



Tuvalu

CITIZENSHIP ACT

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Tuvalu

CITIZENSHIP ACT

Arrangement of Sections

Section

1	Short title.....	5
2	Interpretation.....	5
3	Register of Citizenship.....	6
4	Citizenship Committee.....	7
5	Citizenship by registration	8
6	Citizenship by naturalisation.....	8
7	Loss of Tuvalu citizenship.....	9
8	Renunciation of Tuvalu citizenship	11
9	Regaining Tuvalu citizenship	11
10	Renunciation of foreign citizenship in certain cases.....	11
11	Offences	12
12	Regulations	12
13	Declarations, how made.....	12

SCHEDULE

13

FORM 1 – DECLARATION OF INTENT TO RENOUNCE FOREIGN CITIZENSHIP OR NATIONALITY	13
FORM 2 – APPLICATION FOR REGISTRATION AS A CITIZEN OF TUVALU	15
FORM 3 – CERTIFICATE OF REGISTRATION AS A CITIZEN OF TUVALU	17
FORM 4 – APPLICATION FOR NATURALISATION AS A CITIZEN OF TUVALU	18
FORM 5 – CERTIFICATE OF NATURALISATION AS A CITIZEN OF TUVALU	20

FORM 6 – DECLARATION OF RENUNCIATION OF TUVALU CITIZENSHIP	21
FORM 7 – CERTIFICATE OF REGAINED TUVALU CITIZENSHIP	22

Supporting Documents

ENDNOTES	23
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Tuvalu

CITIZENSHIP ACT

AN ACT TO MAKE PROVISION FOR THE REGISTRATION AND REGULATION OF MATTERS PERTAINING TO CITIZENSHIP, FOR THE ACQUISITION AND LOSS OF TUVALU CITIZENSHIP, AND FOR MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH¹

Commencement [29th August 1979]²

1 Short title

This Act may be cited as the Citizenship Act.

2 Interpretation

(1) In this Act, unless the context otherwise requires —

“**adopted**” means adopted by registration in a Native Lands Court in accordance with the customary law of Tuvalu or adopted as dependant under the law of any other country;

“**citizen of Tuvalu by operation of law**” means either a person who —

- (a) became a citizen of Tuvalu automatically on Independence Day by virtue of section 19 of the Independence Constitution; or
- (b) became a citizen of Tuvalu by birth under section 22 or 23 of the Independence Constitution; or
- (c) became, before the commencement of the Citizenship (Amendment) Act 1989, or becomes, a citizen of Tuvalu under section 45 of the Constitution;

“**citizen of Tuvalu by naturalisation**” means a person who is granted naturalisation as a citizen of Tuvalu under the provisions of section 6 of this Act;

“**citizen of Tuvalu by registration**” means a person who is granted registration as a citizen of Tuvalu under the provisions of section 5 of this Act;

“**the citizenship Committee**” means the Committee established by section 4 of this Act;

“**the Constitution**” means the Constitution of Tuvalu contained in the Schedule to the Constitution of Tuvalu Act 1986;³

“**full age and capacity**” means that a person is of or over the age of 18 years, that he is of sound mind and that he has authority in matters of his own citizenship;

“**good character**” means that a person has never been sentenced by a court in any country to imprisonment for a term of or exceeding 12 months;

“**the Independence Constitution**” means the former Constitution of Tuvalu contained in the Schedule to the Tuvalu Independence Order 1978;

“**Independence Day**” means 1st October 1978;

“**the Register**” means the Register of Citizenship kept by the Registrar under the provisions of section 3(1);

“**the Registrar**” means the Registrar of Citizenship appointed by the Minister under section 3(1).

- (2) For the purposes of this Act and of Part III of the Constitution —
- (a) A public officer, his spouse and minor children shall be deemed to be residing in Tuvalu during any period in which such officer is employed outside Tuvalu in the service of the Government;
 - (b) A period during which a person is in custody awaiting deportation from Tuvalu shall be disregarded in computing any period of residence, but a period of residence shall not otherwise be disregarded by reason only that the person entered or resided in Tuvalu without having complied with any law relating to immigration.

3 Register of Citizenship

- (1) The Minister shall cause to be kept a Register of Citizenship and shall appoint a public officer to be the Registrar of Citizenship.
- (2) The Register shall contain the names and such other particulars as may be prescribed of —
 - (a) every person who is granted a certificate of registration as a citizen of Tuvalu under the provisions of section 5;
 - (b) every person who is granted a certificate of naturalisation as a citizen of Tuvalu under the provisions of section 6;

- (c) every citizen of Tuvalu who is or becomes also a national or citizen of some other country;
 - (d) every person who, being a national or citizen of some other country, renounces, or makes under section 10 a declaration of intention to renounce, such nationality or citizenship with a view to obtaining or retaining Tuvalu citizenship;
 - (e) every person whose status as a Tuvalu citizen or otherwise has been settled by the Citizenship committee or a court, whether in relation to the issue of a Tuvalu Passport under the provisions or the Passports Act⁴ or otherwise;
 - (f) any citizen of Tuvalu who loses such citizenship under the provisions of section 7 or 10;
 - (g) every citizen of Tuvalu who renounces his Tuvalu citizenship under the provisions of section 8;
 - (h) every person who, having lost or renounced his Tuvalu citizenship under the provisions of section 7 or 8 respectively, regains such citizenship under the provisions of section 9.
- (3) The appearance or otherwise of a person's name in the register as a registered or naturalised citizen of Tuvalu shall be conclusive as to such person's status as a citizen of Tuvalu or otherwise and a person whose name so appears and has not been removed shall be regarded as a citizen of Tuvalu for all purposes as from the date of such registration or naturalisation as the case may be:

Provided —

- (a) that the appearance or otherwise in the Register of the name of a person who claims to be a citizen of Tuvalu by operation of law shall not affect such a claim except in relation to paragraphs (c) to (h) of subsection (1);
- (b) that any person may claim from the Citizenship Committee rectification of the Register by the insertion or removal of his name in any part thereof as provided in section 4.

4 Citizenship Committee

- (1) Any dispute as to a person's right to be registered in any part of the Register or to have his name removed from any part of the Register shall be referred to the Citizenship Committee, which shall consist of the Secretary to Government, the Secretary for Home Affairs, the Registrar of Companies, the Principal Immigration Officer, the Commissioner of Police and the Attorney-General as adviser.⁵
- (2) An appeal by the Registrar or the applicant from any decision of the Citizenship Committee shall lie to the Minister in the first instance and thereafter to the High Court in accordance with such procedure as may be

prescribed by the Rules Committee established under section 22 of the Superior Courts Act.⁶

5 Citizenship by registration

- (1) Any person of or over the age of 18 years who is not a citizen of Tuvalu by operation of law may apply to be registered as a citizen of Tuvalu if either —
 - (a) on the day prior to Independence Day he was deemed to belong to Tuvalu pursuant to section 16 of the Constitution set out in Schedule 2 to the Tuvalu Order 1975; or
 - (b) at the date of such application he is lawfully married either —
 - (i) to a person who is a citizen of Tuvalu by operation of law, other than by virtue of the provisions of section 19(4) of the Independence Constitution; or
 - (ii) to a person who is a citizen of Tuvalu by registration pursuant to the provisions of paragraph (a) above; or
 - (c) but for the fact that he was not a citizen of the United Kingdom and Colonies or a British Protected Person on Independence Day he would have become a citizen of Tuvalu by operation of law by virtue of section 19 of the Independence Constitution on Independence Day; or
 - (d) he has been adopted by a person who is or would but for such person's death be a citizen of Tuvalu by operation of law; or
 - (e) one of his parents is, or would but for the death of such parent be, a citizen of Tuvalu by virtue of section 19(2) of the Independence Constitution.
- (2) An application under subsection (1) shall be made to the Registrar in Form 2 set out in the Schedule and shall be accompanied by such registration fee as may be prescribed. It shall not be subject to any time limit.
- (3) The Registrar, upon being satisfied of the matters set out in Form 2 by such documentary or oral evidence as he may in any particular case require, shall cause an applicant for registration as a citizen of Tuvalu to be so registered and shall provide such person with a certificate of registration in Form 3 set out in the Schedule.⁷
- (4) The parent or lawful guardian of a person under the age of 18 years may apply for the registration of such person as a citizen on one or more of the grounds set out in subsection (1) of this section.

6 Citizenship by naturalisation

- (1) Any person of full age and capacity may apply to be naturalised as a citizen of Tuvalu.

- (2) An application under subsection (1) shall be made to the Registrar in Form 4 set out in the Schedule and shall be accompanied by such fee as may be prescribed.
- (3) The Registrar shall refer such application to the Citizenship Committee, which upon being satisfied of the matters set out in subsection (4) by such documentary or oral evidence as it may in any particular case require, shall cause an applicant for registration as a naturalised citizen of Tuvalu to be so registered by the Registrar, who shall provide such person with a certificate of naturalisation in Form 5 set out in the Schedule.
- (4) The matters as to which the Citizenship Committee shall satisfy itself before causing a certificate of naturalisation to be granted to any person are —
 - (a) that he is and for the 7 years immediately preceding the application has been ordinarily resident in Tuvalu;
 - (b) that he intends to make Tuvalu his permanent home;
 - (c) that he is and will be able to remain financially self-supporting;
 - (d) that he is familiar with the laws and customs of Tuvalu;
 - (e) that he is of good character and not suffering from any permanent communicable disease;
 - (f) such other matters as the Citizenship Committee may consider material.
- (5) Before any person is registered as a naturalised citizen of Tuvalu he shall —
 - (a) being a national or citizen of some other country, renounce such other nationality or citizenship; and
 - (b) take before the Governor-General the Oath of Allegiance prescribed in section 1 of Schedule 4 to the Constitution.

7 Loss of Tuvalu citizenship

- (1) A citizen of Tuvalu of full age and capacity who —
 - (a) obtains the nationality or citizenship of another country by voluntary act other than marriage;
 - (b) exercises a right that is exclusive to nationals or citizens of another country, unless such right was exercised inadvertently;
 - (c) takes an oath or makes a declaration or affirmation of allegiance to another country or to the sovereign or Head of State of another country except with the express approval of the Prime Minister and for temporary purposes;
 - (d) does, agrees to or adopts any act other than marriage by which he becomes a national or citizen of another country;
 - (e) enters or serves in the armed forces of another country, except with the express approval of the Prime Minister; or

- (f) except as permitted by Tuvalu law votes in a national, provincial or state election of or accepts elective office in another country, may be deprived of his Tuvalu citizenship:
- Provided —
- (a) that the provisions of this subsection do not apply to any act done under compulsion of force or of the law of any other country; and
- (b) that the provisions of paragraphs (b) to (f) inclusive above shall not apply to a citizen of Tuvalu who becomes so by operation of law.
- (2) Any person who —
- (a) becomes a citizen of Tuvalu before the commencement of this Act; and
- (b) is at the commencement of the Act a national or citizen of another country; and
- (c) fails by the first day of October 1981 or by the day he attains the age of 20 years, whichever is the later, to renounce or make under section 10 a declaration of intention to renounce that other nationality or citizenship (unless it be then already lost),
- shall be deprived of his Tuvalu citizenship.
- (3) Any person who —
- (a) becomes a citizen of Tuvalu after the commencement of this Act by operation of law; and
- (b) is at the date of his birth a national or citizen of another country; and
- (c) fails by the day he attains the age of 20 years to renounce, or make under section 10 a declaration of intention to renounce, that other nationality or citizenship (unless it be then already lost),
- shall be deprived of his Tuvalu citizenship.
- (4) With effect from the date on which the Constitution took effect, the operation of subsections (1), (2) and (3) of this section is subject to section 47(2) of the Constitution.
- (5) Any person who is found by a court to have obtained Tuvalu Citizenship by registration or naturalisation by any oral or written statement that was to his knowledge false in a material particular, or by the production of any document or calling of any witness which or who to his knowledge was false or by any wilful concealment of a material fact, may be deprived of his Tuvalu citizenship unless the offence was of a minor nature and did not affect the grant of registration of naturalisation.
- (6) Any person who is a citizen of Tuvalu by naturalisation and who fails to comply with any of the matters set out in paragraphs (b), (c), or (f) of section 6(4) after such grant of naturalisation may be deprived of his Tuvalu citizenship.

- (7) The Registrar shall refer to the Citizenship Committee any case in which loss of Tuvalu Citizenship may arise and the decision whether to deprive a person of such citizenship shall be for the Citizenship Committee:

Provided that when considering depriving a person of citizenship under the provisions of subsections (1), (4) or (5) the Committee shall give such person an opportunity to make representations to it.

8 Renunciation of Tuvalu citizenship

- (1) Subject to subsections (2) and (3), a citizen of Tuvalu of full age and capacity who renounces his Tuvalu citizenship by declaration in Form 6 set out in the Schedule shall cease to be a citizen of Tuvalu as from the date of such renunciation.
- (2) A citizen of Tuvalu may not renounce his citizenship unless —
- (a) he already holds some other nationality or citizenship; or
 - (b) the renunciation is for the purpose of obtaining some other nationality or citizenship.
- (3) In time of war, a citizen of Tuvalu may not renounce his citizenship without the prior written consent of the Prime Minister.

9 Regaining Tuvalu citizenship⁸

- (1) Every Tuvalu citizen may be a citizen of another country, and except for a person who is a Tuvalu citizen by operation of law, a Tuvalu citizen may be deprived of his Tuvalu citizenship.
- (2) Any person having lost his Tuvalu citizenship and who desires to regain such citizenship shall apply to the Citizenship Committee for the grant of Tuvalu citizenship either by registration or naturalization:

Provided that the number of years' ordinary residence in Tuvalu specified in section 6(4)(a) shall in the case of an application under this section be 5 years instead of 7 and shall not include any period before Tuvalu citizenship was lost or renounced.

10 Renunciation of foreign citizenship in certain cases

- (1) Where —
- (a) under or for the purposes of this Act a person is required to renounce, or wishes to renounce his foreign citizenship or nationality; and
 - (b) the law of the foreign country concerned does not permit him to renounce it or it is impracticable for him to do so,
- he may instead make a declaration of intent in Form 1.

- (2) If after a person has become a citizen of Tuvalu by virtue of a declaration under subsection (1) the law of the foreign country concerned is amended to permit him to renounce its citizenship or nationality, or it becomes practicable for him to do so, he shall, if required by the Minister to do so, formally renounce that citizenship or nationality, and if he fails to do so within such period as is fixed by the Minister his citizenship of Tuvalu is cancelled.

11 Offences

Any person who, for the purpose of procuring anything to be done or not to be done under this Act or any regulations made hereunder, makes any oral or written statement or produces any document which he knows to be false in a material particular, or recklessly makes any such statement or produces any such document or wilfully fails to disclose any material fact, shall be guilty of an offence and liable on conviction to a fine of \$1,000 and to imprisonment for one year.

12 Regulations

- (1) The Minister may make regulations for giving effect to the provisions of this Act, including but not limited to regulations —
- (a) prescribing the fees to be paid for registration, naturalisation or any other act of the Registrar in relation to the Register;
 - (b) for the custody of documents used in the course of any application to the Registrar or Citizenship Committee;
 - (c) for furnishing copies of any document or entry in the Register, including fees therefor;
 - (d) for notice of various matters to be given by any applicant under this Act to an overseas representative of the Government;
 - (e) for cancellation and surrender of certificates of registration and naturalisation in the event of loss of Tuvalu citizenship;
 - (f) prescribing the procedure of the Citizenship Committee.
- (2) The Minister may by regulation amend any of the Forms set out in the Schedule.

13 Declarations, how made

The declarations prescribed in Forms 1, 2, 4 and 6 in the Schedule shall be made under the provisions of the Oaths and Statutory Declarations Act.⁹

SCHEDULE

**FORM 1 – DECLARATION OF INTENT TO RENOUNCE FOREIGN
CITIZENSHIP OR NATIONALITY**

(Section 10)

To the Registrar of Citizenship, Funafuti

1. I (full name)

of (address)

am of full age and capacity and was born aton the
day of.....20.....

2. I am a citizen/national ofby reason of (state
basis of citizenship or nationality)

3. I am desirous of renouncing my citizenship/nationality of
for the purpose of(state reason)

but I am unable to renounce that citizenship/nationality under the laws
of..... because (state whether laws do not allow or it is
merely impractical)

4. I hereby declare my intention —

- (a) to renounce as far as I can mycitizenship (or my
nationality as a); and
- (b) not to avail myself of any of the rights and privileges of that
citizenship/nationality; and
- (c) to regard myself as, and to act in all ways as, a citizen of Tuvalu.

5. I further declare that if and when the law of (country of foreign citizenship/nationality)
permits me to do so, or it becomes practicable for me to do so, I will, when required by the
Minister responsible for citizenship matters to do so, formally renounce my foreign
citizenship / nationality.

Declaration

I, the said (full name)....., do solemnly and sincerely declare that the foregoing particulars are true and I make this solemn declaration conscientiously believing the same to be true by virtue of the Oaths and Statutory Declarations Act.

.....

(Signature of declarant)

Declared at (place)

thisday of20.....

before me

(name of officer before whom declared)

Signed:

Office held

Seal (if any)

FORM 2 – APPLICATION FOR REGISTRATION AS A CITIZEN OF TUVALU

(Section 5(2))

To the Registrar of Citizenship; Funafuti.

1. I (full name) not

being a citizen of Tuvalu, hereby apply to be registered as a citizen of Tuvalu.

2. The ground on which I claim to be entitled to be registered as a citizen of Tuvalu is as follows: —

(Here set out which of the provisions of section 5(1) of the Citizenship Act, you say applies to you, with full details of parentage, marriage etc. where relevant. You must be prepared to furnish documentary evidence and to be questioned by the Registrar or Citizenship Committee on your statement).

3. I am at present a national/citizen of but I

am prepared to renounce such nationality/citizenship upon being registered as a citizen of Tuvalu.

4. I enclose a fee of \$

5. My personal particulars are as follows: —

Name

Address

Date and place of birth

Marital status (with details if now married)

Dependant children (under 18 years)

Occupation

Declaration

I, the said (full name) do solemnly and sincerely

declare that the foregoing particulars are true and I make this solemn declaration conscientiously believing the same to be true by virtue of the Oaths and Statutory Declarations Act.

.....

(Signature of declarant)

Declared at (place)

thisday of20.....

before me

(name of officer before whom declared)

Signed

Office held

Seal [if any]

FORM 3 – CERTIFICATE OF REGISTRATION AS A CITIZEN OF TUVALU

(Section 5(3))

(*Cert. No*)

Whereas (full name of applicant)

has applied to be registered as a citizen of Tuvalu under the provisions of section 5 of the Citizenship Act, and has satisfied me that the conditions laid down in the said Act are fulfilled in relation to him/her for the grant of a certificate of registration,

And whereas the said (full name) has

renounced his/her existing nationality or citizenship and paid the prescribed fees,

Now therefore in exercise of the power conferred on me by the said Act, I do hereby grant to the said (full name)

this certificate of registration and declare that he/she shall be a citizen of Tuvalu as from the date of this certificate.

SIGNED.....

Registrar of Citizenship

Dated at Funafuti thisday of20

FORM 4 – APPLICATION FOR NATURALISATION AS A CITIZEN OF TUVALU

(Section 6(2))

To the Registrar of Citizenship, Funafuti.

1. I (full name)

not being a citizen of Tuvalu, and not being eligible to be registered as a citizen of Tuvalu under s.5 of the Citizenship Act, hereby apply to be registered as a naturalised citizen of Tuvalu.

2. By reference to the matters set out in s.6 (4) of the Citizenship Act, I hereby declare as follows: —

- (a) I am now and have for the 7 (or 5) years immediately preceding this application been ordinarily resident in Tuvalu;
- (b) I intend to make Tuvalu my permanent home;
- (c) I am now and will in future be able to support myself financially;
- (d) I am familiar with the laws and customs of Tuvalu;
- (e) I have never been sentenced by a court in any country to imprisonment for a term exceeding 12 months;
- (f) I do not suffer from any permanent communicable disease.

I understand that I may be required to produce documentary evidence as to all or any of these matters and to be questioned by the Citizenship Committee on them and any other matter it may consider material.

3. I am at present a national/citizen of but I

am prepared to renounce such nationality/citizenship upon being granted a certificate of naturalisation as a citizen of Tuvalu.

4. I am prepared to take before the Governor-General the Oath of Allegiance.

5. I enclose a fee of \$

6. My personal particulars are as follows: —

Name .

Address .

Date and place of birth .

Marital Status (with details if now married)

Dependent Children (under 18 years)

Occupation .

.....

7. The following persons may be referred to for corroboration of the statements made herein (name and address of one or more referees)

Declaration

I, the said (full name) do solemnly and sincerely

declare that the foregoing particulars are true and I make this solemn declaration conscientiously believing the same to be true by virtue of the Oaths and Statutory Declarations Act.

.....

(Signature of declarant)

Declared at (place)

thisday of20

before me

(name of officer before whom declared)

Signed

Office held

Seal [if any]

FORM 5 – CERTIFICATE OF NATURALISATION AS A CITIZEN OF TUVALU

(Section 6(3))

(*Cert. No*)

Whereas (full name of applicant)

has applied to be registered as a naturalised citizen of Tuvalu under the provisions of section 6 of the Citizenship Act, and has satisfied me that the conditions laid down in the said Act are fulfilled in relation to him/her for the grant of a certificate of naturalisation.

And whereas the said (full name) has

renounced his/her existing nationality or citizenship, has paid the prescribed fees and has taken before the Governor-General the Oath of Allegiance.

Now therefore, in exercise of the powers conferred by the said Act, and upon the direction of the Citizenship Committee, I do hereby grant to the said.....(full name) this certificate of naturalisation and declare that he/she shall be a citizen of Tuvalu as from the date of this certificate.

SIGNED

Registrar of Citizenship

Dated at Funafuti thisday of20

FORM 6 – DECLARATION OF RENUNCIATION OF TUVALU CITIZENSHIP

(Section 8(1))

To the Registrar of Citizenship, Funafuti.

1. I (full name)

(of address)

am of full age and capacity and was born aton the
.....day of20

2. I am a citizen of Tuvalu by reason of
..... (state basis of Tuvalu citizenship)

3. I am desirous of renouncing my Tuvalu citizenship.

4. I am also (or I shall as a result of renouncing Tuvalu citizenship be eligible to become) a
national/citizen of

5. I hereby renounce my Tuvalu citizenship.

Declaration

I, the said (full name)do solemnly and sincerely
declare that the foregoing particulars are true and I make this solemn declaration
conscientiously believing the same to be true by virtue of the Oaths and Statutory
Declarations Act.

.....
(Signature of declarant)

Declared at (place)

thisday of20

before me

(name of officer before whom declared)

Signed

Office held

Seal [if any]

FORM 7 – CERTIFICATE OF REGAINED TUVALU CITIZENSHIP

(Section 9(1))

(*Cert. No*)

Whereas (full name of applicant) was
until the day of20.....a
citizen of Tuvalu, but on that day ceased to be a citizen by reason of (state reason for loss
of citizenship)

And whereas the said (full name) has
successfully applied to the Citizenship Committee to regain his/her Tuvalu citizenship on
the ground that (state ground under section 9 of the Citizenship Act)

and has renounced other nationality or citizenship.

Now therefore, in exercise of the powers conferred by the said Act, and upon the direction
of the Citizenship Committee, I do hereby grant to the

said (full name) this certificate of regained
citizenship and declare that he/she shall be a citizen of Tuvalu as from the date of this
certificate.

SIGNED

Registrar of Citizenship

ENDNOTES

¹ 1990 Revised Edition, Cap. 98 – Acts 5 of 1979, 9 of 1984, 1 of 1989, LN 8/1987

Amended by Act 7 of 2007, commencement 30 November 2007 by LN 9/2007

² LN 15/1979

³ Cap. 1.02

⁴ Cap. 24.20

⁵ Amended by Act 7 of 2007

⁶ Cap. 7.68

⁷ Amended by Act 7 of 2007, by which the following paragraph was repealed – “Provided that no person who is a national or citizen of another country at the time of such application shall be registered as a citizen of Tuvalu unless at the time of making such application he renounces, or makes under section 10 a declaration of intention to renounce, that other nationality or citizenship.”

⁸ Replaced by Act 7 of 2009

⁹ Cap. 7.48