a foreign wife or widow or foreign husband or widower of a citizen;
 - (c) a child of a citizen.

Powers concerning citizenship

26. Subject to sections 18(2) and 21(6), a law may—
- (a) prescribe conditions upon which a person may become a citizen that are in addition to the conditions set out in this Decree; and
 - (b) relating to the making of applications for citizenship by registration or naturalisation.

Laws relating to calculation of periods in Fiji

27. For the purpose of calculating under this Decree periods of lawful presence in Fiji, a written law may specify certain periods that are not to be taken into account.

Deprivation of citizenship

- 28.—(1) A Decree may deprive a person of citizenship in the following circumstances only—
- (a) if citizenship was obtained by fraud, misrepresentation or the concealment of a material fact;
 - (b) if the person, in accordance with section 21(8), declared an intention not to exercise the entitlements of citizenship of another country but has, since making that declaration, exercised such an entitlement.
- (2) A law made under subsection (1) must provide for the according of procedural fairness to the person concerned.

Prevention of statelessness

29. A person born—
- (a) in Fiji in the period that began on 28th September 1987 and ended on 24th July 1990 is taken to have become a citizen on the date of birth;
 - (b) outside Fiji in the period that began on 28th September 1987 and ended on 6th October 1987 is taken to have become a citizen on the date of birth if his or her father was a citizen on that date and was not himself born outside Fiji;
 - (c) in Fiji in the period that began on 25th July 1990 and ended on the date of commencement of the 1997 Constitution is taken to have become a citizen on the date of birth if he or she would otherwise be stateless;
 - (d) in Fiji in the period that began on 29th May 2000 is taken to have become a citizen on the date of birth if he or she would otherwise be stateless.”

Consequential amendments

3. The Citizenship Act 1998 is amended as follows—
- (a) section 2—
 - (i) in the definition of “application for registration” delete “12 of the Constitution” and substitute “21”;
 - (ii) in the definition of “application for naturalisation” delete “13 of the Constitution” and substitute “22”;
 - (b) section 4 – delete “12 of the Constitution” and substitute “21”;
 - (c) section 5 – delete “12(7) of the Constitution” and substitute “21(7)”;
 - (d) section 7 – delete “13(2) of the Constitution” and substitute “22(2)”;
 - (e) section 8 – delete “15 of the Constitution” and substitute “24”;
 - (f) section 11 – delete “130 of the Constitution” and substitute “6 of the Administration of Justice Decree No. 5 of 2000”;
 - (g) section 12 – delete “12(7) or 13(2) of the Constitution” and substitute “21(7) or 22(2)”.

Made at Suva this 15th day of June 2000.

COMMODORE J. V. BAINIMARAMA
MSD, jssc, psc
Commander and Head of the
Interim Military Government of Fiji