



Tonga

NATIONALITY ACT

1988 Revised Edition



NATIONALITY ACT

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NATIONALITY ACT

Acts Nos. 6 of 1915, 11 of 1935, 7 of 1959, 4 of 1961, 5 of 1961, 20 of 1984, 30 of 1988, 46 of 1988.

AN ACT RELATING TO TONGAN NATIONALITY AND NATIONALIZATION

Commencement [20th November, 1915]

1 Short Title.

This Act may be cited as the Nationality Act.

PART I. - NATIONALITY

2 Persons deemed Tongan subjects.

The following persons shall be deemed to be Tongan subjects—

- (a) any person born in Tonga whose father is a Tongan;
- (b) any person born abroad of a Tongan father who was born in Tonga;
- (c) any person born out of wedlock in Tonga whose mother is a Tongan;
- (d) any alien woman who marries a Tongan provided that within 12 months from the date of her marriage she—

- (i) lodges with the Minister of Police a written declaration that she wishes to assume Tongan nationality; and
- (ii) takes the oath of allegiance prescribed by this Act;
- (e) any person naturalized under this Act. (*Substituted by Act 7 of 1959.*)

3 Status of Children.

- (1) Where a male person being a Tongan subject ceases to be a Tongan subject every child of that person under the age of 16 years shall thereupon cease to be a Tongan subject unless that child or that person ceasing to be a Tongan subject does not become by the law of any other country naturalized in that country.
- (2) Any child who has so ceased to be a Tongan subject who within one year after attaining the age of 16 years forwards a declaration in writing to the Minister of Police that he wishes to resume Tongan nationality shall thereupon again become a Tongan subject. (*Substituted by Act 7 of 1959.*)

4 Loss of Tongan Nationality.

- (1) A Tongan subject who when in any foreign State and not under disability by obtaining a certificate of naturalization or by any other voluntary and formal act becomes naturalized therein shall henceforth be deemed to have ceased to be a Tongan subject.
- (2) A female Tongan subject who marries an alien, and exercises her right to acquire the nationality of her husband, and does in fact acquire the nationality of her husband, shall cease to be a Tongan subject from the date on which she acquires foreign nationality. (*Substituted by Act 7 of 1959 amended by Act 5 of 1961.*)

5 Effect of alienage.

Where any Tongan subject ceases to be a Tongan subject he shall not thereby be discharged from any obligation duty or liability in respect of any act done before he ceases to be a Tongan subject. (*Substituted by Act 7 of 1959.*)

6 Acquisition of Tongan nationality by a statutory alien.

Any statutory alien on performing the same conditions and adducing the same evidence as is required in the case of any ordinary alien applying for a certificate of naturalization may apply to the King for a certificate of re-admission to Tongan nationality; and the King shall have absolute discretion as to granting or

withholding the same and previous to the issue the alien must take the oath of allegiance. A Statutory alien thus re-admitted to Tongan nationality shall resume the status of a Tongan subject from the date of the certificate of re-admission but not in respect of any previous transaction, with the qualification that he is not deemed a Tongan subject in the foreign State of which he became a subject unless he has ceased to be a subject of that State in accordance with its laws or in pursuance of a Treaty. (*Substituted by Act 7 of 1959.*)

7 Children of persons re-admitted to Tongan nationality becomes Tongan.

Where a person has obtained a certificate of re-admission to Tongan nationality under section 6 hereof every child of such person who before he reaches the age of 16 years has become resident in Tonga with such person shall be deemed to have resumed Tongan Nationality. (*Substituted by Act 7 of 1959.*)

PART II. - NATURALIZATION

8 Naturalization of aliens.

- (1) The King may grant letters of naturalization to any foreigner who makes application for the purpose and satisfies His Majesty —
 - (a) that he has resided in Tonga for a period of not less than 5 years;
 - (b) that he is of good character and has an adequate knowledge of the Tongan language;
 - (c) that he intends if his application be granted to reside in the Kingdom.
- (2) The grant of letters of naturalization shall be in the absolute discretion of His Majesty.
- (3) A certificate of naturalization shall not take effect until the applicant has taken the oath of allegiance.
- (4) In the case of a woman who was a Tongan subject previous to her marriage with an alien and whose husband has died or whose marriage has been dissolved, the requirements of paragraph (a) of subsection (1) of this section as to residence shall not apply.

(*Amended by Act 20 of 1984 and Act 30 of 1988.*)

9 Effect of certificate of naturalization.

A person to whom a certificate of naturalization has been granted by the King shall subject to the provisions of the Constitution of Tonga and of this Act be entitled to all rights and privileges and be subject to all the obligations, liabilities and duties to which a natural born Tonga subject is entitled or subject to; and as from the date of a natural born Tonga subject:

Provided that he shall not be entitled to a grant of hereditary tax allotment or town allotment. (*Amended by Act 4 of 1961.*)

10 Special certificate in case of doubts.

The King may in his absolute discretion in such cases as he deems fit grant a special certificate of naturalization to any person with respect to whose nationality as a Tongan subject a doubt exists and he may specify in the certificate that the grant thereof is made for the purpose of quieting doubts as to the right of the person to be a Tongan subject and the grant of such special certificate shall not be deemed to be any admission that the person to whom it was granted was not previously a Tongan subject.

11 Persons under disability.

- (1) Where an alien obtains a certificate of naturalization His Majesty may if he thinks fit on the application of that alien include in the certificate the name of any child of that alien born before the date of the certificate and being a minor under 16 years of age and that child shall thereupon become a Tongan subject.
- (2) The King may in his absolute discretion in any special case in which he thinks fit grant a certificate of naturalization to any minor although the conditions required by this Act have not been complied with.

12 Revocation of certificate of naturalization.

- (1) Where it appears to the King that a certificate of naturalization granted to any person has been obtained by false representation or fraud he may order the revocation of the certificate and the order of revocation shall have effect from such date as the King may direct.
- (2) Where a certificate of naturalization is revoked the King may order the certificate to be given up and cancelled and any one refusing or neglecting to give up the certificate shall be liable on conviction to a fine not exceeding \$500. (*Amended by Act 30 of 1988.*)

13 Effect of inclusion of child in a certificate of naturalization.

Where in pursuance of this act the name of a child is included in a certificate of naturalization granted to his parents such child shall for the purposes of this act be deemed to be a person to whom a certificate of naturalization has been granted.

14 Oath of Allegiance.

The oath of allegiance shall be in the following form —

“I A. B swear by Almighty God that I will be faithful and bear true allegiance to His Majesty King Taufa'ahau Tupou 1V his heirs and successors according to the Law and Constitution of Tonga.”.

PART III. - GENERAL**15 Administration and power to make regulations.**

The Prime Minister shall be charged with the administration of this Act and he may with the consent of the Privy Council make such regulations as he deems fit for carrying into effect its provisions.

16 Registers to be kept.

- (1) There shall be kept and maintained in such manner as may be approved by the Prime Minister—
 - (a) A register of persons who have resumed Tongan Nationality.
 - (b) A register of persons who have been granted certificates of re-admission to Tongan nationality.
 - (c) A register of persons who have been granted certificates of naturalization.
 - (d) a register of persons who have been granted special certificates of naturalization.
- (2) The registers specified in subsection (1) are open to public inspection upon payment of the prescribed fee.
- (3) Any entry in a register shall be *prima facie* evidence of the matters stated therein.

(Inserted by Act 30 of 1988.)