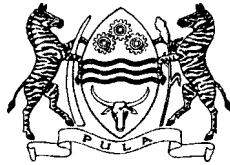


CITIZENSHIP ACT, 1998

No. 8



of 1998

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An Act to re-enact with amendments the provisions relating to the acquisition and loss of citizenship of Botswana and for matters related thereto.

Date of Assent: 20.4.98.

Date of Commencement: 24.4.98.

ENACTED by the Parliament of Botswana.

Short title
Interpretation

1. This Act may be cited as the Citizenship Act, 1998.

2. In this Act, unless the context otherwise requires —
“certificate of naturalization” means a certificate of naturalization under this Act;
“child” includes a child born out of wedlock, and the expressions “father”, “mother” and “parent” shall be construed accordingly;
“prescribed” means prescribed by regulations.

Establishment
of Citizenship
Committee

3. (1) There is hereby established a committee to be known as the Citizenship Committee which shall be responsible for considering every application for naturalization made under this Act and making recommendations thereon to the Minister.

(2) The Committee shall consist of the following persons —

(a) three persons from the general public appointed by the Minister, one of whom shall be appointed Chairman of the Committee by the Minister;

(b) one member of the National Assembly appointed by the Minister who shall be Vice-Chairman of the Committee;

(c) the Commissioner of Police or his representative who shall be of a rank of not less than Assistant Commissioner of Police;

(d) the Deputy Permanent Secretary, Ministry of Labour and Home Affairs;

(e) the Deputy Permanent Secretary, Ministry of Commerce and Industry; and

(f) one member of the House of Chiefs appointed by the Minister.

(3) The members appointed under this section shall hold office for three years, but shall be eligible for re-appointment.

(4) The Committee shall regulate its own rules of procedure in considering applications for naturalization.

(5) A person appointed as a member of the Citizenship Committee under subsection (2) shall be paid such remuneration and allowances as may be determined.

(6) The Secretary of the Committee shall be the Chief Immigration Officer, or his representative.

(7) In the exercise of his functions under section 12, the Minister shall consult the Citizenship Committee.

Citizenship by
birth

4. (1) A person born in Botswana shall be a citizen of Botswana by birth if, at the time of his birth, his father or mother was a citizen of Botswana.

(2) A person born before the commencement of this Act shall not be a citizen by virtue of this section unless such person was a citizen at the time of such commencement.

Citizenship by
descent

5. (1) A person born outside Botswana shall be a citizen of Botswana by descent if, at the time of his birth, his father or mother was a citizen of Botswana.

(2) A person born before the commencement of this Act shall not be a citizen by virtue of this section unless such person was a citizen at the time of such commencement.

6. A person who has settled in Botswana immediately before 30th September, 1966, and has lived ordinarily as a member of a particular tribe or community or has been customarily accepted as a member of a tribe or community, shall, on making a declaration in such form as may be prescribed, become a citizen of Botswana, and the issue of such person born before or after 30th September, 1966, shall be a citizen of Botswana.

Citizenship by
settlement

7. A child of not more than three years old adopted under the provisions of any written law relating to the adoption of children shall, if such a child was not a citizen at the date of such adoption, become a citizen by adoption on the date of such adoption if the adopter or, in the case of a joint adoption, one of the adopters was at the date of adoption a citizen.

Citizenship by
adoption

8. The Minister may cause a child of over three years old adopted by a citizen of Botswana under the provisions of any written law relating to the adoption of children to be registered as a citizen, if such a child was not a citizen at the date of the adoption, upon application made in the prescribed manner by the adopter.

Registration
of adopted
child over
three years
old

Provided that the Minister shall not cause a child to be registered as a citizen of Botswana under this section if the Minister is satisfied that the child, being sufficiently mature to have formed a character, is not of good character.

9. The Minister may cause a person under 21 years, if such person was not a citizen of Botswana by birth or descent and whose father or mother has become a citizen of Botswana, to be registered as a citizen of Botswana upon application made in the prescribed manner by the father or the mother, as the case may be.

Registration
of a minor
child of
citizen

10. The President may cause to be registered as a citizen —

- (a) any person, as a token of honour, who in his opinion has done signal honour or rendered distinguished service to Botswana; or
- (b) any person not otherwise entitled to or eligible for citizenship of Botswana with respect to whom special circumstances exist which, in the opinion of the President, warrant such registration.

President's
power to
register
citizens

11. A person registered under section 8, 9, or 10 shall be a citizen of Botswana by registration from the date on which such person is registered.

Effect of
registration
as a citizen

12. The Minister may grant a certificate of naturalization to a person of full age and capacity who satisfies the Minister that he or she is qualified under section 13 for naturalization, and that person shall, on taking the oath of allegiance, be a citizen of Botswana by naturalization from the date on which the certificate is granted.

Naturalization

13. (1) Subject to subsection (2), the qualifications for naturalization of any person shall be that—

Qualifications
for naturaliza-
tion

- (a) he or she has been resident in Botswana for a continuous period of 12 months immediately preceding the date of his or her application for a certificate of naturalization;
 - (b) he or she has, not earlier than six or later than five years immediately before the date of such application for a certificate of naturalization, lodged with the Minister a written declaration of intention to make such an application.;
 - (c) during the period of 12 years immediately preceding the period of 12 months prescribed by paragraph (a), he or she has been resident in Botswana for periods amounting in the aggregate to not less than 10 years;
 - (d) he or she is of good character;
 - (e) he or she has sufficient knowledge of the Setswana language or any language spoken by any tribal community in Botswana; and
 - (f) he or she intends, in the event of a certificate of naturalization being granted, to reside in Botswana.
- (2) Where the Minister is of the opinion that special circumstances exist he may allow —
- (a) a continuous period of 12 months' residence in Botswana, ending not more than six months before the date of the application for a certificate of naturalization, to be reckoned for the purposes of subsection (1) (a) as if that period had immediately preceded that date;
 - (b) periods of residence earlier than 13 years immediately preceding the date of application for a certificate of naturalization to be reckoned for the purposes of subsection (1) (c).
- (3) Where an applicant has made an application for a certificate of naturalization under subsection (1), the Minister shall cause a notice of the application to be published in the Gazette and in a newspaper circulating in the district in which the applicant resides and the publication shall be displayed in such public offices and places as may be determined by the Minister.
- (4) Where a notice is published in accordance with subsection (3), any person who objects to the applicant being granted a certificate of naturalization shall, within 30 days immediately after publication of the notice, notify the Minister in writing of his or her objection and of the grounds therefor.
- (5) Before granting a certificate of naturalization under section 12 the Minister shall take into consideration any objection of which he has been notified in accordance with subsection (4).

Naturalization
of foreign
spouse

14. (1) The Minister may at any time grant a certificate of naturalization to a foreign spouse who is married to a citizen of Botswana and, has not since remarried and who satisfied the Minister that he or she is otherwise qualified under subsection (2) for naturalization in terms of this section, and that spouse shall, on taking the oath of allegiance, be a citizen of Botswana by naturalization from the date on which the certificate is granted.

(2) Subject to subsections (1) and (3), the qualifications for naturalization in terms of this section for any foreign spouse shall be that —

- (a) that spouse is resident in Botswana on the date of such application for a certificate of naturalization and has been resident in Botswana for a continuous period of or for periods amounting in the aggregate to not less than five years;
- (b) that spouse has, not later than two and a half years immediately before the date of application for a certificate of naturalization, lodged with the Minister a written declaration of intention to make such an application;
- (c) that spouse is of good character;
- (d) that spouse has sufficient knowledge of the Setswana language or any language spoken by any tribal community in Botswana;
- (e) that spouse intends, in the event of a certificate of naturalization being granted, to reside in Botswana.

(3) The Minister may, in the special circumstances of any particular case, waive or accept a shorter period of the resident requirements mentioned in subsection (2) (a) and (b).

(4) Section 13(3), (4) and (5) shall apply, with such modifications as may be considered necessary in the case of an application for the grant of a certificate of naturalization under this section.

15. Any person who is a citizen of Botswana and also a citizen of another country shall, upon the attainment of the age of 21 years, cease to be a citizen of Botswana unless such person has, immediately before the attainment of the age of 21 years —

Dual
citizenship

- (a) renounced the citizenship of that other country;
- (b) taken the oath of allegiance; and
- (c) made such declaration of intentions concerning residence as may be prescribed.

16. If any citizen of Botswana of full age and capacity who is also a citizen of another country makes a declaration of renunciation of citizenship of Botswana, the Minister, if he is satisfied that the person is not ordinarily resident in Botswana shall, and in all other cases may, cause the declaration to be registered and, upon such registration, that person shall cease to be a citizen of Botswana:

Renunciation
of citizenship
by reason of
dual citizen-
ship or
nationality

Provided that the Minister may withhold registration of any such declaration if in his opinion it is contrary to public policy.

17. (1) A citizen by birth or descent who has ceased to be a citizen of Botswana by virtue of the provisions of section 15 or 16 may, at anytime thereafter, make a declaration in such form as may be prescribed that he or she wishes to resume citizenship of Botswana and upon the registration of the declaration in accordance with the provisions of subsection (2), he or she shall again become a citizen of Botswana.

Resumption of
citizenship

(2) The Minister may cause a declaration made under subsection (1) to be registered in such form as may be prescribed if he is satisfied that the person making the declaration —

Deprivation of
citizenship

- (a) has renounced citizenship of any other country of which such person is a citizen in accordance with the law in force in that behalf in that other country;
- (b) is resident in Botswana on the date of making the declaration; and
- (c) such person intends, on the registration of the declaration, to reside in Botswana.

18. The Minister may by order deprive a person of citizenship of Botswana if he is satisfied that that person —

- (a) has, by a voluntary and formal act other than marriage, acquired citizenship of another country;
- (b) being a citizen of Botswana by registration or naturalization —
 - (i) obtained such registration or naturalization by means of fraud, false representation or concealment of any material fact, whether on his or her own part or on the part of some other person;
 - (ii) has failed, on being so required by the President or the Minister, as the case may be, to renounce, within a specified time, his or her citizenship of any other country;
 - (iii) has shown himself or herself by act or speech to be disloyal or disaffected towards Botswana;
 - (iv) during any hostilities in which Botswana was or is engaged, unlawfully traded or communicated with any enemy or was or is engaged in or associated with any business which was or is to his or her knowledge carried on in such a manner as to assist an enemy in those hostilities; or
 - (v) has been resident outside Botswana for a continuous period of seven years and during that period has not given notice in writing to the Minister of his or her intention to retain his or her citizenship of Botswana:

Provided however, that the seven year period may not be renewed more than twice unless it is proved to the satisfaction of the Minister that special circumstances exist for such further renewal after the second renewal and it is in the public interest to do so; or

- (c) being a citizen of Botswana by registration, has failed, on being so required by the President or the Minister, as the case may be, to take the oath of allegiance.

Common-
wealth citizen

19. Every person who is a citizen of Botswana or of any Commonwealth country shall, by virtue of that citizenship, also have the status of a Commonwealth citizen.

Posthumous
children

20. Any reference in this Act to the status or description of a parent of a person at the time of that person's birth shall, if such person was born after the death of that parent, be construed as a reference to the status or description of that person at the time of the parent's death.

21. The Minister may, on application made by or on behalf of any person with respect to whose citizenship of Botswana a doubt exists, whether on a question of fact or law, certify that the person is a citizen of Botswana; and a certificate issued under this section shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be conclusive evidence that that person was a citizen on the date thereof, without prejudice to any evidence that such person was a citizen at an earlier date.	Certificate of citizenship in case of doubt
22. The Minister shall not be required to assign any reason for any decision taken under any of the provisions of this Act and no such decision shall be subject to appeal or review in any court.	Decision of Minister to be final
23. Every document or a certified copy thereof purporting to be a notice, certificate, order or declaration, or an entry in a register, or a subscription to an oath of allegiance, given, granted or made under this Act shall be received in evidence and shall, unless the contrary is proved, be deemed to have been given, granted or made by or on behalf of the person by whom or on whose behalf it purports to have been given, granted or made.	Evidence
24. Any person who — (a) for the purpose of procuring anything to be done or not to be done under this Act, makes any statement which he knows to be false or does not believe to be true in any material particular shall be guilty of an offence and on conviction thereof shall be liable to a term of imprisonment not exceeding five years or to a fine not exceeding P5 000, or to both; or (b) fails to comply with any requirement imposed on him by instrument made under this Act shall be guilty of an offence and on conviction thereof shall be liable to a term of imprisonment not exceeding 12 months or to a fine not exceeding P1 000.	Offences
25. The Minister may, by statutory instrument, make regulations for anything required to be prescribed or generally for the carrying into effect the provisions of this Act.	Regulations
26. The Citizenship Act is hereby repealed.	Repeal of Cap. 01:01
27. Every person who was a citizen of Botswana at the commencement of this Act shall remain a citizen notwithstanding the repeal effected by section 26.	Preservation of existing citizenship
28. Notwithstanding the repeal of the enactment effected by section 26, every statutory instrument made under the enactment and in force on the day immediately before the commencement of this Act shall continue in force as if such instrument had been made under this Act.	Saving

PASSED by the National Assembly this 8th day of April, 1998.

C.T. MOMPEI,
Clerk, of the National Assembly.