

I assent.

(L.S.)

GUIDO DE MARCO
President

1st February, 2000

ACT No. IV of 2000

AN ACT to amend the Maltese Citizenship Act, Cap. 188.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title
and
commencement.
Cap. 188.

1. (1) This Act may be cited as the Maltese Citizenship (Amendment) Act, 2000 and shall be read and construed as one with the Maltese Citizenship Act hereinafter referred to as “the principal Act”.

(2) This Act shall be deemed to have come into force on such date as the Minister responsible for matters relating to Maltese citizenship may by order in the Gazette establish.

Deletion of
heading before
section 1 of
the principal Act.

2. The heading “Part I” immediately before section 1 of the principal Act shall be deleted.

Amendment of
section 2 of the
principal Act.

3. In section 2 of the principal Act immediately after the definition of the word “alien” there shall be added the following new definition:

“ “appointed day” has the same meaning as is assigned to it by section 124 of the Constitution;”.

Renumbering
of Parts II to V
of the principal
Act.

4. Parts II to IV of the principal Act shall be renumbered as Parts “V” to “VII” respectively, Part V shall be deleted and sections 3 to 5 shall be renumbered as sections 10 to 12 respectively. Section 6 shall be deleted and sections 8 to 20 shall be renumbered as sections 13 to 25 respectively.

5. Immediately after section 2 of the principal Act there shall be added the following: New Part I, II,
III and IV.

“PART I

CITIZENSHIP ACQUIRED ON THE APPOINTED DAY
AND BY REGISTRATION BY CERTAIN OTHER
PERSONS

Persons who became citizens of Malta on appointed day.

3. (1) Every person who, having been born in Malta, was on the day before the appointed day a citizen of the United Kingdom and Colonies, shall be deemed to have acquired Maltese citizenship on the appointed day:

Provided that a person shall not be deemed to have become a citizen of Malta by virtue of this subsection if neither of his parents was born in Malta.

(2) Every person who, having been born outside Malta, was on the day before the appointed day a citizen of the United Kingdom and Colonies shall, if his father became, or would but for his death have become, a citizen of Malta in accordance with the provisions of subsection (1) of this section, be deemed to have become a citizen of Malta on the appointed day.

Persons entitled to be registered as citizens.

4. (1) Any person who on the day before the appointed day was or had been married to a person -

(a) who became a citizen of Malta by virtue of section 3 of this Act; or

(b) who having died before the appointed day would, but for his or her death, have become a citizen of Malta by virtue of that section,

shall be entitled upon making an application in such manner as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta.

(2) Any person who on the day before the appointed day was or had been married to a person who, on or after the appointed day, became a citizen of Malta shall be entitled upon making an application in such manner as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta.

(3) The provisions of subsections (1) and (2) of this section shall be without prejudice to the provisions of section 3 of this Act.

(4) Any person who in accordance with paragraph (b) of subsection (4) of section 44 of the Constitution is deemed to be a citizen of Malta for the purposes of that section, and who has returned to, and taken up permanent residence in, Malta, shall be entitled, upon making an application in such manner as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta.

(5) Notwithstanding any other provision of this Act, but without prejudice to subsection (3) of section 65 of Act LVIII of 1974, a person shall not be entitled to be registered as a citizen of Malta more than once under the same provisions of this Act.

(6) No person shall be entitled to be registered as a citizen of Malta under subsections (1) and (2) of this section, unless -

(a) the Minister is satisfied that the grant of citizenship to such person is not contrary to the public interest; and

(b) on the date of the application such person was still married to a citizen of Malta, or is the widow or widower of a person who was a citizen of Malta or of a person who having died before the appointed day, would, but for his or her death, have become a citizen of Malta by virtue of section 3 of this Act:

Provided that no person shall be entitled to be so registered unless such person on the date of the application, is still married to that citizen of Malta and had been so married for at least five years and on that date had been living with that citizen or, if on that date had been *de jure* or *de facto* separated, had lived with such citizen of Malta for at least five years after the celebration of the marriage, or is the widow or widower of such citizen and at the time of his or her death had been married to that person for at least five years and was still living with him or her or who would, but for the death of that person, have been so married on the date of the application or, if on the date of death of such citizen had been *de jure* or *de facto* separated from such citizen, had lived

with such citizen of Malta for at least five years after the celebration of the marriage.

PART II

ACQUISITION OF CITIZENSHIP BY BIRTH OR DESCENT

Acquisition
of citizenship
by
birth or
descent by
persons born
on or after
appointed
day.

5. (1) Every person born in Malta on or after the appointed day shall be deemed to have become or shall become, a citizen of Malta at the date of his birth:

Provided that in the case of a person born on or before the 31st July, 1989, such person shall not be deemed to have become a citizen of Malta by virtue of this subsection if at the time of his birth -

(a) neither of his parents was a citizen of Malta and his father possessed such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Malta; or

(b) his father was an enemy alien and the birth occurred in a place then under occupation by the enemy:

Provided further that in the case of a person born on or after the 1st August, 1989 such person shall not become a citizen of Malta by virtue of this subsection unless at the time of his birth, his father or his mother was or is:

(a) a citizen of Malta; or

(b) a person referred to in paragraph (a) or (b) of subsection (4) of section 44 of the Constitution;

Provided further that the preceding two provisos of this subsection shall not apply in the case of a new-born infant found abandoned in any place in Malta who would in virtue thereof be stateless, and any such infant shall remain a citizen of Malta until his right to any other citizenship is established.

(2) A person born outside Malta on or after the appointed day shall be deemed to have become or shall become a citizen of Malta at the date of his birth:

(a) in the case of a person born on or before the 31st July, 1989, if at the date of such person's birth, his father was a citizen of Malta otherwise than by virtue of this subsection or subsection (2) of section 3 of this Act:

Provided that a person born on or before the 31st July, 1989, if at the date of such person's birth his mother was a citizen of Malta otherwise than by virtue of this subsection or subsection (2) of section 3 of this Act shall be entitled, upon making an application as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta; and

(b) in the case of a person born on or after the 1st August, 1989, if at the date of such person's birth, his father or mother is a citizen of Malta otherwise than by virtue of this subsection or subsection (2) of section 3 of this Act.

PART III

CITIZENSHIP ACQUIRED BY REGISTRATION AFTER MARRIAGE

Marriage
to citizens
of Malta.

6. (1) Any person who on or after the appointed day marries a person who is or becomes a citizen of Malta shall be entitled, upon making application in such manner as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta.

(2) No person shall be entitled to be registered as a citizen of Malta in virtue of this section unless:

(a) the Minister is satisfied that the grant of citizenship to such person is not contrary to the public interest; and

(b) on the date of the application such person was still married to a citizen of Malta or is the widow or widower of a person who was a citizen of Malta at the time of his or her death:

Provided that no person shall be entitled to be so registered unless such person on the date of the application,

is still married to that citizen of Malta and had been so married for at least five years and on that date had been living with that citizen or, if on that date had been *de jure* or *de facto* separated, had lived with such citizen of Malta for at least five years after the celebration of the marriage, or is the widow or widower of such citizen and at the time of his or her death had been married to that person for at least five years and was still living with him or her or who would, but for the death of that person, have been so married on the date of the application or, if on the date of death of such citizen had been *de jure* or *de facto* separated from such citizen, had lived with such citizen of Malta for at least five years after the celebration of the marriage.

PART IV

MULTIPLE CITIZENSHIP

Multiple
citizenship.

7. It shall be lawful for any person to be a citizen of Malta, and at the same time a citizen of another country.

Reacquisition
of Maltese
Citizenship
by registra-
tion.

8. Any person who prior to the coming into force of this section was deemed under the provisions of the Constitution of Malta or of any other law to have ceased to be a citizen of Malta because of the possession or acquisition, voluntary or involuntary of any other citizenship, shall be entitled upon making application in such manner as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta:

Provided that no person shall be entitled to be registered as a citizen of Malta under this section if such person had been a citizen of Malta other than by virtue of sections 3 or 5 of this Act or by virtue of sections 22 or 25 of the Constitution as in force prior to the coming into force of the Constitution (Amendment) Act, 2000, and the Minister is satisfied that the grant of citizenship to such person is contrary to the public interest.

Persons
deemed
never to
have
lost Maltese
citizenship.

9. Any person who was at any time a citizen of Malta in terms of sections 3 or 5 of this Act or in terms of sections 22 or 25 of the Constitution as in force prior to the coming into force of the Constitution (Amendment) Act 2000, and resided in any country outside Malta for an aggregate period of at least six years, acquired or retained the citizenship of any other country, shall be deemed not to have ever ceased to be a citizen of Malta.”.

6. Section 10 of the principal Act as renumbered shall be amended as follows:

(a) subsection (1) thereof shall be amended as follows:

(i) for the words "Subject to the provisions of subsection (5) of this section, an alien" there shall be substituted the words "An alien";

(ii) in the proviso for the words "six years" there shall be substituted the words "seven years".

(b) subsection (2) thereof shall be amended as follows:

(i) the words "Subject to the provisions of subsection (5) of this section, any person" shall be substituted by the words "Any person";

(ii) in paragraph (a) thereof for the words "section 22 of the Constitution" there shall be substituted the words "section 3 of this Act";

(iii) in paragraph (b) thereof for the words "section 25 of the Constitution" there shall be substituted the words "section 5 of this Act";

(c) in subsection (3) thereof:

(i) for the words "Subject to the provisions of subsection (5) of this section, any person" there shall be substituted the words "Any person";

(ii) in paragraph (a) thereof for the words "22(1) or 25(1) of the Constitution" there shall be substituted the words "3(1) or 5(1) of this Act"; and

(iii) in paragraph (b) thereof for the words "22(1) of the Constitution" there shall be substituted the words "3(1) of this Act";

(d) in subsection (4) thereof for the words "Subject to the provisions of subsection (5) of this section, any person" there shall be substituted the words "Any person";

(e) in subsection (5) thereof the words from "made a declaration" to the words "possess and has" shall be deleted; and

(f) in paragraph (b) of subsection (6) thereof for the words “subsection (2) of section 22 or subsection (2) of section 25 of the Constitution” there shall be substituted the words “subsection (2) of section 3 or subsection (2) of section 5 of this Act”.

7. Section 12 of the principal Act as renumbered shall be amended as follows:

Amendment to section 12 of the principal Act as renumbered.

(a) in subsection (1) thereof for the words “Subject to the provisions of subsection (2) of this section, a person registered as a citizen of Malta under section 23, 24 or 26 of the Constitution” there shall be substituted the words “A person registered as a citizen of Malta under section 4 or 6 of this Act”;

(b) subsection (2) shall be deleted and subsection (1) shall be renumbered as the whole section.

8. In subsection (2) of section 13 of the principal Act as renumbered the words “; but notwithstanding the refusal of the Minister, a person who makes any such declaration shall cease to be a citizen of Malta at the time prescribed in section 27 of the Constitution” shall be deleted.

Amendment to section 13 of the principal Act as renumbered.

9. For the words “Parts II and III of this Act” in section 16 of the principal Act as renumbered there shall be substituted the words “Parts V and VI of this Act”.

Amendment of section 16 of the principal Act as renumbered.

10. In subsection (3) of section 17 of the principal Act as renumbered after the words “born in Malta” there shall be added the words “and in any such case the provisions of the third proviso to subsection (1) of section 5 of this Act shall apply to such infant”.

Amendment to section 17 of the principal Act as renumbered.

11. Section 21 of the principal Act as renumbered shall be amended as follows:

Amendment to section 21 of the principal Act as renumbered.

(a) in subsection (1) thereof for the words “under section 23, 24 or 26 of the Constitution” there shall be substituted the words “under this Act”; and

(b) in subsection (2) thereof the words “under section 23, 24 or 26 of the Constitution or” shall be deleted.

12. In subsections (1) and (3) of section 22 of the principal Act as renumbered the words “under the provisions of Chapter III of the Constitution or” wherever they occur shall be deleted.

Amendment to section 22 of the principal Act as renumbered.

Amendment to section 23 of the principal Act as renumbered.

13. In subsection (1) of section 23 of the principal Act as renumbered the words “under the provisions of Chapter III of the Constitution or” shall be deleted.

Amendment to section 24 of the principal Act as renumbered.

14. Subsection (1) of section 24 of the principal Act as renumbered shall be amended as follows:

(i) the words “Chapter III of the Constitution and” shall be deleted;

(ii) in paragraph (a), (b) and (c) thereof, the words “Chapter III of the Constitution or” wherever they occur shall be deleted;

(iii) in paragraph (h) thereof, the words “the provisions of Chapter III of the Constitution or” shall be deleted.

Addition of new Part VIII to the principal Act.

15. Immediately after section 25 of the principal Act as renumbered there shall be added the following new Part:-

“PART VIII

PROVISIONS RELATING TO TIME

Provisions relating to time.

26. (1) The Minister and any officer of the Government authorised in that behalf by the Minister may:

(a) declare that any period specified in Chapter III of the Constitution of Malta as it was in force prior to the enactment of the Constitution of Malta (Amendment) Act, 2000, within which a person therein referred to could have made an application for registration, shall, in relation to any such person who is of unsound mind during that period, be so extended as to permit, in the opinion of the Minister or such authorised officer, such person when of sound mind an opportunity of making application for registration under the said Chapter III as it was in force prior to the enactment of the Constitution of Malta (Amendment) Act, 2000;

(b) in any other case in which he is satisfied that any person referred to in Chapter III of the Constitution of Malta as it was in force prior to the enactment of the Constitution of Malta (Amendment) Act, 2000, is by reason of any circumstances not attributable to his default or neglect, unable to make application within the period specified or prescribed in relation to that person in such Chapter, declare that such period in relation to that person

shall be so extended as to permit, in the opinion of the Minister or such authorised officer, that person an opportunity of making application for registration under Chapter III of the Constitution of Malta as it was in force prior to the enactment of the Constitution of Malta (Amendment) Act, 2000.

(2) The power of the Minister and any officer of the Government authorised on that behalf by the Minister under this section may be exercised before or after the expiration of the relevant period specified in Chapter III of the Constitution of Malta as it was in force prior to the enactment of the Constitution of Malta (Amendment) Act, 2000.

Transitory provision.

27. (1) The acquisition or retention of Maltese citizenship by any person under the Constitution of Malta or any other law, prior to the enactment of the Maltese Citizenship (Amendment) Act, 2000 shall not be affected in any way by the provisions of the said Act.

(2) This Act shall not apply with regard to any application for registration as a citizen of Malta filed before the 15th day of August, 1999.”.

16. In the Schedule to the principal Act for the words “[Sections 3 and 5]” there shall be substituted the words “[Section 10]”. Amendment to Schedule to principal Act.

17. Section 4 of the Immigration Act shall be amended as follows: Amendment to the Immigration Act, Cap. 217.

(i) in paragraph (b) of subsection (1) thereof, for the words from “by virtue of subsection (1)” to “said Constitution; or” there shall be substituted the words “by virtue of subsection (1) of section 3 or of subsection (1) of section 5 of the Maltese Citizenship Act; or”;

(ii) for paragraphs (g) and (h) of subsection (1) thereof there shall be substituted the following:

“(g) who is the spouse of any person referred to in any of the foregoing paragraphs and is still married to and living with that person; and

(h) who is the widow or widower of any person mentioned in paragraph (a) or (b) of this subsection and at the time of his or her death was still living with that person:”;

(iii) immediately at the end of subsection (2) thereof there shall be added the following paragraph:

“Notwithstanding the foregoing provisions of this subsection such Order may also be notified to, and apply in relation to, any person referred to in paragraph (f) of subsection (1) of this section being a dependant over the age of eighteen years.”.

Passed by the House of Representatives at Sitting No. 230 of the 31st January, 2000.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives