

THE SWAZILAND CITIZENSHIP ACT, 1992

Date of commencement: 1st December, 1992

An Act to provide for citizenship of Swaziland

Arrangement of sections.

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PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Swaziland Citizenship Act, 1992.

Commencement.

2. This Act shall come into operation on such date as the Minister may by notice in the Gazette, appoint.

Interpretation.

3. In this Act —

“Citizenship Advisory Committee” means the Citizenship Advisory Committee established by section 14;

“customary law” means Swazi Law and Custom;

“Minister” means the Minister responsible for Citizenship;

“prescribed” means prescribed by regulations made by the Minister.

PART II
ACQUISITION OF CITIZENSHIP

Natural-born Citizens.

4. (1) A person born, whether before or after the commencement of this Act and whether in or outside of Swaziland, is a citizen of Swaziland if, by birth he is a descendant of an ancestor who was a citizen of Swaziland.

(2) A child adopted, whether before or after the commencement of this Act, under the Adoption of Children Act, No. 64 of 1952, or under customary law, shall, if not already a citizen, be deemed to be a citizen of Swaziland by birth if, when he was adopted, his adoptive father was a citizen of Swaziland or would have been a citizen if this Act were in force.

Citizenship by KuKhonta.

5. (1) A person who has khontaed, that is to say, has been accepted as a Swazi in accordance with customary law and in respect of whom certificate of Khonta granted by, or by direction of, the King is in force, shall be a citizen of Swaziland.

(2) A person shall be a citizen of Swaziland if his father is or, but for his death before the commencement of this Act, would have been a citizen of Swaziland by virtue of subsection (1).

Citizenship of persons born before commencement of Act.

6. (1) Any person born in or outside Swaziland before the commencement of this Act shall be a citizen of Swaziland if at the time of his birth his parent was a citizen of Swaziland by operation of the law.

(2) In this section "by operation of law" refers to a person who was born before the existence of the status of a citizen of Swaziland and was a member of a class of persons subsequently declared by law to be citizens of Swaziland.

(3) This section shall cease to apply to a person being a citizen of another country who, on being required by the Minister, has failed to renounce that other citizenship within -

(a) one year after he attains the age of majority (or within such extended period as the Minister may allow), or

(b) if he attained the age of majority before the commencement of this Act, within one year after such commencement (or within such extended period as the Minister may allow).

Citizenship of persons born after commencement of Act.

7. (1) A person born in Swaziland after the commencement of this Act is a citizen of Swaziland by birth if at the time of his birth his father was a citizen of Swaziland, under this Act.

(2) A person born outside of Swaziland after the commencement of this Act is a citizen of Swaziland by descent if at the time of his birth his father was a citizen of Swaziland.

(3) A person born outside Swaziland who becomes a citizen by virtue of subsection (2) shall cease to be a citizen if his father was also born outside Swaziland; unless, within one year after he attains the age of majority (or within such extended time as the Minister may allow) he notifies the Minister in writing that he desires to retain his citizenship.

(4) Where a child born outside of marriage is not claimed by his father in accordance with customary law and his mother is a citizen of Swaziland, the child shall be a citizen of Swaziland by birth.

Acquisition of citizenship on marriage.

8. (1) A woman who is not a citizen of Swaziland at the date of her marriage to a person who is a citizen (otherwise than by registration) shall not become a citizen merely by virtue of her marriage but may do so by lodging a declaration in the prescribed manner with the

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Minister or with any Diplomatic Mission or Consular Office of Swaziland or at any other prescribed office, either before or at any time during the marriage, accepting Swazi citizenship as her post-nuptial citizenship.

(2) A woman who lodges such a declaration shall be a citizen of Swaziland from the date of the marriage, if the declaration is lodged before the marriage or, if lodged thereafter, then from date of lodgement.

(3) This section applies to marriage whether before or after the commencement of this Act.

Citizenship by registration.

9. (1) The Minister may, if he thinks fit, grant a certificate of registration to a person who satisfies him that he complies with the conditions of registration set out in the following subsections and the person to whom the certificate is granted shall be a citizen of Swaziland by registration from the date on which the certificate is granted.

(2) The conditions for registration of a person shall be —

(a) that he has been ordinarily and lawfully resident in Swaziland —

(i) for a period of at least twelve months immediately preceding the date of his application for registration; and

(ii) during the seven years immediately preceding the said period of twelve months, for periods amounting in the aggregate to not less than five years; and

(b) that he is of good character; and

(c) that he has an adequate knowledge of siSwati or English; and

(d) that he intends in the event of a certificate being granted to him to reside in Swaziland; and

(e) that he has adequate means to support himself whilst in Swaziland.

(3) A certificate of registration shall not be granted to any person under this section until he has taken the Oath of Allegiance in the Schedule hereto or such other oath as may be prescribed.

PART III

LOSS OF CITIZENSHIP

Deprivation of Citizenship.

10. (1) A person who is a citizen of Swaziland by registration or, in the case of a married woman, by declaration under section 8 may be deprived of his citizenship by order of the Minister if the Minister is satisfied that —

(a) the issue of the relevant certificate has been declared by Court to have been procured by fraud, misrepresentation or concealment of material facts, or

(b) that person has shown himself by any overt act other than marriage to have acquired another citizenship, or

- (c) that person has by any voluntary act other than marriage acquired another citizenship, or
- (d) that person has, on being so required by the Minister, failed to renounce his citizenship of any other country, or
- (e) in the case of a woman who acquired citizenship as a consequence of her marriage to a citizen of Swaziland the marriage was entered into merely for the purpose of acquiring citizenship, or
- (f) that person has been resident outside Swaziland (otherwise than in the public service) for a continuous period of seven years and during that period has failed without reasonable excuse to register with the Minister at such times and in such manner as may be prescribed a declaration of his intention to retain citizenship of Swaziland,

and that on any of those grounds it is not conducive to the public good that that person should continue to be a citizen of Swaziland.

(2) Before making a revocation order the Minister shall give such notice as may be prescribed to the person concerned of the fact that the revocation of his citizenship is being considered, stating the grounds therefor and the right of that person to apply to the Minister within a prescribed period for an enquiry as to the reasons for the proposed revocation.

(3) On application being made for an enquiry the Minister shall refer the matter to the Citizenship Advisory Committee to investigate the case and report its findings to him.

(4) Where the Minister has considered a report of the Citizenship Advisory Committee he shall, as he thinks proper, make or refuse to make a revocation order or refer the matter to the Citizenship Advisory Committee for further consideration.

(5) Where the Minister makes an order under this section the person in respect of whom it is made shall cease to be a citizen from the date of the order and any relevant certificate shall stand revoked accordingly.

(6) In this section "registration" includes naturalisation or registration (otherwise than as of right) under any previous law.

Renunciation of Citizenship.

11. If a citizen of Swaziland who has attained the age of majority or, being a woman, is or has been married, is or is about to become a citizen of another country and for that reason desires to renounce his or her citizenship of Swaziland he or she may do so by lodging with the Minister a declaration of renunciation of such citizenship and, upon lodgement of the certificate or, if not then a citizen of that other country, upon becoming such, he or she shall cease to be a citizen of Swaziland.

Preservation of obligations on cesser of citizenship.

12. If a person ceases to be a citizen of Swaziland that shall not of itself operate to discharge any obligations, duty or liability undertaken, imposed or incurred before the cesser.

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Death of citizen or loss of citizenship.

13. (1) The death of a citizen of Swaziland shall not affect the citizenship of a surviving spouse or child.

(2) Loss of Swazi citizenship by a person shall not of itself affect the citizenship of a spouse or child.

Citizenship Advisory Committee.

13. (1) There shall be a Citizenship Advisory Committee to perform the following functions:

- (a) to advise the Minister on any aspect of this Act;
- (b) to investigate and report to the Minister on any proposal of the Minister to revoke the citizenship of any person under section 10;
- (c) to investigate and report to the Minister on any proposal of the Minister to cancel the entry of any person as a citizen in the record of citizens kept under section 15.

(2) The Citizenship Advisory Committee shall consist of a Chairman and not more than seven members as the Minister shall appoint.

(3) The Minister shall appoint at least as one of the members of the Citizenship Advisory Committee a person having such qualification as is required for appointment to the High Court of Swaziland.

(4) The Chairman or a member of the Citizenship Advisory Committee shall each hold office for a period of 3 years and on such terms and conditions as the Minister may determine and shall be eligible for re-appointment.

(5) The Chairman and members of the Citizenship Advisory Committee may be removed from office by the Minister for stated incapacity or misbehaviour.

(6) The Chairman shall preside at the meeting of the Citizenship Advisory Committee and, in his absence, the members present may elect one of their members to act as Chairman at that meeting.

(7) Five members present shall constitute a quorum.

(8) The Citizenship Advisory Committee may regulate its own practice and procedure.

(9) Every person to whom a case before the Citizenship Advisory Committee relates shall have the right to be heard and to be represented at the hearing.

(10) All matters submitted for consideration by the Citizenship Advisory Committee shall be dealt with within 21 days.

Record of Citizens.

15. (1) The Minister shall cause to be kept a record of persons who are citizens by virtue of section 4, 5, 6, 7, 8 and 9 and shall, on application made by or on behalf of any such person in the prescribed manner, enter his name and prescribed particulars in the record.

(2) Where any such person applies in the prescribed manner (whether in his original application or by later application) to have any child of his entered in the record, the Minister shall, on being satisfied as to the facts, enter the name and prescribed particulars of the child in the record.

(3) A child so entered in the record shall be deemed to be a citizen of Swaziland by virtue of section 4.

(4) Where it appears to the Minister that the entry of any person in the record has been procured by fraud, misrepresentation or concealment of material facts he may, subject to the provisions of this section, cause the entry to be cancelled.

(5) Before cancelling the entry the Minister shall give notice to that person if he has become of full age or to the person on whose application the entry was made of the fact that the cancellation of the entry is being considered, stating the ground therefor and the right of that person to apply to the Minister within a prescribed period for an enquiry as to the reasons for the proposed cancellation.

(6) On application being made for an enquiry the Minister shall refer the matter to the Citizenship Advisory Committee to investigate the case and report its findings to him.

(7) Where the Minister has considered a report of the Citizenship Advisory Committee he shall, as he thinks proper, cause or refuse to cause the entry to be cancelled or refer the matter to the Citizenship Advisory Committee for further consideration.

Posthumous children.

16. A child born after the death of his father shall acquire citizenship under this Act on the same conditions as if his father were alive when he was born.

Foundlings.

17. Every deserted infant first found in Swaziland shall, unless the contrary is proved, be deemed to have been born in Swaziland and shall be treated for the purposes of this Act as if his mother were a citizen of Swaziland. The child may be registered as a citizen under section 7(4).

Birth in ship or aircraft.

18. A person born in a ship or aircraft registered in Swaziland wherever it may be is deemed to be born in Swaziland.

Registration of births abroad.

19. (1) A foreign birth entry book shall be kept in every Diplomatic Mission and Consular office of Swaziland and a foreign births register shall be kept in the Minister's Office in Mbabane.

(2) The birth outside the State of a person deriving citizenship through his father may be registered in accordance with the foreign births regulation either in any foreign births entry book or in the foreign births register, at the option of person registering the birth.

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(3) Particulars of all births entered in a foreign births entry book shall be transmitted from time to time, in accordance with the foreign births regulations, to the Minister for-entry in the foreign births register.

(4) A document purporting to be a copy of an entry in a foreign births entry book or in the foreign births register, and to be duly authenticated shall be admitted in evidence without proof of the signature or seal where it is authenticated or of the authority of the person whose signature or seal appears thereon and shall, until the contrary is proved be deemed a true copy of the entry and accepted as proof of the fact and terms thereof.

Certificate of Nationality.

20. (1) The Minister shall cause to be issued to any person who qualifies under this Act as a citizen of Swaziland a certificate (in this Act called a Certificate of Nationality) in the prescribed form certifying that that person is a citizen of Swaziland.

(2) A Certificate of Nationality shall be the property of Government and shall be delivered up on demand by or on behalf of the Minister.

(3) The Minister may revoke a Certificate of Nationality.

Evidence.

21. (1) Every document purporting to be a notice, certificate declaration or copy of an entry in a record or register 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 the person by or on whose behalf it purports to have been given, granted or made.

(2) Evidence or any such document may be given by production of a document purporting to be certified as a true copy thereof by such person and in such manner as may be prescribed.

(3) Any entry in a record or register kept under this Act shall be received as evidence of the matters stated in the entry.

Regulations.

22. The Minister may make regulations consistent with the provisions of this Act in relation to anything that may be prescribed or be the subject of regulations under this Act and generally for facilitating the implementation of this Act.

Offences.

23. Any person who 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 in a material particular, or recklessly makes any statement which is false in material particular, shall be guilty of an offence and shall be liable to a fine not exceeding one thousand Bmalangeni or imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Repeal of Act No. 36 of 1967 and Order No. 22 of 1974.

24. The Swaziland Citizenship Act, 1967 and the Citizenship Order, 1974 are hereby repealed.

SCHEDULE

OATH OR AFFIRMATION OF ALLEGIANCE

Ido swear (or solemnly affirm)
that I will be faithfull and bear true allegiance to the King, his heirs and successors according
to Law.
So help me God (to be omitted in affirmation).