

The Laws of Zambia, Volume 9, pages 525-538

THE LAWS
OF THE
REPUBLIC OF ZAMBIA

1995 EDITION (REVISED)
PREPARED UNDER THE AUTHORITY OF
THE LAWS OF ZAMBIA (REVISED EDITION) ACT
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To be purchased from the Ministry of Legal Affairs, Lusaka, Zambia

1998
PRINTED BY MESSRS EYRE AND SPOTTISWOODE, HERTFORD, ENGLAND
PUBLISHED BY THE MINISTRY OF LEGAL AFFAIRS

THE CITIZENSHIP OF ZAMBIA ACT

CHAPTER 124 OF THE LAWS OF ZAMBIA

ARRANGEMENT OF SECTIONS

PART I PRELIMINARYPART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II CITIZENSHIP BOARDPART II

CITIZENSHIP BOARD

3. Establishment and composition of Citizenship Board
4. Provisions relating to office of member
5. Directions by the President
6. Secretary of Board
7. Correction of errors in register
8. Functions of Board
9. Decisions of Board to be final
10. Meetings of Board

PART III CITIZENSHIP BY ADOPTIONPART III

CITIZENSHIP BY ADOPTION

11. Citizenship by adoption

PART IV CITIZENSHIP BY REGISTRATIONPART IV

CITIZENSHIP BY REGISTRATION

12. Registration of minors
13. President's power to cause persons to be registered as citizens
14. Repealed by Act No. 17 of 1986
15. Obsolete

16. Persons entitled to be registered as citizens
17. Persons excluded from applying for registration as citizens
18. Periods to count as periods of residence

PART V CESSER, DEPRIVATION AND RENUNCIATION OF CITIZENSHIP

CESSER, DEPRIVATION AND RENUNCIATION OF CITIZENSHIP

Section

19. Cesser of citizenship
20. Extension of period
21. Restoration of lapsed citizenship
22. Deprivation of citizenship
23. Renunciation of citizenship

PART VI SUPPLEMENTAL

SUPPLEMENTAL

24. Certificates of citizenship in cases of doubt
25. Evidence
26. Manner of making applications
27. Offences
28. Communications of Board to be privileged
29. Prohibition of publication and disclosure of information to unauthorised persons
30. Immunity of members
31. Fiat of Director of Public Prosecutions
32. Annual report
33. Regulations
34. Saving

CHAPTER 124

CITIZENSHIP OF ZAMBIA

An Act to repeal and replace the Citizenship of Zambia Act; to provide for the

establishment of the Citizenship Board and to determine its composition and functions; to make provision for the acquisition of citizenship of Zambia by adoption and by registration; to provide for the confirmation of citizenship of Zambia; to provide for the cesser, deprivation and renunciation of citizenship of Zambia; and to provide for matters connected with or incidental to the foregoing.

[4th March, 1977]26 of 1975
17 of 1986
10 of 1990
13 of 1994

PART I PRELIMINARYPART I

PRELIMINARY

1. This Act may be cited as the Citizenship of Zambia Act.The Citizenship of Zambia Act commenced on 4th March, 1977 by virtue of S.I. No. 55 of 1977*

* The Citizenship of Zambia Act commenced on 4th March, 1977 by virtue of S.I. No. 55 of 1977Short title

2. (1) In this Act, unless the context otherwise requires-

"Board" means the Citizenship Board established under section three;

"certificate of registration" means a certificate of registration issued under this Act;

"Chairman" means the Chairman of the Board or any other person appointed to act as Chairman under section four;

"citizen" means a citizen of Zambia;

"Constitution" means the Constitution of Zambia;

"established resident" has the meaning assigned to it in the Constitution;

"member" means a member of the Board, and includes any person appointed to act as a member under section four;

"secretary" means the secretary of the Board;

"Zambia consulate" means an office of a consular officer of the Government where a register of births or residents is kept or, where there is no such office, such office as may be prescribed.Interpretation

Cap. 1

Cap. 1

(2) For the purposes of this Act-

(a) a person shall be of full age if he has attained the age of twenty-one years and of full capacity if he is not a mentally disordered or defective person, so found and not discharged as sane, under the provisions of the Mental Disorders Act;Cap. 305

(b) a person shall be deemed not to have attained a given age until the beginning-

(i) of the relevant anniversary of the day of his birth;

(ii) in the case of a person born on the 29th February in any year, of the 1st March in the year which is twenty-one years after the year of his birth;

(c) any woman who is or has been married shall be deemed to be of full age.

PART II CITIZENSHIP BOARDPART II

CITIZENSHIP BOARD

3. (1) There is hereby established pursuant to Article 8 of the Constitution a Board to be known as the Citizenship Board. Establishment and composition of Citizenship Board.

(2) The Board shall consist of the Minister as Chairman and four other members appointed by the President.

(3) Subject to the provisions of this Act, a member shall hold office for a period of four years from the date of his appointment, and upon such terms and conditions as the President may determine at the time of his appointment.

(4) Notwithstanding the provisions of subsection (3), two of the first four appointed members shall vacate office after a period of two years which shall be specified in their letters of appointment.

(5) A retiring member shall be eligible for re-appointment:

Provided that a member who retires after holding office for four years shall not be eligible for re-appointment for a period exceeding two years.

4. (1) A person shall not be qualified for appointment as a member if-Provisions relating to office of member

(a) he is not a citizen;

(b) he has not attained the age of twenty-one years;

(c) he is, under any law in force in Zambia, adjudged or otherwise declared to be of unsound mind;

(d) he has been sentenced to a term of imprisonment of or exceeding six months;

(e) he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any written law; or

(f) his freedom of movement is restricted or he is detained under the authority of any written law.

(2) Subject to the provisions of this section-

(a) a member shall hold office at the President's pleasure;

(b) the office of a member shall become vacant-

(i) if any circumstances arise that, if he were not a member, would cause him to be disqualified for appointment as such;

(ii) obsolete;

(iii) if he resigns his office; or

(iv) at the expiration of the term for which he was appointed or re-appointed. Cap. 1

(3) A member may be removed from office by the President for inability to discharge the functions of his office (whether arising from infirmity of body or mind or from any other cause) or for misbehaviour.

(4) If the office of Chairman is vacant or if the Minister holding that office is for any reason unable to perform the functions of his office, then, until another Minister has been appointed to and has assumed the functions of that office or until the Minister holding that office has resumed those functions, as the case may be, those functions shall be performed by one of the other members as the President may designate.

(5) If at any time there are less than two members besides the Chairman, the President may appoint any other person to act as a member, and the person so appointed shall, subject to the provisions of sub-paragraphs (i) and (ii) of paragraph (b) of subsection (2), continue to act until the appointment to act is revoked by the President.

(6) A member may resign his office by writing under his hand addressed to the President and his resignation shall take effect when it is accepted by the President.

5. Subject to the provisions of Part II of the Constitution and notwithstanding anything contained in this Act, the President may give to the Board such general directions with respect to the performance of its functions as he may consider necessary, and the Board shall give effect to such directions. Directions by the President.
Cap. 1

6. (1) The Permanent Secretary, Ministry of Home Affairs, shall be the secretary of the Board and it shall be his duty generally to counsel, aid and assist the Board in the performance of its functions. Secretary of Board

(2) The Secretary shall compile and maintain in the prescribed form-

(a) a register of citizens by registration; and

(b) a register of persons who have renounced or been deprived of citizenship or whose citizenship has ceased under any provision of this Act.

7. (1) If the Board has reason to believe that an error appears in any register compiled and maintained under sub-section (2) of section six, the Board shall, after giving notice to the person concerned and after considering such representations from him as he may choose to make, direct the secretary to effect such alterations in the register as may appear to the Board to be necessary to correct the error. Correction of errors in register

(2) Subject to the provisions of subsection (1), entries in the register shall be conclusive evidence of the matters therein contained.

8. The Board shall have power to consider and decide upon-

(a) obsolete;

(b) any application for registration as a citizen under the provisions of the Constitution;

(c) any other matter relating to citizenship in accordance with the provisions of this Act. Functions of Board

Cap. 1

Cap. 1

9. The Board shall not be required to assign any reason for the grant or rejection of any application under this Act, and the decision of the Board made under and in accordance with the provisions of this Act shall be final and shall not be subject to appeal or review in any court: Decisions of Board to be final

Provided that the Board may, in the special circumstances of any case or in the light of any new facts coming to its knowledge, review its own decision.

10. The Board shall ordinarily meet for the transaction of business at such times as it may consider necessary, but not less than four times in any calendar year. Meetings of Board

(2) Any matter at a meeting of the Board shall be decided by a majority of votes and, in case of an equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote.

(3) The quorum necessary for the transaction of the business of the Board shall be three.

(4) The Board may act notwithstanding a vacancy in its membership.

PART III CITIZENSHIP BY ADOPTIONPART III

CITIZENSHIP BY ADOPTION

11. A child adopted under the provisions of the Adoption Act shall, if he was not a citizen at the date of such adoption, become a citizen by adoption on the date of such adoption if the adopter, or, in the case of a joint adoption, one of the adopters was at the date of the adoption a citizen. Citizenship by adoption.

Cap. 54

PART IV CITIZENSHIP BY REGISTRATIONPART IV

CITIZENSHIP BY REGISTRATION

12. (1) The Board may cause any person not of full age who is the child of a citizen to be registered as a citizen upon application made in the prescribed manner by a parent or guardian of such person. Registration of minors

(2) When the Board is satisfied that any person not of full age has

associations by way of descent, residence or otherwise with Zambia which would justify his registration as a citizen, the Board may cause such person to be registered as a citizen.

13. (1) The President may as a token of honour cause to be registered as a citizen any person who in his opinion has done signal honour or rendered distinguished service to Zambia. President's power to cause persons to be registered as citizens

(2) The President may cause to be registered as a citizen any person not otherwise entitled to or eligible for citizenship of Zambia with respect to whom special circumstances exist which, in the opinion of the President, warrant such registration.

14. Repealed by Act No. 17 of 1986.

15. Obsolete

16. (1) A person to whom the provisions of Article 6 of the constitution apply may make an application to the Board for registration as a citizen in such manner as may be prescribed. Other persons entitled to be registered as citizens. Cap. 1

(2) The Board may grant the application for registration as a citizen of a person who applies for such registration under the provisions of subsection (1) if the Board is satisfied that he-

(a) is, at the date of his application, ordinarily resident in Zambia;

(b) has, at the date of his application, been ordinarily resident in Zambia for the period of ten years immediately preceding that date;

(c) is of good character;

(d) has an adequate knowledge of the English language or any language commonly used by the indigenous inhabitants of Zambia which may be prescribed;

(e) intends, after the granting of his application, to-

(i) continue to reside in Zambia; or

(ii) enter or continue in the service of the Government;

(f) is willing to renounce any citizenship which he may possess; and

(g) has not been refused registration as a citizen within the period of five years immediately preceding his application.

(3) Any person born in Zambia before the commencement of the Constitution whose father was not a citizen at the time of such person's birth and who ceased to be a citizen by reason of his failure to renounce his citizenship by descent, may make an application to the Board for registration as a citizen; and the Board may grant such application upon the condition that the applicant shall produce a certificate of renunciation of his original citizenship within three months from the date on which he is notified that his application for registration as a citizen has been granted. Cap. 1

(4) The Board may, on application in writing, grant to any person to whom subsection (3) applies an extension of the period in which he may renounce his other citizenship.

(5) For the purposes of subsections (2) and (3) where, under the law of a country other than Zambia a person cannot renounce his citizenship of that other country, he need not make such renunciation but he may instead make such declaration concerning such citizenship in such manner as may be prescribed.

(6) The Board shall cause every person to whom a certificate of registration has been granted to be notified of the time within which and the person before whom he may take the oath of allegiance or produce a certificate of renunciation.

(7) A certificate of registration shall be of force and effect only when the person to whom it has been granted has taken the oath of allegiance and produced a certificate of renunciation, and, subject to the provisions of subsection (4), that person shall become a citizen by registration on the day when such certificate becomes of force and effect.

17. Application for registration as a citizen under sections fifteen and sixteen shall not be made by or on behalf of any person who, under any law in force in Zambia, is adjudged or otherwise declared to be of unsound mind. Persons excluded from applying for registration as citizens

18. The period to be taken into account in computing the period of ten years mentioned in Article 6(i)(b) of the Constitution shall be that period during which a person has the right to reside in Zambia by virtue of an entry permit.

(As amended by No. 17 of 1986) Period to count as period of residence
Cap. 1

PART V CESSER, DEPRIVATION AND RENUNCIATION OF CITIZENSHIP PART V

CESSER, DEPRIVATION AND RENUNCIATION OF CITIZENSHIP

19. (1) A person to whom the provisions of Article 5 of the Constitution apply and who is a citizen or has a claim to the citizenship of a country other than Zambia shall cease to be a citizen upon attaining the age of twenty-two years unless, after attaining the age of twenty-one years, he renounces his citizenship of that other country or of any claim thereto in such manner as may be prescribed. Cesser of citizenship.

Cap. 1

(2) Any citizen of full age who by voluntary act, other than marriage, acquires the citizenship of a country other than Zambia, or who does any act indicating his intention to adopt or make use of such other citizenship, shall cease to be a citizen on the date of his acquisition of the citizenship of that other country.

(3) Repealed by No. 17 of 1986

(4) A person to whom the provisions of Article 9 (2) of the Constitution apply shall cease to be a citizen at the expiration of three months after he becomes a citizen unless he renounces his citizenship of a country other than Zambia, takes the oath of allegiance and makes and registers a declaration of his intention concerning residence in such manner as may be prescribed. Cap. 1

(5) For the purposes of this Part, where under the law of a country other than Zambia a person cannot renounce his citizenship of that other country, he need not make such renunciation but he may instead make such declaration concerning such citizenship in such manner as may be prescribed.

(As amended by No. 17 of 1986)

20. Where, under the provisions of this Part or of Part II of the Constitution, the period within which any person is required to make a renunciation of citizenship or take the oath of allegiance or make and register a declaration of his intention concerning residence is prescribed, the Board may grant an extension of such period, and, where such extension is granted, the person concerned shall cease to be a citizen only if, at the expiration of the extended period, he has not made the renunciation or taken the oath of allegiance or made and registered a declaration of his intention concerning residence, as the case may be. Extension of period.
Cap. 1

21. Notwithstanding anything to the contrary contained in this Part, a person who ceases to be a citizen and who satisfies the Board that at the time of the cesser of his citizenship of Zambia that he was unaware of such cesser may make application to the Board for his citizenship of Zambia to be restored. Restoration of lapsed citizenship

22. (1) A person to whom the provisions of section thirteen apply may be deprived of his citizenship of Zambia if, at any time, the President decides that his continued citizenship of Zambia is not conducive to the public good. Deprivation of citizenship

(2) Any decision of the President depriving any citizen of his citizenship of Zambia under subsection (1) shall be final and shall not be subject to appeal or review in any court.

(3) The Board may, subject to the provisions of this section, by order, deprive any citizen (other than a citizen to whom the provisions Article 4 or 5 of the Constitution apply) of his citizenship of Zambia if the Board is satisfied—
Cap. 1

(a) that the citizen has shown himself by act or speech to be disloyal or disaffected towards Zambia;

(b) that the citizen has, during any war in which Zambia was engaged, unlawfully traded or communicated with the enemy or been engaged in or associated with any business that was to his knowledge carried on in such manner as to assist an enemy in that war;

(c) that the citizen has been absent from Zambia for a continuous period of seven years without registering with a Zambia consulate in such manner as may be prescribed, or declaring by notice in writing to the Board his intention to retain his citizenship of Zambia;

(d) that the registration as a citizen was obtained by means of fraud, false representation, the concealment of any material fact or through some other corrupt practice; or

(e) that the citizen has, to the satisfaction of the Board, been guilty of

currency smuggling or of harbouring criminals or prohibited immigrants.

(4) For the purposes of paragraph (c) of subsection (3), no period-

(a) spent in the discharge of his duties outside Zambia by a person in the service of the Government; or

(b) during which a person was absent from Zambia by reason of his service with an international organisation of which the Government was, at the time of such service, a member;

shall be taken into account for the purpose of determining the length of a person's absence from Zambia.

(5) The Board shall not deprive a person of his citizenship under this section unless the Board is satisfied that it is not conducive to the public good that such person should continue to be a citizen.

(6) Before making an order under this section, the Board shall give the person against whom the order is proposed to be made notice in writing informing him of the ground on which it is proposed to be made and of his right to have his case referred for inquiry as provided in subsection (7).

(7) If a person notified in pursuance of the provisions of sub-section (6) applies for an inquiry within such time and in such manner as may be prescribed, the Board shall refer the case for inquiry and report to a commissioner appointed by the Board for the purpose.

(8) The powers, rights and privileges of a commissioner appointed in terms of subsection (7) shall be the same as those conferred on a commissioner by the Inquiries Act, and the provisions of that Act shall, mutatis mutandis, apply in relation to an inquiry under this section and to a person summoned to give evidence or giving evidence at the inquiry. Cap. 41

(9) A person shall not be qualified for appointment as a commissioner unless he is or has been a Judge of the Supreme Court, or the High Court.

23. (1) Repealed by Act No. 17 of 1986 Renunciation of citizenship

(2) A citizen of full age and capacity who-

(a) is also a citizen of a country other than Zambia; or

(b) satisfies the Board that he will, after renouncing his citizenship of Zambia, become a citizen of another country;

may, in such manner as may be prescribed, make a declaration of renunciation of his citizenship of Zambia and the Board shall, subject to the provisions of subsection (3), cause such declaration to be registered.

(3) The Board may decline to register any declaration of renunciation of citizenship made during any war in which Zambia may be engaged.

(4) Subject to the provisions of subsection (5), the person making a declaration of renunciation of citizenship of Zambia shall cease to be a citizen upon registration of such declaration.

(5) Where a citizen who has satisfied the Board as provided in paragraph (b) of subsection (2) does not thereafter become a citizen of another country within six months from the date of registration of his declaration of renunciation, he shall be, and be deemed to have remained, a citizen of Zambia, notwithstanding the registration of his declaration of renunciation.

PART VI SUPPLEMENTALPART VI

SUPPLEMENTAL

24. (1) The Board may, in such cases as it thinks fit, on the application of any person with respect to whose citizenship of Zambia a doubt exists, whether on a question of fact or law, certify that such person is a citizen. Certificates of citizenship in cases of doubt

(2) A certificate issued under subsection (1) shall, unless it is proved that it was obtained by means of fraud, false representation, the concealment of any material fact, or through some other corrupt practice, be conclusive evidence that the person was a citizen on the date of the issue of the certificate, but without prejudice to any evidence that he was a citizen at an earlier date.

25. (1) Every document purporting to be a notice, certificate, order or declaration, or any entry in a register, given, granted or made under Part II of the Constitution or 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 or on behalf of the person by whom or on whose behalf it purports to have been given, granted or made. Evidence
Cap. 1

(2) Prima facie evidence of any such document referred to in subsection (1) may be given by production of a document purporting to be a certified true copy thereof by such person and in such manner as may be prescribed.

(3) An entry in a register made under Part II of the Constitution or under this Act shall be received as evidence of the matters stated therein. Cap. 1

(4) For the purposes of this Act, a certificate given by any Permanent Secretary stating that a person was at any time in the service of the Government shall be conclusive evidence of that fact.

26. Every application made under this Act-

(a) shall be in such manner as may be prescribed;

(b) shall be supported by such evidence of the statements made therein as may be prescribed;

(c) shall be verified by affidavit or a declaration made before a magistrate or commissioner for oaths; and

(d) shall be accompanied by such fee as may be prescribed. Manner of making applications

27. (1) Any person who-Offences

(a) for the purpose of procuring anything to be done or not to be done under the provisions of Part II of the Constitution or under this Act; or Cap. 1

(b) in connection with the performance of any function of the Board, wilfully gives to the Board or any member thereof any information, or makes any statement which he knows to be false or misleading in any material particular, or recklessly makes any statement which is false or misleading in any material particular;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

(2) Any person who, otherwise than in the course of his duties directly or indirectly by himself or by or through any other person in any manner whatsoever, influences or attempts to influence any decision of the Board shall be guilty of an offence and shall be liable on conviction to a fine of twenty five thousand penalty units to imprisonment for a term of five years, or to both.

(3) The liability of any person in relation to any offence shall not be affected by any cesser, renunciation or deprivation of his citizenship of Zambia after the commission of the offence.

(As amended by Act No. 13 of 1994)

28. Notwithstanding anything to the contrary contained in any other written law, no person shall in any legal proceedings be permitted or compelled to produce or disclose any communication, either written or oral, which has taken place between the Board and any member thereof, or between any member of the Board and the secretary in the performance of any of the functions of the Board, unless the Chairman consents in writing to such production or disclosure. Communications of Board to be privileged

29. (1) No member or any other person shall, without the consent in writing of the Chairman, publish or disclose to any person otherwise than in the course of his duties the contents or any part of the contents of any document, communication or information whatsoever, which has come to his knowledge in the course of his duties under this Act. Prohibition of publication and disclosure of information to unauthorised persons

(2) Any person who knowingly acts in contravention of the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

(3) If any person having information which to his knowledge has been published or disclosed in contravention of subsection (1) publishes or communicates any such information to any other person, otherwise than for the purpose of any prosecution under this Act or in the course of his duties, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand penalty units or to imprisonment not exceeding six months, or to both.

(As amended by Act No. 13 of 1994)

30. No action or other proceeding shall lie against any member for or in respect of any act done or omitted to be done in good faith in the exercise or purported exercise of his duties under this Act. Immunity of members

31. No prosecution shall be instituted in respect of any offence under subsection (2) of section twenty-seven or section twenty-nine except by or with the written consent of the Director of Public Prosecutions. Fiat of Director of Public Prosecutions

32. The Board shall as soon as may be after the 31st December of every calendar year submit to the National Assembly a report on its work during the year. Annual report

33. (1) The Board may, by statutory instrument, make regulations generally for carrying into effect the purposes of this Act. Regulations

(2) Without prejudice to the generality of the foregoing provision, the Board may make regulations for-

(a) the publication by Gazette notice of the names and addresses of-

(i) persons to be registered or confirmed as citizens, subject to the renunciation of any other citizenship they may have;

(ii) persons whose registration as citizens has been cancelled for failure to renounce any other citizenship they may have;

(iii) citizens who have ceased to be such citizens by a formal act of renunciation of their Zambian citizenship following the acquisition of the citizenship of a country other than Zambia;

(iv) citizens who have ceased to be such citizens following deprivation of their Zambian citizenship by the Board;

(b) prescribing anything which under this Act may or is to be prescribed;

(c) the registration of anything required or authorised to be registered under Part II of the Constitution or under this Act; Cap. 1

(d) the administration and taking of the oath of allegiance under this Act, the time within which the oath of allegiance shall be taken, and the registration of oaths of allegiance;

(e) the giving of any notice required or authorised to be given to any person under this Act;

(f) the cancellation of the registration of, and the cancellation of certificates of registration relating to, persons being deprived of or renouncing citizenship under this Act, and requiring such certificates to be delivered up for that purpose;

(g) the registration by persons or classes of persons authorised in that behalf by the Board, of the births and deaths of persons of any class or description born or dying elsewhere than in Zambia;

(h) enabling the births and deaths of citizens born or dying in any country in which the Government has for the time being no diplomatic or consular representatives to be registered by persons serving in the diplomatic, consular or other foreign service of any country which, by arrangement with the Government, has undertaken to represent the Government's interests in that country, or by a person authorised in that behalf by the Board;

(i) defining the circumstances in which and the conditions subject to which copies of certificates issued under this Act may be obtained;

(j) the imposition and recovery of fees in respect of any application made to the Board or in respect of any registration, the making of any declaration, the grant of a certificate, or the taking of the oath of allegiance authorised to be made, granted or taken under Part II of the Constitution or under this Act, and in respect of supplying a certified copy of any notice, certificate, order, declaration, entry or oath made, granted or taken under that Part of the Constitution or this Act, and for the application of any such fees. Cap. 1
Cap. 1

(3) In prescribing the manner in which application may be made for any purpose under this Act, the Board may prescribe different procedures to be followed by different classes of persons.

34. (1) The Citizenship of Zambia Act, Chapter 121 of the Revised Edition, is hereby repealed. Repeal and Saving

(2) Notwithstanding the repeal of the said Act-

(a) any regulations made under that Act;

(b) any certificates, orders and acts, granted, made or done, as the case may be, under that Act;

having force and effect, or in operation, as the case may be, immediately before the commencement of this Act shall, in so far as they are not inconsistent with this Act, be deemed to have been made, granted or done, as the case may be, under this Act.