



REPUBLIC OF NAURU

# NAOERO CITIZENSHIP ACT 2017

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No. 35 of 2017

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An Act to repeal the *Naoero Citizenship Act 2005* and to make provision with respect to the status of Nauruan citizenship and for related purposes

Certified: 21<sup>st</sup> December 2017

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Enacted by the Parliament of Nauru as follows:

## PART 1- PRELIMINARY

### 1 Short title

This Act may be cited as the *Naoero Citizenship Act 2017*.

### 2 Commencement

This Act commences upon certification by the Speaker.

### 3 Definitions

(1) In this Act:

**'child of a Nauruan'** includes a child adopted under the Adoption Act 1965;

**'citizen'** refers to a citizen of the Republic of Nauru;

**'Court'** means the Supreme Court;

**'honorary citizenship'** means citizenship granted by the Cabinet to a foreign individual whom the Cabinet considers deserving of distinction;

**'Minister'** for the purposes of this Act shall be the Minister for Justice and Border Control;

**'Nauruan'** for the purposes of this Act means a citizen of the Republic of Nauru as defined in section 4;

**'Nauruan Community'** shall only include:

- (a) persons who were or were deemed to be aboriginal natives of the Republic by virtue of institutions, customs and usages of the aboriginal natives of the Republic;
- (b) Pacific islanders married before 1 January 1954 to persons who were or were deemed to be aboriginal natives of the Republic by virtue of institutions, customs and usages of the aboriginal natives of the Republic;
- (c) Pacific islanders who were admitted to the Nauruan community before 31 January 1968; and
- (d) persons whose either or both parents fall within subparagraphs (a), (b) and (c) above.

**'Pacific islander'** means:

- (a) a person who was ordinarily resident in the Republic and is a descendant of the aboriginal natives of an island or archipelago in the Pacific ocean other than:
  - (i) the Republic;
  - (ii) an island or archipelago which appertains geographically to Asia, the Americas, Australia, New Zealand, India or Japan;
- (b) a person partly descended from those aboriginal natives who followed, adhered to or adapted the customs of those aboriginal natives before residing in the Republic but does not include a Nauruan;

**'Register'** means the Register of Nauruan citizens established and maintained by the Secretary under section 5;

**'Secretary'** means the Secretary for Justice and Border Control;

- (2) For the purposes of this Act, a person is ordinarily a resident of the Republic if he or she:
  - (a) is domiciled in the Republic;
  - (b) has a permanent domicile in the Republic, despite he or she being temporarily absent from the Republic; or
  - (c) has evidence to indicate his or her intention to return to the Republic despite his or her extended absence.

## **PART 2 – CITIZENS OF THE REPUBLIC**

### **4 Persons who are citizens**

For the purposes of the laws in force in the Republic, the following persons are citizens:

- (a) persons who on 31 January 1968 were included in one of the classes of persons who constituted the Nauruan community as prescribed in Article 71 of the Constitution;
- (b) persons born on or after 31 January 1968 whose one or both parents were members of the:
  - (i) Nauruan community; or
  - (ii) citizens;
- (c) persons born on or after 31 January 1968 of a marriage between a citizen and a Pacific islander and neither parent had exercised any

rights within 7 days after the birth of that person to determine that such person is not a citizen;

- (d) a person born in the Republic on or after 31 January 1968 is a citizen if, at the date of his or her birth, he or she would not but for the provisions of Article 73 of the Constitution, have the nationality of any country;
- (e) persons who were admitted or recognised as members of the Nauruan community after 31 January 1968;
- (f) persons granted citizenships under any former laws of the Republic; and
- (g) persons granted citizenships under this Act.

### **PART 3 - CITIZENSHIP REGISTER**

#### **5 Citizenship Register**

- (1) The Secretary shall be responsible for establishing and maintaining a Register of citizenships under this Act.
- (2) The Register shall contain the details of the:
  - (a) grant of citizenships;
  - (b) deprivation of citizenships; and
  - (c) renunciation of citizenships.
- (3) For the purposes of subsection (2), the Register shall contain the following details of a person:
  - (a) name;
  - (b) address;
  - (c) age;
  - (d) gender;
  - (e) in case of children, the details of the legal guardian;
  - (f) date of granting, deprivation or renunciation of citizenship; and
  - (g) in case of the granting of citizenship:
    - (i) the date of the conferment of the certificate of citizenship; and
    - (ii) when the oath of allegiance or affirmation is taken or made.

## **PART 4 – APPLICATION AND REGISTRATION OF CITIZENSHIP**

### **6 Power to grant citizenship**

The Minister in consultation with the Cabinet may grant citizenship to a person applying for citizenship under this Act.

### **7 Application for citizenship**

- (1) An application for citizenship shall be made to the Secretary in the prescribed form.
- (2) The applicant shall pay the prescribed fee when making an application for citizenship.
- (3) An applicant shall be over the age 20 years or in the case of children, the principal applicant shall be over the age of 20 years.
- (4) In considering the application the Secretary shall:
  - (a) cause any investigation as may be necessary;
  - (b) prepare a report; and
  - (c) submit the report to the Minister with his or her recommendations.
- (5) The Minister shall provide the report to the Cabinet for its consideration before making a decision.
- (6) Where the Minister in consultation with the Cabinet is satisfied that the applicant should be granted citizenship, the Minister may:
  - (a) grant citizenship to the applicant; and
  - (b) publish in the Gazette that the applicant has been granted citizenship.
- (7) Where the Minister or the Minister in consultation with the Cabinet does not accept the recommendations of the Secretary, the application shall be returned to the Secretary for such action as may be necessary.

### **8 No appeals or reviews of decisions**

A decision of the Minister or the Minister acting in consultation with the Cabinet shall:

- (a) be final and conclusive; and
- (b) not be subject to any appeals or reviews by the Court.

## **PART 5 - ACQUISITION OF CITIZENSHIP**

### **9 Citizenship by birth**

A person born in the Republic is a citizen by birth, provided that at the time of the person's birth either or both parents of that person is a citizen.

### **10 Person born aboard a vessel or aircraft**

(1) Subject to subsection (3), a person born aboard a vessel or aircraft from or to the Republic shall not be deemed to be born in the Republic.

(2) The Minister in consultation with the Cabinet may grant citizenship to a person born aboard a vessel or aircraft, where the person as a result of subsection (1):

(a) becomes stateless; or

(b) is unable to obtain citizenship of any other country.

(3) Subsection (1) shall not apply to a person whose one or both parents are citizens.

### **11 Citizenship by birth in the Republic and residency**

(1) A person may apply for citizenship if the person:

(a) is born in the Republic to parents who are not citizens; and

(b) has for a continuous period of 20 years resided in the Republic.

(2) Any temporary absence from the Republic shall not affect the requirement of subsection (1)(b).

### **12 Citizenship by descent**

(1) A person born outside the Republic shall be deemed to be a citizen, if at the time of the person's birth either or both parents were citizens.

(2) A person, whose parents have renounced citizenship, shall be eligible to apply for citizenship if at the time of the person's application for citizenship at least one or more of the maternal or paternal grandparents of the person were citizens.

### **13 Citizenship by marriage**

(1) A person may apply for citizenship by virtue of a marriage to a citizen.

- (2) Any person applying for citizenship under this section shall fulfil the following conditions:
- (a) was at the time of the application lawfully married and residing with his or her spouse in the Republic for a continuous period of 7 years;
  - (b) is committed to residing permanently in the Republic;
  - (c) is of good health and character;
  - (d) is willing to fulfil the duties, responsibilities and privileges of being a citizen; and
  - (e) has no criminal convictions.
- (3) The applicant shall pay the prescribed fee when making an application.
- (4) The Cabinet in considering an application under this section may waive the requirement under subsection (2)(a).

**14 Children from previous relationships**

- (1) Where a foreigner who has a child from a previous relationship or marriage, marries a citizen, such child is not eligible to be registered as a citizen by virtue of that marriage.
- (2) The child under subsection (1) may apply for citizenship, if after the marriage between the foreigner and the citizen, the child is adopted under the Adoption of Children Act 1965 by the spouse who is the citizen.

**15 Citizenship by adoption**

A child who is not a citizen becomes a citizen on the day an Adoption Order is made by the court under the Adoption of Children Act 1965, where the child is:

- (a) adopted by one or more citizens;
- (b) present in the Republic; and
- (c) prior approval for the adoption was given by the Minister in consultation with the Cabinet.

**16 Dual citizenship**

- (1) A person who is a citizen of the Republic may also be a citizen of another country.



- (2) A person who is a citizen of or acquires the citizenship of another country shall not lose his or her citizenship of the Republic.
- (3) A person who acquires citizenship under this Act by virtue of marriage or adoption shall not lose his or her citizenship of any foreign country.

**17            Citizenship applications by former citizens after renunciation of citizenship**

- (1) Where a person has renounced citizenship, he or she may reapply to be granted citizenship.
- (2) An application under this section shall be made and determined in accordance with section 7.

**18            Special grant of citizenship on fiftieth anniversary**

- (1) The President may in consultation with the Cabinet grant citizenship to persons who:
  - (a) did not qualify or were not eligible to apply for citizenship on or after 31 January 1968 or under any other subsequent laws;
  - (b) have demonstrated long term commitment, service, dedication and adapted to the culture, tradition, community and development of the Republic;
  - (c) desire to be citizens of the Republic;
  - (d) have resided in the Republic for a cumulative period of not less than 30 years.
- (2) The grant of citizenship under this section shall not be made before 31 January 2018 or after 30 June 2018.
- (3) The children of a person granted citizenship under this section shall not be eligible to apply for citizenship by descent.

**19            Honorary Citizenship**

- (1) The President may in consultation with the Cabinet grant honorary citizenship to any person.
- (2) The Cabinet may prescribe the terms and conditions for the grant of honorary citizenship.

## **PART 6 - OATH OF CITIZENSHIP**

### **20 Oath of allegiance**

- (1) Any person who is granted citizenship under this Act shall take an oath of allegiance or make an affirmation as contained in the Schedule.
- (2) Unless exempted by the Minister, the oath or affirmation of citizenship shall be taken or made at a public ceremony.
- (3) The oath or affirmation shall be administered before the Chief Justice or in his or her absence a Judge of the Supreme Court.

### **21 Certificate of citizenship**

- (1) Where the Minister in consultation with Cabinet grants citizenship to any person, the President shall under his hand confer a certificate of citizenship in the prescribed form.
- (2) The certificate of citizenship shall be conferred to a person after he or she has taken the oath of allegiance or has made an affirmation.
- (3) A certificate issued under this section is conclusive evidence that the person is a citizen.

## **PART 7 - RENUNCIATION OR LOSS OF CITIZENSHIP**

### **22 Renunciation of Nauruan citizenship**

- (1) A person of full age and capacity may make a declaration of renunciation of his or her citizenship in writing to the Minister.
- (2) The Minister may cause every declaration made under subsection (1) to be registered in the Register and from the date of that registration, the person shall cease to be a citizen.
- (3) The Minister may decline to register a declaration for renunciation where the person provides no evidence that he or she is a citizen of another country.

### **23 Cancellation of citizenship**

- (1) A person who has become a citizen under sections 10, 11, and 13 may have his or her citizenship cancelled if the Cabinet is satisfied that the citizenship was obtained by means of:
  - (a) fraud;
  - (b) bribery;
  - (c) misrepresentation; or

- (d) concealment of any material fact.
- (2) The Minister in consultation with the Cabinet may cancel the citizenship granted to a person where the person after being granted citizenship:
- (a) engages in terrorism and international financing of terrorist related activities;
  - (b) fails to return to or reside in the Republic continuously for a period of 3 years;
  - (c) is convicted of an offence against the Anti-Money Laundering Act 2008;
  - (d) is convicted of an offence against the Counter Terrorism and Transnational Organised Crime Act 2004; or
  - (e) is convicted of a sexual offence involving a child.
- (3) Before a decision is made to cancel the citizenship of a person, the Secretary shall:
- (a) serve a notice in writing to the person informing him or her of the grounds or reasons on which the cancellation is to be considered; and
  - (b) request the person to show cause why the citizenship should not be cancelled.
- (4) If within 7 days after the service of the notice under subsection (2) the person fails to show cause, the Cabinet shall proceed to making its decision.
- (5) The Cabinet in the cancellation of citizenship shall take into account whether the person would become stateless.
- (6) A person ceases to be a citizen on the date that the Cabinet makes its decision.
- (7) On the cancellation of citizenship the:
- (a) Certificate of Citizenship is deemed to be annulled and is of no effect; and
  - (b) person shall forthwith return the Certificate of Citizenship to the Secretary.

- (8) The Secretary shall require the person to deliver the Certificate of Citizenship where the certificate is not returned within 30 days of the cancellation of the citizenship.

**24 Deprivation of citizenship**

- (1) A person granted citizenship under section 13 shall be deprived of his or her citizenship upon remarrying a non-Nauruan after a divorce or on the death of his or her spouse.
- (2) The children of the marriage under section 13 shall not be deprived of or forfeit their citizenship as a result of subsection (1).
- (3) On the deprivation of citizenship under this section, the:
- (a) Certificate of Citizenship is deemed to be annulled and is of no effect; and
  - (b) person shall forthwith return the Certificate of Citizenship to the Secretary.
- (4) The Secretary shall require the person to deliver the Certificate of Citizenship to him or her where the certificate is not returned within 30 days of the deprivation of the citizenship.

**25 Nauruan travel documents**

- (1) Where a person has been deprived of, has renounced or has his or her citizenship cancelled, the person shall not be eligible to obtain or retain a travel document issued under the Passports Act 2011.
- (2) Any travel document issued to a person in subsection (1) shall be seized or cancelled immediately by the Secretary under the Passports Act 2011.

**PART 8 - OFFENCES AND PENALTIES**

**26 Offences and penalties**

- (1) A person commits an offence and upon conviction is liable to a fine not exceeding \$100,000 or to a term of imprisonment not exceeding 10 years or both, if he or she:
- (a) for the purposes of procuring anything to be done or not to be done under this Act:
    - (i) makes any statement that he or she knows to be false in a material particular; or
    - (ii) recklessly makes a statement that is false in a material particular; or,

- (b) knowingly or recklessly submits false or forged documents to support a citizenship application; or
  - (c) knowingly or recklessly alters, defaces or fails to deliver a document; or
  - (d) knowingly resists, obstructs or deceives any person who is exercising or attempting to exercise any function or power imposed or conferred under this Act.
- (2) A person commits an offence and upon conviction is liable to imprisonment for a term not exceeding 10 years or a fine not exceeding \$100,000 or both who knowingly or without reasonable cause:
- (a) records, deletes or alters any entry in the citizenship Register;
  - (b) removes a citizenship document; or
  - (c) issues a citizenship document to a person who has no entitlement to the document.

## **PART 9 - MISCELLANEOUS**

### **27 Service of notices**

A notice or document required to be served to any person under this Act shall be served by:

- (a) personal delivery;
- (b) leaving the notice at the address nominated by the person in their application for citizenship; or
- (c) electronic means.

### **28 Jurisdiction of the court**

The District Court shall have jurisdiction to hear and determine all offences under this Act and, shall have power to impose the penalty or punishment in respect of the offences under this Act.

### **29 Evidence**

An entry in the Register made under this Act shall be received as sufficient evidence of the matters stated in the entry in the absence of proof to the contrary.

**30 Transitional**

All applications submitted to the Secretary under the provisions of the Naoero Citizenship Act 2005 shall be determined in accordance with the provisions of that Act as if this Act had not commenced, and all other matters shall be dealt with in accordance with the provisions of this Act.

**31 Repeal and savings**

- (1) The Naoero Citizenship Act 2005 is repealed.
- (2) Despite the repeal of the *Naoero Citizenship Act 2005*, all citizenships granted under that Act remain valid.

**32 Regulations**

- (1) Cabinet may make regulations prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), the regulations may provide for:
  - (a) any forms that are required under this Act;
  - (b) the fees for any applications or services that are required to be paid under this Act; and
  - (c) any other matters.

## **SCHEDULE 1**

### **Oath of Allegiance**

I, **(FULL NAME)**, swear by the Almighty God that I will faithfully bear true allegiance, and will fulfil my duties as a lawful citizen of the Republic of Nauru. So help me God!

### **Affirmation**

I, **(FULL NAME)**, affirm that I will faithfully bear true allegiance, and will fulfil my duties as a lawful citizen of the Republic of Nauru.