

THE CITIZENSHIPS ORDER, 1974
(King's Order-in-Council No. 22 of 1974)

I ASSENT
SOBHUZA II
King of Swaziland
3rd September, 1974

AN ORDER-IN-COUNCIL

entitled

A King's Order-in-Council to define who are citizens of Swaziland
(Date of commencement: 12th April, 1973)

ENACTED by the King in collaboration with the Council.

Short title and commencement.

1. This King's Order-in-Council may be cited as The Citizenship Order, 1974, and shall be deemed to have come into operation on the 12th day of April, 1973.

Interpretation.

2. For the purposes of this Order, "Minister" means the Deputy Prime Minister.

Persons deemed to be citizens as on the 12th April, 1973.

3. Any person who on the 12th of April, 1973 was legally a citizen of Swaziland shall, subject to section 7, be a citizen of Swaziland.

Provided that a person born in Swaziland before the 12th of April, 1973 shall not be a citizen of Swaziland if at the time of such person's birth his father was not a citizen of Swaziland, unless on application made by such person to the Minister he is registered as a citizen under section 6 (b);

And provided further that a person born outside Swaziland before the 12th of April, 1973, and whose father is or was a citizen of Swaziland but was not at the time of the birth of such person domiciled in Swaziland shall not be a citizen of Swaziland, unless on application made by him to the Minister he is registered as a citizen under section 6 (b).

Persons born in Swaziland after the 12th April, 1973.

4. Every person born in Swaziland on or after the 12th of April, 1973, shall, if his father is a citizen of Swaziland, become a citizen of Swaziland the time of his birth.

Persons born outside Swaziland after the 12th April, 1973.

5. Every person born outside Swaziland on or after the 12th of April, 1973, shall, if his father is a citizen of Swaziland and domiciled in Swaziland, become a citizen of Swaziland at the time of his birth.

Persons who may apply to be registered citizens.

6. (1) Subject to this section, any of the following persons may make written application to the Minister to be registered as a citizen of Swaziland

- (a) any woman who is or was at any time during the subsistence of such marriage married to a person who is citizen of Swaziland;
- (b) any person one of whose parents is or was at the time of the death of such parent a citizen of Swaziland;
- (c) any person whom the Minister considers as worthy of being registered as a citizen of Swaziland.

(2) Any person who is certified by writing under the hand of the Ngwenyama to have khontad, that is to say, to have been accepted as a Swazi in accordance with Swazi law and custom, shall be entitled to registration as a citizen of Swaziland.

(3) A person under the age of 21 years, other than a woman who is or has been married, shall only make any application referred to under subsection (1), through his parent or lawful guardian, recognised as such under the common law or according to Swazi traditional law.

(4) The Minister may in his discretion grant or refuse any application referred to in subsection (1) hereof.

(5) In the event of the Minister granting any application referred to in subsection (1) hereof or in the event of a person being registered in terms of subsection (2) hereof, the Minister shall under his signature issue a certificate of registration in the prescribed form in the applicant's favour, who shall from the date of the issues of such certificate be deemed to be a citizen of Swaziland.

(6) The Minister may by regulation prescribe the form to be completed by a person applying for registration in terms of this section, and may call for such information concerning such person as he may think necessary and may, if he deems fit, require such person or any other person to provide such information on oath, or require his personal attendance.

Deprivation of citizenship.

7. (1) Any person who is a citizen of Swaziland by registration under this Order or any other former law, or by naturalization under any other former law, shall, if he is deprived of such citizenship by the Minister acting under this section, cease to be a citizen as from a date to be determined by the Minister.

(2) The Minister may, subject to subsections (3) to (7) inclusive, deprive any person referred to in subsection (1) of his citizenship, if he is satisfied that -

- (a) such person has at any time, while a citizen of Swaziland and of full age, acquired the nationality or citizenship of a foreign country by any voluntary and formal act (other than marriage) without the consent of the Minister;
- (b) such person has within ten years after the issue of the registration or naturalization certificate in his favour been sentenced to a term of imprisonment of at least twelve months in any country:

Provided that the Minister in the exercise of his discretion shall have regard to whether or not such sentence if imposed in a foreign country was in respect of an offence purely of a political character;

- (c) such registration or naturalization was obtained by means of fraud, false representation or concealment of any material fact;
- (d) such person has been convicted within Swaziland of an offence involving sedition or subversion since his acquisition of citizenship of Swaziland; or
- (e) such person could but for the fact of his citizenship of Swaziland be deemed to be a Prohibited Immigrant under the provisions of the Immigration Act No. 32 of 1964.

(3) No person shall be deprived of his citizenship in terms of this section unless the Minister or the Prime Minister, as the case may be, is satisfied that it is not conducive to the public good that such person should continue to be a citizen of Swaziland.

(4) Before making any final decision whereby a person is deprived of his citizenship the Minister shall give such person written notice that the Minister is contemplating such action and shall in such notice state the ground thereof and at the same time inform such person that he may make written representations to the Minister within a period to be stated in such notice, not being less than fourteen days from the date thereof.

(5) On receipt of any such representations the Minister shall refer the matter to the Prime Minister who may -

- (a) appoint a committee of enquiry under a chairman to be appointed by the Prime Minister to investigate the matter and report its findings to him; or
- (b) refer the matter back to the Minister for his decision which shall thereupon be final and binding.

(6) In the event of the Prime Minister having acted under subsection (5) (a) hereof, the Prime Minister shall on receipt of such committee's report communicate his own decision to the Minister and the Prime Minister's decision shall be final and binding.

(7) The Commission of Enquiry Act No. 35 of 1963 shall mutatis mutandis apply to the proceedings of a committee appointed under subsection (5) (a) hereof.

Repeal of section 4 of Act No. 36 of 1967.

Section 4 of the Citizenship Act No. 36 of 1967 is hereby repealed.