

CHAPTER 57

CITIZENSHIP

AN ACT TO ESTABLISH A CITIZENSHIP COMMISSION; TO MAKE PROVISION FOR THE ACQUISITION OF CITIZENSHIP BY WAY OF ADOPTION AND NATURALISATION; TO REGULATE THE CIRCUMSTANCES IN WHICH CITIZENSHIP MAY BE RENOUNCED OR LOST; AND FOR MATTERS INCIDENTAL THERETO

7 of 1978
6 of 1986

[7th July 1978]

PART I

PRELIMINARY

1. This Act may be cited as the Citizenship Act.

Short title

2.—(1) In the Act unless the context otherwise requires —

Interpretation

“Commission” means the Citizenship Commission established by section 3;

“child” means a person who is not of full age;

“citizen” means a citizen of Solomon Islands;

“Constitution” means the Constitution of Solomon Islands scheduled to the Solomon Islands Independence Order 1978;

“oath of allegiance” means the oath of allegiance prescribed in Schedule I to the Constitution.

(2) For the purposes of this Act —

(a) a person is of full age if he has attained the age of 18 years; and

(b) a person is of full capacity if he is not a mentally disordered or defective person, so found and not discharged as sane, under the provisions of any law relating to mental treatment.

PART II

CITIZENSHIP COMMISSION

3. There is established by this Act a Commission to be known as the Citizenship Commission.

Establishment of
Citizenship
Commission

4. The Schedule applies to and with respect to the Commission.

Provisions with
respect to
Commission

PART III

CITIZENSHIP BY ADOPTION AND NATURALISATION

Application of
this Part

5. This Part applies only in the case of a person who is not, or who is no longer, eligible to become a citizen by virtue of Chapter III of the Constitution.

Citizenship by
adoption

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

Citizenship by
naturalisation

7.—(1) A person of full age and full capacity may apply in the prescribed manner to the Commission to be naturalised as a citizen.

6 of 1986, s. 2

(2) Where, on an application made pursuant to subsection (1) and as a result of such inquiries (if any) as the Commission may cause to be made, the Commission is satisfied that the person making the application, other than the female person to whom an application made under subsection (4) relates —

(a) is, on the date of application, and has been, during the period of ten years immediately prior to that date ordinarily resident in Solomon Islands;

(b) intends to continue to reside in Solomon Islands;

(c) is of good character;

(d) unless prevented by physical or mental disability, is able to speak and understand sufficiently for normal conversational purposes English, Pidgin or a vernacular of Solomon Islands;

(e) has a respect for the culture and the way of life of Solomon Islands;

(f) is unlikely to be or become a charge on public funds;

(g) has a reasonable knowledge and understanding of the rights, privileges, responsibilities and duties of citizenship;

(h) has renounced in the prescribed manner any citizenship which he may possess; and

(i) has taken and subscribed to the oath of allegiance,

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

(3) Subject to subsection (5), where, in his application, a male applicant requests that —

(a) his wife (not being a citizen);

(b) any child of his named in the application; or

(c) both his wife and any such child,

shall become a citizen by naturalisation, any person to whom the application so relates shall become such a citizen when, pursuant to the application, the applicant becomes a citizen by naturalisation.

(4) Where in an application made under this subsection —

6 of 1986, s. 2

(a) a citizen requests that his wife shall become a citizen by naturalisation; or

(b) a wife of a citizen requests that she shall become a citizen by naturalisation;

and as a result of such inquiries as the Commission may cause to be made, the Commission is satisfied that the female person to whom the application so relates —

(i) was married to that citizen in accordance with law or custom of Solomon Islands, before the application was made;

(ii) is not living apart from that citizen under a decree of court or a deed of separation;

(iii) is, on the date of the application, and has been, during the period of two years immediately prior to that, ordinarily resident in Solomon Islands;

(iv) satisfies the conditions specified in paragraphs (b) to (i) (inclusive) of subsection (2); and

(v) in the case of an application made by such female person, that her husband consents to the grant of citizenship to her by naturalisation,

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

Explanation 1—In this subsection “citizen” means a male person who has become a citizen of Solomon Islands under the provisions of Chapter III of the Constitution, or who has been granted a certificate of naturalisation under this Act;

Explanation 2—In this subsection and in subsection (2), “ordinarily resident” subject to the provisions of subsections (9) and (10), means some degree of continuity of residence at a

place apart from accidental or temporary absence from that place, and a person is ordinarily resident at a place where he makes his home for an indefinite period.

(5) A wife shall not become a citizen pursuant to subsection (3) unless there is included in the application concerned a statement by her that she wishes to become a citizen.

6 of 1986, s 2

(6) When an application under subsection (1) or subsection (4) is granted, the Commission shall cause to be issued to the applicant and to any person who will also become a citizen pursuant to subsection (3) or subsection (4), as the case may be, a certificate of naturalisation in the prescribed form.

(7) A person to whom a certificate of naturalisation is issued becomes naturalised as a citizen with effect from the date stated in the certificate.

(8) For the purposes of this section, the date of an application is the date on which it is lodged with the Commission.

(9) For the purpose of determining the period of residence of any person in Solomon Islands —

(a) any period during which the person has been in custody under sentence awaiting deportation or removal from Solomon Islands shall be disregarded; and

(b) a period shall not be disregarded by reason only that the person resided in Solomon Islands during that period without having complied with any law relating to immigration.

(10) Where a person applying under this section is a person who has lost or renounced his citizenship, any period of residence in Solomon Islands before he lost or renounced his citizenship shall be disregarded for the purpose of determining his period of residence in Solomon Islands.

PART IV

LOSS AND RENUNCIATION OF AND REGAINING OF CITIZENSHIP

Loss of
citizenship

8.—(1) A citizen who has reached full age and is of full capacity who —

(a) obtains the nationality or citizenship of another country by a voluntary act (other than marriage);

(b) exercises a right that is exclusive to nationals or

citizens of another country, unless the Minister is satisfied that the right was exercised inadvertently;

(c) 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;

(d) does, agrees to or adopts, any act (other than marriage) by which he becomes a national or citizen of another country;

(e) enters or serves in the armed forces of another country, except with the express approval of the Prime Minister, acting with, and in accordance with, the advice of Cabinet; or

(f) except as permitted by any law, votes in a national, provincial, state or local election, or accepts elective office, of another country,

loses his citizenship.

(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 loses his citizenship, unless the Minister is satisfied that the offence was of a minor nature and that revelation of the true fact would not have affected the grant of naturalisation.

(3) The provisions of this section do not apply to any act done under compulsion of law of another country.

9.—(1) Subject to subsections (2) and (3), a citizen who is of full age and full capacity may, in the prescribed manner, renounce his citizenship.

Renunciation of
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 Minister.

10.—(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

Regaining
citizenship

(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, but otherwise shall refuse it.

(3) Where the Commission grants an application under this section the applicant thereupon becomes a citizen.

Loss of
citizenship on
subsequent
marriage
6 of 1986, s. 3

11.—(1) Subject to the provisions of subsection (2), where a woman, who obtained citizenship by virtue of the provisions of section 7, is divorced under a decree of court, subsequently remarries a non-citizen, she shall be deemed to have renounced her citizenship, unless, on the date of the subsequent marriage she had ordinarily been resident in Solomon Islands for a period of ten years.

(2) The loss of citizenship by virtue of the operation of the provisions of subsection (1), shall, however, for the purpose of this law, immigration and labour laws be disregarded for such period as may be required for her to regain citizenship of her country of origin or that of her husband.

(3) The loss of citizenship by a woman pursuant to the provisions of subsection (1), shall not, in any way affect the rights of citizenship acquired by any child under the provisions of section 7, unless and until the provisions of Part IV of the Act apply.

PART V

GENERAL

Certificate of
citizenship

12.—(1) A person whose status or entitlement in relation to citizenship is, or may be, in doubt may apply to the Minister for a certificate under this section.

(2) If the Minister is satisfied that the applicant is, or is entitled to become, a citizen he may grant 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 is evidence that on the material date the person concerned was, is, or may become a citizen in accordance with the terms of the certificate.

13. The Minister may make regulations prescribing all matters that are required or permitted by this Act to be prescribed for carrying out or giving effect to this Act.

Regulations

14. The Minister shall cause to be kept and maintained a register or registers, in such form as he deems appropriate, in which shall be recorded the particulars —

Registers

(a) of any person who becomes a citizen pursuant to this Act; and

(b) of any person who has lost, renounced or regained his citizenship under this Act.

SCHEDULE

CITIZENSHIP COMMISSION

1. The Commission shall consist of not less than five or more than seven members who shall be appointed by the Minister.

2. The Minister shall appoint a member of the Commission to be Chairman of the Commission.

3. (1) Subject to this Act, a member of the Commission holds office for such period (not exceeding three years) as is specified in the instrument of his appointment.

(2) A member of the Commission is eligible for reappointment.

(3) The composition of the Commission shall be notified in the Gazette from time to time.

4. (1) A person is not eligible to be appointed as a member of the Commission unless he is a citizen (otherwise than by naturalisation).

(2) A person who has attained the age of seventy years is not eligible to be appointed as a member of the Commission.

(3) A person shall not be appointed as a member of the Commission for a period beyond the date on which he will attain the age of seventy years.

5. A member of the Commission may resign his office by writing under his hand delivered to the Minister.

The Minister may remove from office a member of the Commission at any time.

7. The Commission shall exercise and perform such powers and duties as are conferred or imposed on it by this or any other Act.

8. (1) The Minister may give to the Commission directions (not inconsistent

with this Act) of a general nature with respect to the exercise of a power or the performance of a duty of the Commission and the Commission shall comply with any such direction.

(2) The Minister may, by instrument in writing, require the Commission to advise him on any matter relating to or concerning citizenship and the Commission shall comply with the requirement.

9. (1) The Commission shall hold such meetings as are necessary for the purpose of exercising or performing its functions.

(2) Questions arising at a meeting of the Commission shall be determined by a majority of the votes of the members present and voting.

6 of 1986, s 4

(3) The Minister may make rules with respect to —

(a) the convening and conduct of meetings;

(b) interviewing of all applicants by or on behalf of the Commission before granting or refusing their applications;

(c) documents to accompany applications to be made under section 7;

(d) formal honouring of persons who have been granted certificates of naturalisation in any year, on the anniversary of the independence day next following the date of the grant of those certificates.

(4) Subject to any such rules, the Commission may determine its own procedure with respect to the convening and conduct of meetings.

6 of 1986, s. 4

10. Members of the Commission shall be entitled to such remuneration and expenses as the Minister may from time to time prescribe.

CHAPTER 57

CITIZENSHIP

Subsidiary Legislation

THE CITIZENSHIP COMMISSION RULES (Para 9 (3) of Schedule)

LN 35/1987

[15th May 1987]

1. These Rules may be cited as the Citizenship Commission Rules.

Citation

2. In these Rules, the expression —

Interpretation

“Act” means the citizenship Act;

“applicant” means a person who has made an application to be naturalised as a citizen under section 7(1) of the Act;

“member” means a member of the Commission; and

“secretary” means the person assigned by the Minister to perform the duties of secretary to the Commission.

3.—(1) Meetings of the Commission may be called at any time by the secretary after consulting the Chairman; and as soon as practicable thereafter, but not later than seven clear days before the date of the meeting, the secretary shall despatch to the members a notice to attend the meeting together with the agenda prepared under rule 4 for the meeting.

Commission meetings

(2) The notice referred to in paragraph (1) may be given in writing or by radio or in such other manner as the secretary deems appropriate; and the notice shall specify the date, time and place for the meeting.

4. The secretary, in consultation with the Chairman, shall prepare the agenda for each meeting of the Commission.

Agenda

5. The Chairman or, in his absence, the deputy Chairman shall preside at the meeting of the Commission.

Presiding at meetings

6. The quorum of the Commission shall be two-thirds of all its members.

Quorum

7. Except as provided for in these Rules, the Commission shall determine the procedure for its meetings.

Procedure

Voting

8. The manner of voting at any meeting of the Commission shall be by show of hands unless otherwise decided by the Commission.

Casting vote

9. Where there is a tie in the number of votes cast during a meeting of the Commission, the person presiding at that meeting shall have a casting vote.

Confidentiality
of Commission
matters

10. Every matter brought before or dealt with by the Commission is confidential; and information relating to any such matter which has not been made public by the Commission shall not be disclosed to any person who is not a member of the Commission unless the Commission otherwise determines.

Minutes of
meetings

11.—(1) The secretary shall record and keep the minutes of all the meetings of the Commission.

(2) As soon as practicable after each meeting the secretary shall prepare in full the minutes of that meeting for adoption at the next following meeting.

Production and
supply of
documents and
particulars

12.—(1) Any application made under section 7(1) of the Act must be accompanied by the following documents and particulars—

(a) a birth certificate in respect of the applicant or, where such certificate is not available, two statutory declarations (one signed by a relative of the applicant and the other signed by a person who knows the applicant personally since childhood) in respect of the applicant's date and place of birth, parents and nationality;

(b) a medical report certified by a medical practitioner in respect of the health of the applicant. The report must be in relation to an examination carried out by the medical practitioner on the applicant not earlier than one month before the date of the application; and

(c) particulars of any passport or other travel document issued to the applicant.

Interviewing
applicants

13.—(1) The Commission may, in its absolute discretion, by notice request an applicant to appear on such date and at such time and place as the Commission may specify in the notice before the Commission or before a member duly authorised by the Commission and approved by the Minister for the purpose, for an interview with the Commission or the member, as the case may be, in relation to the application.

(2) Where an applicant is interviewed by a member under paragraph (1), a record of the interview shall be prepared by the member for tabling before the Commission at its first meeting after the interview.

(3) Where an applicant who has been requested for an interview under paragraph (1) fails to comply with the request, the Commission shall defer consideration of the application and inform him by notice in writing that if within one month from the date of the notice, he does not show cause why the application should not be cancelled, the Commission will cancel the application.

(4) If after one month from the date of the notice referred to in paragraph (3) the applicant does not show cause or shows insufficient cause as to why the application should not be cancelled, the Commission shall cancel the application.

14. Where an interview is conducted under rule 13, the Commission or the member conducting the interview may request the applicant to produce any passport or travel document issued to him for inspection by the Commission or the member, as the case may be.

Inspection of
passports, etc

15. Oaths of allegiance referred to in section 7(2)(i) of the Act shall be taken and subscribed to by the applicant before a Magistrate or the Minister responsible for citizenship matters.

Oaths of
allegiance