

CHAPTER VI - CITIZENSHIP

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CHAPTER VI

CITIZENSHIP

Persons who become citizens on 12th December, 1963.

87*. (1) Every person who, having been born in Kenya, is on 11th December, 1963 a citizen of the United Kingdom and Colonies or a British protected person become a citizen of Kenya on 12th December, 1963:

Provided that a person shall not become a citizen of Kenya by virtue of this subsection if neither of his parents was born in Kenya.

(2) Every person who, having been born outside Kenya, is on 11th December, 1963 a citizen of the United Kingdom and Colonies or a British protected person shall, if his father becomes, or would but for his death have become, a citizen of Kenya by virtue of subsection (1), become a citizen of Kenya on 12th December, 1963.

Persons entitled to be registered as citizens by virtue of connexion with Kenya before 12th December, 1963.

88*. (1) A person who, but for the proviso to section 87 (1), would be entitled, upon making application before the specified date in such manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Kenya:

Provided that a person who has not attained the age of twenty-one years (other than a woman who is or has been married) may not himself make an application under this subsection, but an application may be made on his behalf by his parent or guardian.

(2) A woman who, on 11th December, 1963, has been married to a person:-

(a) who becomes a citizen of Kenya by virtue of section 87; or

(b) who, having died before 12th December, 1963, would, but for his death, have become a citizen of Kenya by virtue of that section,

shall be entitled, upon making application in such manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Kenya.

(3) A woman who, on 11th December, 1963, has been married to a person who becomes, or would but for his death have become, entitled to be registered as a citizen of Kenya under subsection (1) or (5), but whose marriage has been terminated on or after that date but before that person exercises his right to be registered as a citizen of Kenya under either of those subsections, shall be entitled, upon making application before the specified date in such manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Kenya.

(4) A person who, on 11th December, 1963, is a citizen of the United Kingdom and Colonies or of the Republic of Ireland and is on that day ordinarily and lawfully resident in Kenya (otherwise than under the authority of a pass issued under the Immigration Act as then in force and conferring on him the right to remain in Kenya only temporarily) shall be entitled, upon making application before the specified date in such manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Kenya:

Provided that a person who has not attained the age of twenty-one years (other than a woman who is or has been married) may not himself make an application under this subsection, but an application may be made on his behalf by his parent or guardian.

(5) A person who, on 11th December, 1963, is a citizen of the United Kingdom and Colonies:-

(a) having become such a citizen under the British Nationality Act, 1948 by virtue of his having been naturalised in Kenya as a British subject before that Act came into force; or

(b) having become such a citizen by virtue of his having been naturalised or registered in Kenya under that Act,

shall be entitled, upon making application before the specified date in such manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Kenya:

Provided that a person who has not attained the age of twenty-one years (other than a woman who is or has been married) may not himself make an application under this subsection, but an application may be made on his behalf by his parent or guardian.

(6) In this section "the specified date" means:-

(a) in relation to a person to whom subsection (1), (4) or (5) refers, 12th December, 1965; and

(b) in relation a woman to whom subsection (3) refers, 12th December, 1965 or the expiration of such period after the termination of her marriage as may be prescribed by or under an Act of Parliament (whichever is the later),

or such later date as may in any particular case be prescribed by or under an Act of Parliament.

- *Section 87 and 88, although spent in their effect, are retained for the sake of clarification. The same applies to section 97 (2) and (6) (b).*

Persons born in Kenya after 11th December, 1963,

89. Every person born in Kenya after 11th December, 1963 shall become a citizen of Kenya if at the date of his birth one of his parents is a citizen of Kenya, except that a person shall not become a citizen of Kenya virtue of this section if at the date of his birth:-

6 of 1985, s. 2.

(a) his father possess immunity from suit and legal process as is accorded to the envoy of a foreign state accredited to Kenya; or

(b) his father is a citizen of a country with which Kenya is at war and the birth occurs in a place then under occupation by that country.

Persons born outside Kenya after 11th December, 1963.

90. A person born outside Kenya after 11th December, 1963 shall become a citizen of Kenya at the date of his birth if at that date his father is a citizen of Kenya.

Marriage to a Kenya citizen.

91. A woman who has been married to a citizen of Kenya shall be entitled, upon making application in such manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Kenya.

Persons eligible to be registered as Kenya citizens.

92. (1) A person who, being a Commonwealth citizen or a citizen of a country in Africa to which this subsection applies, has been ordinarily resident in Kenya for such period (whether commencing before, on or after 12th December, 1963) and under such authority as may be prescribed by or under an Act of Parliament shall be eligible, to be registered as a citizen of Kenya, and the Minister may cause any such person who so applies to be so registered.

(2) A person shall be eligible, upon making application in such manner as may be prescribed by or under an Act of Parliament shall be eligible, upon making application in such manner as may be so prescribed, to be registered as a citizen of Kenya, and the Minister may cause any such person who so applies to be so registered:

Provided that a person who has not attained the age of twenty-one years (other than a woman who is or has been married) may not himself make an application under this subsection, but an application may be made on his behalf by his parent or guardian.

(3) The countries in Africa to which subsection (1) of this section applies (other than the countries which are for the time being declared by the Minister, by notice published in

Kenya Gazette, to be countries which permit citizens of Kenya to become citizens of those countries by registration.

Persons eligible to be naturalised as Kenya citizens.

93. A person who:-

- (a) has attained the age of twenty-one years;
- (b) has been ordinarily and lawfully resident in Kenya for the period of twelve months immediately preceding his application under this section;
- (c) has been ordinarily and lawfully resident in Kenya for a period of, or for periods amounting in the aggregate to, not less than four years in the seen years immediately preceding the said period of twelve months;
- (d) satisfies the Minister that he is of good character;
- (e) satisfies the Minister that he has an adequate knowledge of the Swahili language; and
- (f) satisfies the Minister that he intends, if naturalised as a citizen of Kenya, to continue to reside in Kenya,

shall be eligible, upon making application in such manner as may be prescribed by or under an Act of Parliament, to be naturalised as a citizen of Kenya, and the Minister may grant a certificate of naturalisation to any such person who so applies.

Deprivation of citizenship.

94. (1) The Minister may, by order published in the Kenya Gazette and after such procedure as may be prescribed by or under an Act of Parliament, deprive of his citizenship of Kenya any person who is a citizen by registration or naturalisation if the Minister is satisfied:-

- (a) that the citizen has shown himself by act or speech to be disloyal or disaffected towards Kenya; or
- (b) that the citizen has, during any war in which Kenya was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist an enemy in that war: or
- (c) that, within the period of five years commencing with the date of the registration or naturalisation, a sentence of imprisonment of or exceeding twelve months has been imposed on that citizen by a court in any country or has been substituted by competent authority for some other sentence imposed on him by such a court; or
- (d) that that citizen has, since becoming a citizen of Kenya, been ordinarily resident in countries other than Kenya for a continuous period of seven years and during that period has neither:-
 - (i) been at any time in the service of Kenya or of an international organisation of

which Kenya was a member; nor

(ii) registered annually at a Kenya consulate his intention to retain his citizenship of Kenya; or

(e) that the registration or naturalisation was obtained by means of fraud, false representation or the concealment of any material fact.

(2) For the purposes of subsection (1) (c):-

(a) a person shall not be regarded as having had imposed on him a sentence of imprisonment of or exceeding twelve months if he has been granted a free pardon in respect of the offence for which he was so sentenced or if his conviction for that offence has been set aside or if his sentence has been reduced to a term of imprisonment of less than twelve months or is a sentence other than imprisonment has been substituted therefor;

(b) two or more sentences that are required to be served consecutively shall be regarded as separate sentences if none of them amounts to or exceeds twelve months; and

(c) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of, the payment of a fine.

Commonwealth citizens.

95. (1) Every person who, under this Constitution or any Act of

Parliament, is a citizen of Kenya or who, under any law for the time being in force in a country to which this section applies, is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen

(2) Every person who was a British subject without citizenship under the British Nationality Act, 1948, or who continued to be British subject under section 2 of that Act, shall, by virtue of that status, have the status of a Commonwealth citizen.

(3) Save as may be otherwise provided by Parliament the countries to which this section applies are the United Kingdom and Colonies, Canada, Australia, New Zealand, India, Sri Lanka, Ghana, Malaysia, Nigeria, Cyprus, Sierra Leone, Tanzania, Jamaica, Trinidad and Tobago, Uganda, Malawi, Malta, Zambia, The Gambia, Singapore, Guyana, Botswana, Lesotho, Barbados, Swaziland, Mauritius, Zimbabwe, and any other country that may be prescribed by Parliament.

Powers of Parliament.

96. (1) Parliament may provide for the acquisition of citizenship of Kenya (Whether by registration or by naturalisation) by persons who are not eligible or who are no longer eligible

to become citizens of Kenya under this Chapter.

Dual citizenship. 97. (2) Parliament may provide for the renunciation by a person of his citizenship of Kenya.
(1) A person who, upon the attainment of the age of twenty-one years, is a citizen of Kenya and also a citizen of some country other than Kenya shall, subject to subsection (7), cease to be a citizen of that other country, taken the oath of allegiance and, in the case of a person who was born outside Kenya, made and registered such declaration of his intentions concerning residence as may be prescribed by or under an Act of Parliament.

(2)* A person who:-

(a) has attained the age of twenty-one years before 12th December, 1963; and

(b) becomes a citizen of Kenya on that day by virtue of section 87; and

(c) is immediately after that day also a citizen of some country other than Kenya,

shall subject to subsection (7) , cease to be a citizen of Kenya upon the specified date unless he has renounced his citizenship of that other country, taken the oath of allegiance and, in the case of a person who is a citizen of Kenya by virtue of section 87 (2), made and registered such declaration of his intentions concerning residence as may be prescribed by or under an Act of Parliament.

(3) A citizen of Kenya shall, subject to subsection (7), cease to be such a citizen if:-

(a) having attained the age of twenty-one years he acquires the citizenship of some country other than Kenya by voluntary act (other than marriage); or

(b) having attained the age of twenty-one years, he other wise acquires the citizenship of some country other than Kenya and has not, by the specified date, renounced his citizenship of that country, taken the oath of allegiance and made and registered such declaration of his intentions concerning residence as may be prescribed by or under an Act of Parliament.

**See notes attached to sections 87 & 88.*

Interpretation. 98. (1) In this Chapter---

“the British Nationality Act, 1948” means the Act of that title enacted by the Parliament of the United Kingdom;

“British protected person” means a person who is a British protected person for the purposes of the British Nationality Act, 1948; and

“the Minister” means the Minister who is for the time being responsible for matters relating to

citizenship of Kenya.

- (2) For the purposes of this Chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the Government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.
- (3) A reference in this Chapter to the national status of the father of a person at the time of that person's birth shall, in relation to person born after the death of his father, be construed as a reference to the national status of the father at the time of the father's death; and where that death occurred before 12th December, 1963 and the birth occurred after 11th December, 1963 the national status that the father would have had if he had died on 12th December, 1963 shall be deemed to be his national status at the time of his death.
- (4) A person who has attained the age of twenty-one years (or is a woman who is or has been married) and who:-
 - (a) becomes a citizen of Kenya by registration under section 88, 91 or 96 or by naturalisation under section 93 or 96; and
 - (b) is immediately after the day upon which he becomes a citizen of Kenya also a citizen of some other country,shall, subject to subsection (7), cease to be a citizen of Kenya upon the specified date unless he has renounced his citizenship of that other country, taken the oath of allegiance and made and registered such declaration of his intentions concerning residence as may be prescribed by or under an Act of Parliament.
- (5) For the purposes of this section, where, under the law of a country other than Kenya, a person cannot renounce his citizenship of that other country, he need not make the renunciation but he may instead be required to make such declaration concerning that citizenship as may be prescribed by or under an Act of Parliament.
- (6) In this section "the specified date" means:-
 - (a) in relation to a person to whom subsection (1) refers, the date on which he attains the age of twenty-three years;
 - (b) *in relation to a person to whom subsection (2) refers, 12th December, 1965;
 - (c) in relation to a person to whom subsection (3) (b) refers, the expiration of a period of

two years commencing with the date on which he acquired the citizenship of the country other than Kenya; and

(d) in relation to person to whom subsection (4) refers, the expiration of a period of three months after the date upon which he became a citizen of Kenya,

or in the case of a person unsound mind, such later date as may be prescribed by or under an Act of Parliament.

(7) Provision may be made by or under an Act of Parliament for extending beyond the specified date the period in which a person may make a renunciation of citizenship, take an oath or make or register a declaration for the purposes of this section, and, if provision is so made, that person shall not cease to be a citizen of Kenya upon the specified date but shall cease to be a citizen upon the expiration of the extended period if he has not then made the renunciation, taken the oath or made or registered the declaration, as the case may be.