



Republic of Namibia
Annotated Statutes

Namibian Citizenship Act 14 of 1990

(GG 65)

brought into force on 15 September 1990 by Proc. 13/1990 (GG 72)

as amended by

Immigration Control Act 7 of 1993 (GG 690)

brought into force on 29 July 1994 by GN 133/1994 (GG 895)

ACT

To further regulate the acquisition or loss of Namibian citizenship in pursuance of the provisions of Article 4 of the Namibian Constitution; and to provide for matters incidental thereto.

(Signed by the President on 20 August 1990)

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BE IT ENACTED by the National Assembly of the Republic of Namibia, as follows:-

PART I

DEFINITIONS

Definitions

1. (1) In this Act, unless the context otherwise indicates -

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“alien” means a person who is not a Namibian citizen;

“date of Independence” means 21 March 1990;

“foreign country” means a country other than Namibia;

“Minister” means the Minister of Home Affairs or any other Minister to whom the President may from time to time assign the administration of this Act;

“oath of allegiance” means the oath of allegiance set out in the First Schedule;

“Permanent Secretary” means the Permanent Secretary for Home Affairs;

“prescribed” means prescribed under this Act or any regulation;

“responsible parent”, in relation to a child under the age of 18 years and who is not or has not been married, means the father or the mother of that child.

(2) For the purposes of this Act -

- (a) any reference to the acquisition by any person of Namibian citizenship by birth, descent, marriage, registration or naturalisation as applied in this Act, shall be construed as a reference to the acquisition of Namibian citizenship by birth, descent, marriage, registration or naturalisation as contemplated in Article 4(1), (2), (3), (4) or (5) of the Namibian Constitution, respectively, and any reference to a Namibian citizen as such shall be construed accordingly;
- (b) any reference to the status or description of the father of a person at the time of that person’s birth shall, in relation to a person born after the death of his or her father be construed as a reference to the status or description of the father at the time of the father’s death, and where the death occurred prior to, and the birth occurred after, the date of commencement of this Act, the status or description which would have been applicable to the father if he had died after that date shall be deemed to be the status or description applicable to him at the time of the death;
- (c) a person born aboard a registered ship or aircraft shall be deemed to have been born at the place where the ship or aircraft is registered, and a person born aboard an unregistered ship or aircraft belonging to the Government of any country shall be deemed to have been born in that country;
- (d) a person shall be regarded as not having attained a specified age until the commencement of the relevant anniversary of the day of his or her birth.

PART II

NAMIBIAN CITIZENSHIP

CITIZENSHIP BY DESCENT

Regulation of citizenship by descent

2. (1) Subject to the provisions of subsection (2), a person who complies with the requirements and conditions for the acquisition of citizenship by descent shall be a Namibian citizen by descent upon registration of his or her citizenship as such in the prescribed manner,

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and the Minister may upon application made at any time in the prescribed form by that person, cause a certificate of registration as such a citizen to be issued to that person.

- (2) (a) A person born outside Namibia on or after the date of Independence shall be deemed to have complied with the requirements of registration under subsection (1), if -
- (i) such person's birth is registered at any Namibian diplomatic mission, if there is one, or in default thereof, any Namibian consular mission or office of a trade representative of the Government of Namibia or such other mission, office or place as may be prescribed, in accordance with the provisions of any law in force in Namibia regulating the registration of births; or
 - (ii) such person has entered Namibia and his or her birth is, within one year after having entered Namibia or such longer period as the Minister may in the special circumstances of the case approve, registered in Namibia in the prescribed manner.
- (b) Any person born outside Namibia on or after the date of Independence shall, if such person was adopted in terms of the provisions of any law regulating the adoption of children in Namibia, by a Namibian citizen or, in the case of a joint adoption, the adoptive father or mother is a Namibian citizen and such person's birth is registered in accordance with the provisions of paragraph (a)(i) or (ii), as the case may be, be deemed to be registered as a Namibian citizen by descent under subsection (1), and a certificate of registration may, upon application made in terms of that subsection, be issued to such person.

(3) Notwithstanding the provisions of subsection (2), no person who is born outside Namibia on or after the date of Independence shall be registered or deemed to be registered under subsection (1), if -

- (a) such person when he or she enters or is found in Namibia would be a prohibited immigrant in terms of any law relating to immigration; or
- (b) such person's father or mother was at the time of the birth of such person, a prohibited immigrant under the law then in force in Namibia; or
- (c) such person's father or mother was at the time of the birth of such person a member of any police, military or security force seconded for service within Namibia.

(4) An application for a certificate of registration referred to in subsection (1) shall, in the case of a child who is under the age of 18 years and who is not or has not been married, be made on behalf of such child by the responsible parent or guardian of that child.

CITIZENSHIP BY MARRIAGE

Regulation of citizenship by marriage

3. (1) The Minister shall, subject to the provisions of subsection (3), upon application made in the prescribed form by any person who complies with the requirements and conditions for the acquisition of citizenship by marriage, issue to such person a certificate of registration to that effect.

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(2) Any person to whom a certificate of registration has been issued in terms of subsection (1) shall become, from the date of the issue of such certificate, a Namibian citizen as such.

- (3) (a) A marriage by customary law having been recognised as such for the purposes of the acquisition of citizenship by marriage, shall only be so recognised, if the Minister or any person designated by the Minister is satisfied upon information submitted to him or her by the applicant and such other person alleged to be the applicant's spouse by customary law, in a declaration made in the prescribed form, that the applicant is in fact married by customary law to the person in question.
- (b) The Minister or the person so designated may, in addition to any information contained in the declaration submitted in terms of paragraph (a) or to clarify any information so submitted, call for further information to be submitted to him or her, and may call upon any person who is present to appear before him or her and require or allow such person to give such oral information or produce such other information as in the opinion of the Minister or the person so designated may assist him or her in deciding the matter in question.

CITIZENSHIP BY REGISTRATION**Regulation of citizenship by registration**

4. (1) The Minister may, upon application made in the prescribed form, authorize the registration of a person as a Namibian citizen and cause a certificate of registration to be issued to such person, if the Minister is satisfied that such person complies with the requirements and conditions for the acquisition of citizenship by registration.

- (2) (a) An application referred to in subsection (1) shall, in the case of a child who is under the age of 18 years and who is not or has not been married, be made on behalf of such child by the responsible parent or guardian of such child.
- (b) Any person on whose behalf an application has been made in terms of paragraph (a), may at any time within one year after attaining the age of 18 years, or if he or she is married before having attained that age, within one year after his or her marriage, make a declaration in the prescribed form that he or she does not wish to resume his or her Namibian citizenship, and thereupon such person shall be deemed to have formally renounced his or her Namibian citizenship as such, with effect from the date of that declaration.

(3) A person to whom a certificate of registration has been issued under subsection (1) shall, from the date of the issue of the certificate, be a Namibian citizen by registration.

CITIZENSHIP BY NATURALISATION**Regulation of citizenship by naturalisation**

5. (1) The Minister may, upon application made in the prescribed form, grant a certificate of naturalisation as a Namibian citizen to any person who satisfies the Minister that -

- (a) he or she complies with the requirements and conditions for the acquisition of citizenship by naturalisation; and
- (b) he or she has been lawfully admitted to Namibia for residence therein; and

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- (c) he or she is not a child under the age of 18 years; and
- (d) he or she is of good character; and
- (e) he or she intends to continue to reside in Namibia or to enter or continue in the service of the Government of Namibia or of an international organization of which the Government of Namibia is a member, or of a person or association of persons resident or established in Namibia; and
- (f) he or she has an adequate knowledge of the responsibilities and privileges of Namibian citizenship; and
- (g) he or she is willing to renounce the citizenship of any foreign country of which he or she is a citizen; and
- (h) he or she has not been convicted in Namibia of an offence specified in the Second Schedule to this Act.

(2) Any period during which an applicant for naturalisation has been employed outside Namibia in the service of the Government of Namibia or on a ship or aircraft or any public means of transport registered or licenced in and operating from Namibia, and any period during which a person who is an applicant for naturalisation has been resident outside Namibia with his or her spouse while the latter was so employed, shall for the purposes of the computation of any period of residence or ordinary residence as contemplated in subsection (1) be regarded as a period of residence or ordinary residence in Namibia.

- (3) No period during which an applicant for naturalisation under subsection (1) -
 - (a) is or was confined in a prison, reformatory or mental institution or other place of detention established by or under any law;
 - (b) has the right to reside in Namibia only by virtue of a temporary permit issued under any immigration law;
 - (c) involuntarily remained or resided in Namibia; or
 - (d) has entered or remained in Namibia as a visitor or by error, oversight, misrepresentation or in contravention of any law,

shall for the purposes of the computation of any period of residence or ordinary residence as contemplated in that subsection, be regarded as a period of residence or ordinary residence in Namibia.

(4) The Minister may, notwithstanding the provisions of subsection (1), upon application made in the prescribed form by the responsible parent or guardian of a child who is under the age of 18 years and is not or has not been married and who is ordinarily resident in Namibia, grant to that person a certificate of naturalisation as a Namibian citizen.

(5) The Minister may, in respect of any person who has applied for a certificate of naturalisation make such enquiries as he or she may deem fit and require such person to appear personally before him or her or a person designated by the Minister.

(6) A certificate of naturalisation shall not be issued to any person over the age of 14 years until that person has taken the oath of allegiance or, if such person objects on religious

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grounds to the taking of an oath, made a corresponding solemn affirmation before one of such persons designated by the Minister.

(7) If the Minister has refused an application for a certificate of naturalisation by or on behalf of any person, the Minister shall not be obliged to reconsider such application at any time, but shall not consider another application for such certificate by or on behalf of such person until the expiration of a period of at least one year from the date upon which the person in question was advised of the Minister's decision, unless the Minister under special circumstances deemed it expedient to consider the application before the expiration of that period.

(8) The grant of a certificate of naturalisation shall, subject to the provisions of subsection (7), be in the absolute discretion of the Minister and he or she may, without assigning any reason, grant or refuse such certificate as he or she deems most conducive to the public good, and no appeal shall lie from the Minister's decision.

(9) A person to whom a certificate of naturalisation has been granted in terms of an application made under this section, shall, with effect from the date of the issue of such certificate, be a Namibian citizen by naturalisation.

HONORARY CITIZENSHIP**Honorary citizenship**

6. (1) When, in the opinion of the President, any person who is not a Namibian citizen has rendered any distinguished service to Namibia, the President may grant such person honorary citizenship of Namibia.

(2) A person to whom honorary citizenship is granted in terms of subsection (1) shall become an honorary citizen of Namibia on such date as the President may determine.

(3) The grant of honorary citizenship shall not -

- (a) render the honorary citizen liable to military service or any other obligation as a citizen of Namibia; or
- (b) entitle the honorary citizen to be registered as a voter; or
- (c) entitle the spouse, child or any other family relation of the honorary citizen to become a Namibian citizen.

PART III**LOSS OF CITIZENSHIP****Loss of Namibian citizenship acquired by registration or naturalisation**

7. (1) A Namibian citizen who has acquired his or her citizenship by registration or naturalisation shall cease to be a Namibian citizen as such if, on or after the date of Independence -

- (a) such person is of or over the age of 18 years, and by voluntary act other than marriage acquires the citizenship of a foreign country; or

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- (b) such person acquires by marriage the citizenship of a foreign country unless such person has renounced his or her foreign citizenship in the form and manner prescribed, within one year after the date of so acquiring that citizenship; or
 - (c) such person is of or over the age of 18 years and by some means other than by voluntary act or marriage, acquires the citizenship of a foreign country unless such person has renounced his or her foreign citizenship in the form and manner prescribed, within one year after the date of so acquiring that citizenship; or
 - (d) such person having attained the age of 18 years, he or she is also a citizen of a foreign country unless such person has renounced his or her foreign citizenship in the form and manner prescribed, within one year after the date of attaining that age; or
 - (e) such person serves in the armed or security forces of any foreign country while that country is at war with Namibia; or
 - (f) such person has served or volunteered to serve in the armed or security forces of any foreign country without the written permission of the Minister.
- (2) (a) Notwithstanding anything to the contrary contained in any other law, but subject to the provisions of paragraph (b), any person who is ordinarily resident in Namibia and who ceased to be a Namibian citizen in terms of paragraph (a), (b), (c), (d) or (f) of subsection (1), shall be deemed to be an alien and be entitled, from the date on which he or she so ceased to be a Namibian citizen -
- (i) to reside in Namibia;
 - (ii) subject to the provisions of any law -
 - (aa) to acquire, hold and dispose of movable and immovable property in Namibia;
 - (bb) to enter into a contract of apprenticeship or to be engaged in any profession, trade or employment in Namibia;
 - (cc) to enter as a pupil or student any school or other educational institution established or registered by or under any law;
 - (iii) generally, to do all such things as may be done by persons who are ordinarily resident in Namibia.
- (b) The Minister may, by order, deprive a person of all or any of his or her rights under paragraph (a) on the same grounds as he may deprive that person of his or her citizenship, if that person was a Namibian citizen by registration or naturalisation, and the provisions of section 9 shall *mutatis mutandis* apply in respect of an order made in terms of this paragraph.
- (3) (a) A Namibian citizen by registration or naturalisation shall, subject to the provisions of paragraph (b), cease to be a Namibian citizen as such if he or she has taken up permanent residence in any foreign country and has absented himself or herself thereafter from Namibia for a period exceeding two years without the written permission of the Minister, exclusive of any such period during which -
- (i) such person is so absent in the service of the Government of Namibia; or

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- (ii) such person is so absent as the representative or employee of a person or association of persons resident, or established in Namibia, or in the service of an international organization of which the Government of Namibia is a member; or
 - (iii) in the case of the spouse or child under the age of 18 years who is not or has not been married, of a person referred to in subparagraph (i) or (ii), such spouse or child is so absent with such person; or
 - (iv) in the case of the spouse or such child of a person who is a Namibian citizen by birth or descent, such spouse or child is so absent with such person; or
 - (v) such person is so absent and in respect of which the Minister has granted exemption under subsection (4).
- (b) Whenever a person ceases under paragraph (a) to be a Namibian citizen, his or her children under the age of 18 years and who are not or have not been married and who are Namibian citizens by registration or naturalisation shall also cease to be Namibian citizens if the other parent of such children is not, or does not, remain a Namibian citizen.
- (c) A child who has ceased to be a Namibian citizen under paragraph (b) and who is resident in Namibia or has returned to Namibia for permanent residence therein may within one year after attaining the age of 18 years, make a declaration in the prescribed form that he or she wishes to resume Namibian citizenship, and upon registration of the declaration in the prescribed manner, shall resume his or her former Namibian citizenship.
- (4) (a) The Minister may, where he or she considers it necessary or desirable and that it will not be contrary to the national interest, by order, grant any person or category of persons an exemption from all or any of the provisions of this section, subject to such conditions as he or she may determine.
- (b) Where any such exemption is granted in respect of any category of persons, the Minister may exclude from such exemption any person belonging to that category.
- (c) Any such exemption, whether granted in respect of a category of persons or any person belonging to any category of persons or in respect of a particular person, may at any time be revoked by the Minister in his or her discretion.
- (5) Any exemption under subsection (4) may, in any case where in the opinion of the Minister special circumstances exist also be granted after the person in respect of whom it is granted has, by virtue of the provisions of this section, already ceased to be a Namibian citizen by registration or naturalisation, and in that event such person shall be deemed not to have ceased to be a Namibian citizen as such.

Renunciation of Namibian citizenship

8. (1) A Namibian citizen who renounces his or her Namibian citizenship by signing a declaration in the prescribed form, shall, subject to the provisions of subsection (2), cease to be a Namibian citizen.

(2) The Minister shall upon receipt by him or her cause to be registered in the manner prescribed every declaration signed under this section and thereupon the person who signed the

declaration shall with effect from the date of registration cease to be a Namibian citizen: Provided that the Minister may refuse to cause any declaration signed in terms of this section to be registered while Namibia is at war with any foreign country.

(3) Whenever a person ceases under subsection (2) to be a Namibian citizen, his or her child under the age of 18 years and who is not or has not been married shall also cease to be a Namibian citizen if the other parent of such child is not, or does not, remain a Namibian citizen.

(4) A child who has ceased to be a Namibian citizen under subsection (3) and who is resident in Namibia or has returned to Namibia for permanent residence therein, may within one year after attaining the age of 18 years, make and sign a declaration in the prescribed form that he or she wishes to resume Namibian citizenship, and upon registration of the declaration in the prescribed manner, shall resume his or her former Namibian citizenship.

(5) Any person who, after having renounced his or her Namibian citizenship, does not become a citizen of any foreign country within one year from the date of registration of his or her declaration of renunciation, such person shall be deemed to have remained a Namibian citizen, notwithstanding the registration of his or her declaration of renunciation, and shall resume his or her former Namibian citizenship.

Deprivation of Namibian citizenship

9. (1) A Namibian citizen by registration or naturalisation shall cease to be a Namibian citizen if deprived thereof by an order under this section.

(2) The Minister may by order deprive any Namibian citizen by registration or naturalisation of his or her Namibian citizenship if the Minister is satisfied that the certificate of registration or naturalisation was obtained by means of fraud, false representation or the concealment of a material fact.

(3) Subject to the provisions of this section, the Minister may by order deprive any Namibian citizen, by registration or naturalisation, of his or her Namibian citizenship, if the Minister is satisfied that such citizen -

- (a) if outside Namibia has shown himself or herself to be disloyal or disaffected towards Namibia or has acted in a manner prejudicial or likely to be prejudicial to the public safety or order; or
- (b) has, during any war in which Namibia is or has been engaged, whether such war is or was declared or not, unlawfully traded or communicated with an enemy or been engaged in or assisted with any business which was to his or her knowledge carried on in such a manner as to assist an enemy in that war; or
- (c) has been sentenced in any foreign country to imprisonment for a period of not less than twelve months without an option of a fine; or
- (d) if in Namibia has been convicted of an offence referred to in the Second Schedule of this Act and sentenced in respect of that conviction to imprisonment of not less than twelve months without the option of a fine; or
- (e) was, immediately before he or she was registered as a Namibian citizen as such -
 - (i) a prohibited immigrant in terms of any law in force relating to immigration in Namibia; or

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- (ii) a citizen of a foreign country and has in terms of any law in force in that country been deprived of that citizenship on grounds which the Minister considers are substantially similar to any of the grounds referred to in this section.

(4) The Minister shall not deprive a person of his or her citizenship by order made in terms of subsection (1) -

- (a) if, by reason of the order, the person would be rendered stateless; or
- (b) unless the Minister is satisfied that it is not conducive to the public interest that the person should continue to be a Namibian citizen.

(5) Before making an order under this section, the Minister may, if he or she deems it necessary, refer the matter to an enquiry as hereinafter provided, and if the order is proposed to be made on any of the grounds specified in subsection (2) or paragraph (a), (b) or (e)(ii) of subsection (3), the Minister shall give the person in respect of whom the order is proposed to be made, notice in writing addressed to such person's last known place of residence, informing such person of the grounds on which the order is proposed to be made and giving such person an opportunity of requesting that the matter be referred to an enquiry, and if the person concerned so requests within a period of 30 days of the date of the notice, the Minister shall refer the matter to an enquiry within 21 days from the date of such request as hereinafter provided.

(6) Any person in respect of whom an order is proposed to be made shall, if he or she is in Namibia, be entitled to appear personally or by any legal representative on his or her behalf, or, if he or she is outside Namibia by any legal representative on his or her behalf, at any enquiry, held under subsection (5).

(7) An enquiry under subsection (5) shall be held by a person, appointed for that purpose by the President (hereinafter referred to as the Commissioner), who is or has been a judge of the Supreme Court or the High Court.

(8) The provisions of the Commissions Act, 1947 (Act 8 of 1947), except section 1 thereof, shall apply with reference to the Commissioner appointed under subsection (7) of this section: Provided that any reference in the said Act to the secretary or chairman of a commission shall in its application with reference to the Commissioner appointed under subsection (7) of this section, be deemed to be a reference to the Commissioner.

(9) A report made by any police officer or immigration officer in connection with a person against whom an order is proposed to be made in terms of subsection (1) shall not be disclosed at any enquiry held in terms of this section to any person other than the Commissioner if the Minister directs that its disclosure to any person other than the Commissioner would not be in the public interest.

(10) In deciding whether or not to deprive a person of his or her citizenship by order in terms of subsection (1), the Minister shall have due regard to any recommendation made by a Commissioner by virtue of an enquiry held in terms of this section.

(11) Whenever the Minister deprives a person of his or her Namibian citizenship under this section, that person shall cease to be a Namibian citizen with effect from such date as the Minister may direct in the order and thereupon the certificate of registration or naturalisation issued under this Act in relation to the status of the person concerned shall be cancelled.

(12) The Minister may, in such cases as he or she deems fit, withdraw any order made under subsection (2) or paragraph (e)(i) of subsection (3) of this section, and thereupon the person concerned shall, with effect from such date as the Minister may direct resume his or her former Namibian citizenship.

Deprivation of citizenship in case of children

10. (1) Whenever the responsible parent of a child under the age of 18 years and who is not or has not been married, has in terms of the provisions of section 7(1) ceased to be a Namibian citizen or has been deprived in terms of the provisions of section 9 of his or her Namibian citizenship, the Minister may order that such child, if he or she is a Namibian citizen by registration or naturalisation, shall cease to be a Namibian citizen.

(2) Any person who has under subsection (1) ceased to be a Namibian citizen, may at any time within one year after attaining the age of 18 years, make a declaration in the prescribed form that he or she wishes to resume Namibian citizenship, and if the Minister thinks fit the Minister may direct that such declaration be registered, and upon registration thereof such person shall resume his or her former Namibian citizenship.

Status of persons who cease to be Namibian citizens

11. (1) Whenever a person ceases to be a Namibian citizen under the provisions of section 9, he or she shall be regarded as having the citizenship or nationality which he or she had before he or she became a Namibian citizen.

(2) Whenever any person ceases to be a Namibian citizen under the provisions of section 7(3) or 10, he or she shall be regarded as having the citizenship or nationality which he or she had before he or she became a Namibian citizen, and if he or she had no other citizenship or nationality, he or she shall be regarded as having the citizenship or nationality of his or her responsible parent.

- (3) (a) Whenever any person ceases to be a Namibian citizen under the provisions of section 7(1), 8, 9 or 10, such person shall for the purposes of the Aliens Act, 1937, be deemed to be an alien who is not in possession or is not deemed to be in possession of a permit referred to in section 4 or 5 of that Act.
- (b) Whenever any person ceases to be a Namibian citizen under the provisions of paragraph (a), (b) or (e)(ii) of subsection (3) of section 9, a permit shall not be issued to him or her in terms of section 4 of the Aliens Act, 1937, and he or she shall not be entitled to obtain Namibian citizenship in any manner again.
- (c) The Minister may at any time exempt -
- (i) any person or category of persons for a specified or unspecified period unconditionally or on such conditions as he or she may think fit from all the provisions of paragraph (a);
 - (ii) any person on such conditions as he or she may think fit from the provisions of paragraph (b).
- (d) The Minister may exclude any person belonging to a category of persons from an exemption granted under paragraph (c) to such category of persons.

- (e) The Minister may at any time withdraw any exemption granted under paragraph (c) to any category of persons or to any person, whether as an individual or as a member of a category of persons.

Saving of obligations incurred before loss of citizenship

12. Whenever a person ceases to be a Namibian citizen he or she shall not thereby be discharged from any obligation, duty or liability in respect of any act done before he or she ceased to be a Namibian citizen.

PART IV

RESTORATION OF CITIZENSHIP

Restoration of citizenship in certain cases

- 13.** (1) A person who has -
- (a) been deprived of his or her Namibian citizenship in terms of the provisions of subsection (2) or paragraph (c), (d) or (e)(ii) of subsection (3) of section 9 or 10; or
 - (b) ceased to be a Namibian citizen in terms of section 7 or 8,

may apply to the Minister in the prescribed form and manner for the restoration of his or her Namibian citizenship: Provided that, in the case of a person who ceased to be a Namibian citizen under section 7(3)(b) or 8(3) or was deprived of his or her Namibian citizenship under section 10, the responsible parent shall apply on behalf of that person for the restoration of that person's Namibian citizenship under this section.

(2) The Minister may, subject to such conditions as he or she may determine, in each case, restore to a person who has applied to him or her under subsection (1), such person's former Namibian citizenship by causing a certificate of restoration as a Namibian citizen as such to be issued to such person.

- (3) A certificate referred to in subsection (2) shall not be issued to any person -
- (a) over the age of 14 years until that person has taken the oath of allegiance or, if such person objects on religious grounds to the taking of an oath, has made a corresponding solemn affirmation before one of such persons designated by the Minister;
 - (b) who is also a citizen of a foreign country.

(4) A person whose Namibian citizenship has been restored in terms of this section shall, with effect from the date of the issue of the certificate referred to in subsection (2), be a Namibian citizen as such.

PART V

MISCELLANEOUS

Registration of certain persons

14. When the Minister is satisfied that any child under the age of 18 years who is not or has not been married has associations which relate to Namibian citizenship by birth, descent,

registration or naturalisation, and which would justify such child's registration as a Namibian citizen, the Minister may, as he or she deems fit, cause such person to be registered as such a citizen.

Grant of certificate of citizenship in cases of doubt

15. (1) The Minister may in such cases as he or she deems fit, grant to any person in respect of whose Namibian citizenship a doubt exists, a certificate that he or she is a Namibian citizen.

(2) Before granting any certificate under subsection (1), the Minister may require the person concerned to comply with such provisions of this Act as the Minister may direct.

(3) The Minister may in any certificate under subsection (1) describe the person to whom it relates as a Namibian citizen by birth, descent, marriage, registration or naturalisation, as the Minister deems fit.

(4) A certificate granted under this section shall, unless it is proved that it was obtained by means of fraud, false representation or the concealment of some material fact, be conclusive evidence that the person to whom it relates was a Namibian citizen by birth, descent, marriage, registration or naturalisation, as the case may be, at the date of the issue of the certificate, but shall not be deemed to imply any admission that the person to whom it is granted was not previously a Namibian citizen.

Certificates of Namibian citizenship

16. (1) The Minister may on the application of any person cause to be issued to that person a certificate in respect of the status of any person who to his or her satisfaction is, or was, a Namibian citizen.

(2) A certificate under subsection (1) shall indicate in addition to such other particulars as the Minister may deem fit whether the person in respect of whom it is issued, is or was at the date or for the period mentioned therein, a Namibian citizen by birth, descent, marriage, registration or naturalisation, without prejudice to any evidence that he or she was at any other date or during any other period a Namibian citizen as mentioned therein.

(3) The Minister may call for the production of such evidence of citizenship as he or she deems fit before authorizing the issue of any certificate in terms of subsection (1).

Representations to Minister with regard to any applicant for registration or naturalisation

17. (1) Any person may make representations to the Minister with regard to any person who has applied for a certificate of registration or naturalisation.

(2) The presentations shall be made in the form of an affidavit.

(3) The contents of any affidavit filed with the Minister in pursuance of this section shall not be disclosed to any person other than for the purpose of criminal proceedings for any false statement made in the affidavit.

Proof of affidavits and certificates

18. (1) Any affidavit made under this Act may be proved in any legal proceedings by the mere production of the original affidavit or of any copy thereof certified, as may be prescribed to be a true copy, and the production of the affidavit or copy shall be *prima facie*

evidence of the person therein named as deponent having made the affidavit at the date therein mentioned.

(2) Any certificate issued under this Act may be proved in any legal proceedings by the mere production of the original certificate or of any copy thereof certified in the manner prescribed to be a true copy.

Compilation of register in respect of Namibian citizenship

19. The Minister or any person designated by him shall cause any register in such form and manner as may be directed by the Minister, to be compiled and maintained in respect of persons -

- (a) who are Namibian citizens; and
- (b) who have renounced or been deprived of their Namibian citizenship or who have ceased to be Namibian citizens under any provision of this Act or any other law.

Proof of entries in registers

20. Entries in any register made in pursuance of this Act may be proved by such copies to be certified in such manner as may be directed by the Minister, and the copies of such entries shall be evidence of any matters, by this Act or by any regulation of the Minister, authorized to be inserted in the register.

Amendment of certificate of citizenship

21. (1) Whenever the Minister is satisfied that any error has occurred in any certificate issued under this Act, or any change has occurred in respect of the particulars recorded therein, he or she may rectify the error or alter the particulars by amending the certificate.

(2) Any certificate amended in terms of the provisions of subsection (1) shall as from the date of amendment thereof, have effect as so amended.

(3) The Minister may call upon any person to produce to him or her any certificate which requires to be amended in terms of subsection (1).

Offences and penalties

- 22.** (1) Any person who -
- (a) makes for any of the purposes of this Act, any false representation or any statement in a material particular, knowing the same to be false; or
 - (b) otherwise than in the course of his or her duties, directly or indirectly, by himself or herself or by or through any other person, in any manner whatsoever influences or attempts to influence any decision of the Minister; or
 - (c) refuses or fails on demand to produce to the Minister a certificate which he or she has in his or her possession as required by section 21(3),

shall be guilty of an offence and liable on conviction -

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- (i) in the case of an offence in terms of paragraph (a) or (b), to a fine not exceeding R6 000 or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment; and
- (ii) in any other case, to a fine not exceeding R2 000 or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

(2) The liability of any person in respect of any offence committed in terms of subsection (1) shall not be affected by the loss or deprivation of his or her Namibian citizenship after the commission of the offence in question.

Delegation of powers and duties

23. The Minister may authorize any officer in his or her Ministry to exercise or perform, subject to his or her control and directions any power or duty conferred or imposed upon him or her by this Act, and any power or duty so exercised or performed by any such officer, shall be deemed to have been exercised or performed by the Minister.

Instruction on the responsibilities and privileges of Namibian citizenship

24. The Minister may establish such facilities as to him or her may appear necessary or desirable to enable applicants for certificates of naturalisation under this Act to receive instruction on the responsibilities and privileges of Namibian citizenship.

Manner of making application

25. Every application made under this Act shall be -
- (a) in such manner as may be prescribed;
 - (b) supported by such evidence of the statements made therein as may be prescribed;
 - (c) verified by affidavit or a declaration made before a magistrate or commissioner of oaths; and
 - (d) accompanied by such fee as may be prescribed.

Prohibition of dual citizenship

26. Subject to the provisions of this Act or any other law, no Namibian citizen shall also be a citizen of a foreign country.

[The High Court has held that section 26 may not be constitutionally applied to Namibian citizens by birth or descent; see *Thloro v Minister of Home Affairs* 2008 (1) NR 97 (HC) and *Le Roux v Minister of Home Affairs and Immigration & Others* 2011 (2) NR 606 (HC).]

Citizenship of women not affected by marriage

27. A married woman shall, subject to the provisions of this Act or any other law, be capable of acquiring, losing or being deprived of Namibian citizenship, in all respects as if she were an unmarried person.

Regulations

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- 28.** (1) The Minister may make regulations not inconsistent with this Act -
- (a) authorizing the Permanent Secretary to issue directions and to prescribe -
 - (i) the form and manner in which any application required or authorized under this Act, may be made;
 - (ii) the form of any certificate which may be granted or issued under this Act;
 - (iii) the form and manner in which any declaration of renunciation or any other declaration required or authorized in terms of this Act, may be made;
 - (iv) the manner of registration of anything required or authorized to be registered in terms of this Act,

and as to the purposes for which they may be used and for the disposal, safe custody and preservation thereof;

- (b) with regard to the persons before whom the oath of allegiance may be taken and the persons before whom declarations of renunciation of citizenship may be made, and the time and period within which the oath of allegiance shall be taken;
- (c) with regard to the surrender and cancellation of certificates of citizenship or other documents relating to the citizenship of persons who ceased to be or are deprived of their citizenship in terms of this Act;
- (d) with regard to the amendment of any certificate under this Act;
- (e) with regard to the circumstances under which and the conditions subject to which copies of certificates or entries in any register may be furnished;
- (f) with regard to the levying of any fees in respect of -
 - (i) the registration of any thing, the issue of any certificate of citizenship or the taking of the oath of allegiance, under this Act;
 - (ii) the furnishing of a copy of any declaration, certificate, entry in any register or oath made, granted, done or taken under this Act,

and generally, with regard to all other matters which by this Act are required or permitted to be prescribed or which he or she considers them necessary or expedient to prescribe in order that the purposes of this Act may be achieved or that this Act may be effectively administered.

(2) Regulations made in terms of subsection (1) may provide penalties for contraventions thereof not exceeding a fine of R1 000 or imprisonment for a period not exceeding six months or both such fine and such imprisonment.

Repeal or amendment of laws

29. The laws specified in the Third Schedule are hereby repealed or amended to the extent indicated in the third column thereof.

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[section 29 repealed by Act 7 of 1993 “in so far as it relates to any entry in the Third Schedule relating to the Aliens Act, 1937, the Residence in the Republic Regulation Act, 1964, and the Admission of Persons to Namibia Regulation Act, 1972”]

Short title and commencement

30. This Act shall be called the Namibian Citizenship Act, 1990, and shall come into operation on a date to be determined by the President by proclamation in the *Gazette*.

FIRST SCHEDULE

OATH OF ALLEGIANCE

I, A.B., do hereby declare on oath that I unreservedly renounce all allegiance and fidelity to any foreign country or the Head of State of whom I have heretofore been a citizen, and that I will be faithful to the Republic of Namibia, observe its laws, promote all that which will advance it and oppose all that may harm it.

So Help Me God.

SECOND SCHEDULE

SPECIFIED OFFENCES

High treason.

Sedition.

Murder.

Rape.

Fraud.

Forgery or the uttering of a forged document knowing it to be forged.

Kidnapping.

Housebreaking, whether under the common law or a statutory provision, with intent to commit an offence.

Theft, whether under the common law or a statutory provision.

Receiving stolen property knowing it to have been stolen.

Public violence.

Robbery.

Bribery.

Counterfeiting coin or the uttering of counterfeit knowing it to be counterfeit.

Any offence under any law relating to the illicit dealing in, selling or possession of unwrought precious metals or rough or uncut precious stones.

Any offence under any law relating to the illegal dealing in, possession, conveyance or supply of dependence-producing drugs.

Any offence under the Controlled Game Products Proclamation, 1980 (Proclamation AG. 42 of 1980).

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[The Controlled Game Products Proclamation AG. 42 of 1980 was repealed by the Controlled Wildlife Products and Trade Act 9 of 2008.]

Any conspiracy, incitement or attempt to commit any offence referred to in this Schedule.

THIRD SCHEDULE

LAWS REPEALED OR AMENDED

(Section 29)

[See the amendment to section 29 which relates to this Schedule. It repeals section 29 “in so far as it relates to any entry in the Third Schedule relating to the Aliens Act, 1937, the Residence in the Republic Regulation Act, 1964, and the Admission of Persons to Namibia Regulation Act, 1972”, but without actually deleting any of the items in the Schedule. These items have been struck through in the table below to indicate their resulting inapplicability.]

No. and year	Title of law	Extent of repeal or amendment
Act 1 of 1937	Aliens Act, 1937	(a) The amendment of section 1 by the deletion of the definition of “territory”; and (b) the amendment of the Act— (i) by the substitution for the expressions “the Union” or “the territory”, wherever they occur, of the word “Namibia”; and (ii) by the substitution for the expression “South African citizen”, wherever it occurs, of the expression “Namibian citizen”.
Act 44 of 1949.	South African Citizenship Act, 1949	The repeal of the whole.
Act 64 of 1961	South African Citizenship Amendment Act, 1961	The repeal of the whole.
Act 69 of 1962	Commonwealth Relations Act, 1962	The repeal of sections 18 to 28, inclusive.
Act 23 of 1964	Residence in the Republic Regulation Act, 1964	The repeal of sections 3, 4, 5, 6 and 7.
Act 59 of 1972	Admission of Persons to the territory Regulation Act, 1972	(a) The amendment of— (i) section 1 by the deletion in subsection (1) of the definition of “territory”; and (ii) section 40 by the substitution in subsections (1)(a) and (3) for the words “the Republic” wherever they occur, of the word “Namibia”; and (b) the amendment of the Act by the substitution for the words “the territory”, wherever they occur, of the word “Namibia”.
Act 41 of 1973	South African Citizenship Amendment Act, 1973	The repeal of the whole.
Act 53 of 1978	South African Citizenship Amendment Act, 1978	The repeal of the whole.
Act 30 of 1980	South African Citizenship	The repeal of the whole.

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	Amendment Act, 1980	
Act 95 of 1981	South African Citizenship Amendment Act, 1981	The repeal of the whole.
Act 43 of 1984	South African Citizenship Amendment Act, 1984	The repeal of the whole.
Act 33 of 1985	Residence of Certain Persons in South West Africa Regulation Act, 1985	The repeal of the whole.
Act 53 of 1986	Matters concerning Admission to and Residence in the Republic Amendment Act, 1986	The repeal of sections 6, 7, 8, 9, 10, 11 and 12.
Proclamation AG. 14 of 1989	First Law Amendment (Abolition of Discriminatory or Restrictive Laws for purposes of Free and Fair Election) Proclamation, 1989	The amendment of the Annexure by the deletion of the entries relating to the Residence of Certain Persons to South West Africa Regulation Act, 1985.