

**NIUE LAWS
LEGISLATION AS AT DECEMBER 2006**

CITIZENSHIP ACT 1977

1977/61 (NZ) – 1 January 1978

[EDITORIAL NOTE: The Citizenship Act of Niue is the Citizenship Act of New Zealand but it has had fewer amendments made to it. This is because none of the New Zealand amendments were extended to Niue. The Niue Assembly has made no amendments to the act. The citizenship enjoyed in Niue is the citizenship of the State of New Zealand. In practical terms therefore the important text is the current Citizenship Act 1977 of New Zealand. It is the Act which is reproduced here. The Citizenship Act 1977 in its Niue form is accessible in *Niue Legislation as at 1 August 1990* Vol 1.]

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SCHEDULES

To make better provision with respect to the status of New Zealand citizenship, and to consolidate and amend the British Nationality and New Zealand Citizenship Act 1948

1 Short title and commencement

This Act may be cited as the Citizenship Act 1977.

2 Interpretation

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

"alien" means a person who does not have the status of a New Zealand citizen, a Commonwealth citizen (British subject), a British protected person, or an Irish citizen;

"Armed Forces" has the meaning given to it by section 2 of the Defence Act 1990;

"Crown service under the New Zealand Government" means the service of the Crown under the Government of New Zealand or under the Government of a New Zealand mandated territory or New Zealand trust territory, whether that service is in any part of Her Majesty's realms and territories or elsewhere; and includes employment in any of the State Services, as that term is defined in section 2 of the State Sector Act 1988;

"employee" has the meaning given to it by section 2 of the State Sector Act 1988, except that it includes –

(a) Any chief executive; and

(b) [Repealed] "Minister" means the Minister of Internal Affairs; "New Zealand" includes the Cook Islands, Niue, Tokelau, and the Ross Dependency;

"New Zealand overseas representative" means a diplomatic or consular representative for New Zealand or a representative of the Government of New Zealand in any other country; and includes a High Commissioner for New Zealand in any other country;

"prescribed" means prescribed by regulations made under this Act or by the Minister;

"Protected state" means a Majesty by Order in Council to be a protected state for the purposes of the British Nationality Act 1948 (UK); and includes the New Hebrides and Canton Island;

"Protectorate" means a State or territory that is declared by Her Majesty by Order in Council to be a protectorate for the purposes of the British Nationality Act 1948 (UK);

"Secretary" means the Secretary for Internal Affairs.

(2) References in this Act to a Commonwealth country include references to every territory for the international relations of which that country is responsible.

(3) For the purposes of this Act, –

(a) A person born aboard a registered ship or aircraft shall be deemed to have been born in the place in which the ship or aircraft was registered;

(b) A person born aboard an unregistered ship or aircraft of the Government of a country shall be deemed to have been born in that country;

(c) A person shall be deemed to be of full capacity if he is not of unsound mind.

3 Special provisions relating to parentage

(1) For the purposes of this Act a person shall, in the absence of evidence to the contrary, be presumed to be the father of another person if—

(a) he is or was married to, or in a civil union or a de facto relationship with, that other person's mother at any time during the period commencing with that other person's conception and ending with that other person's birth; or

(b) His paternity of that other person has been established by one or more of the types of evidence specified by section 8 of the Status of Children Act 1969

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and (but without limiting subsection (2) of this section) the term "father", when used in this Act, shall be construed accordingly.

(2) For the purposes of this Act a person shall be deemed to be the child of a New Zealand citizen if –

(a) He or she has been adopted by that citizen, in New Zealand, by an adoption order within the meaning of and made under the Adoption Act 1955; or

(aa) He or she has been legally adopted by that citizen, in Niue, Tokelau, or the Cook Islands, by an adoption order that has the same operation and effect as an adoption order made under the Adoption Act 1955; or

(b) He or she has been adopted by that citizen, outside New Zealand, by an adoption to which section 17 of the Adoption Act 1955 applies, and either –

(i) that adoption took place before the commencement of the Citizenship Amendment Act 1992; or

(ii) at the time that adoption order was made he or she had not attained the age of 14 years; or

(ba) He or she has been adopted by that citizen, outside New Zealand, by an adoption order which has been certified by the competent authority of the Contracting State in which the adoption was made as being an adoption made in accordance with the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption –
and in any such case –

(c) The terms "father", "mother", and "parent", when used in this Act, shall be construed accordingly;

(d) The person shall be deemed to have been born when and where

the adoption order was made: Provided that, on the discharge for any reason of the adoption order in accordance with section 20 of the Adoption Act 1955 (or in accordance with the law relating to the discharge of adoption orders in Niue, Tokelau, or the Cook Islands), the person shall cease to be deemed to be the child of that citizen.

(2A) Nothing in the Adoption Act 1955 shall confer on a person who has been adopted by a New Zealand citizen in circumstances other than those specified in subsection (2) of this section any greater right to New Zealand citizenship than that person would have had if that person had not been adopted.

(2B) For the purposes of this Act, a person is deemed to be the child of a person entitled to be in New Zealand indefinitely if—

(a) He or she has been adopted in New Zealand on or after 1 January 2006, by an adoption order within the meaning of and made under the Adoption Act 1955, by a person who, at the time of the adoption, is entitled in terms of the Immigration Act 1987 to be in New Zealand indefinitely, or entitled to reside indefinitely in the Cook Islands, Niue, or Tokelau; or

(b) He or she has been legally adopted in the Cook Islands, Niue, or Tokelau on or after 1 January 2006, by an adoption order that has the same operation

and effect as an adoption order made under the Adoption Act 1955, by a person who, at the time of the adoption, is entitled in terms of the Immigration Act 1987 to be in New Zealand indefinitely, or entitled to reside indefinitely in the Cook Islands, Niue, or Tokelau, –

and, in any such case –

(c) The terms father, mother, and parent, when used in this Act, are to be construed accordingly, and

(d) The person is deemed to have been born when and where the adoption order was made; but

(e) On the discharge for any reason of the adoption in accordance with section 20 of the Adoption Act 1955, or in accordance with the law relating to the discharge of adoption orders in the Cook Islands, Niue, or Tokelau, the person ceases to be deemed to be the child of the person entitled to be in New Zealand indefinitely.

(3) References in this Act to the status or description of the father or mother of a person at the time of that person's birth shall, in relation to a person born after the death of his father or mother (as the case may require), be construed as referring to the status or description of the father or mother at the time of his or her death.

(4) Where the relevant parent died before, and the person was born on or after, the 1st day of January 1949, the status or description that would have been applicable to the parent had he or she died on or after the 1st day of January 1949 shall be deemed to be the status or description applicable to him or her at the time of his or her death.

(5) Where the relevant parent died before, and the birth occurs on or after, the 1st day of January 1978, the status or description that would have been applicable to the parent had he or she died on or after that date shall be deemed to be the status or description applicable to him or her at the time of his or her death. (5A) In subsection 3(1)(a), de facto relationship has the same meaning as in section 2D of the Property (Relationships) Act 1976, except that—

(a) The reference to 18 years in subsection (1)(a) of that section is to be read as a reference to 16 years; and

(b) A person who has attained the age of 16 years but who is younger than 18 years may be treated as having a de facto relationship with another person only if –

(i) the person is under the guardianship of a court, and the court has on an application for the purpose consented to the relationship; or

(ii) in the case of a person not under the guardianship of a court, the person's parents and guardians have consented to the relationship.

(6) In subsection (2)(ba), Contracting State has the same meaning as in the Adoption (Intercountry) Act 1997.

4 Administration of Act

Subject to the control of the Minister, the Secretary for Internal Affairs is responsible for the administration of this Act.

4A Delegation of powers by Secretary

(1) The Secretary may from time to time, by writing under the Secretary's hand, either generally or particularly, delegate to such officer or officers of the Department of Internal Affairs as the Secretary thinks fit all or any of the powers and functions exercisable by the Secretary under this Act or under any regulations made under this Act, other than the power of delegation conferred by this section.

(2) Subject to any general or special directions given or conditions attached by the Secretary, the officer to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on the officer directly by this section and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with its terms in the absence of evidence to the contrary.

(4) Any delegation under this section may be made to a specified officer or to officers of a specified class, or may be made to the holder for the time being of a specified office or class of office.

(5) Any delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power or function by the Secretary.

(6) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Secretary by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Secretary.

5 Act binds Crown

This Act binds the Crown.

PART 1

NEW ZEALAND CITIZENSHIP

Acquisition of Citizenship

6 Citizenship by birth

(1) Subject to subsection (2), a person is a New Zealand citizen by birth if –

(a) The person was born in New Zealand on or after 1 January 1949 and before 1 January 2006; or

(b) The person was born in New Zealand on or after 1 January 2006, and, at the time of the person's birth, at least one of the person's parents was –

(i) a New Zealand citizen; or

(ii) entitled in terms of the Immigration Act 1987 to be in New Zealand indefinitely, or entitled to reside indefinitely in the Cook Islands, Niue, or Tokelau.

(2) A person shall not be a New Zealand citizen by virtue of this section if, at the time of his birth,—

(a) His father or mother was a person upon whom any immunity from jurisdiction was conferred by or under the Diplomatic Privileges and Immunities Act 1968 or the Consular Privileges and Immunities Act 1971 or in any other way, and neither of his parents was a New Zealand citizen; or

(b) His father and mother were enemy aliens and the birth occurred in a place then under occupation by the enemy.

(3) Despite subsections (1) and (2), –

(a) Every person born in New Zealand on or after 1 January 1978 is a New Zealand citizen by birth if the person would otherwise be stateless;

(b) A person is deemed to be a New Zealand citizen by birth if—

(i) the person, having recently been born, has been found abandoned in New Zealand; and

(ii) investigations have failed to establish the identity of at least one of the person's parents.

(4) Notwithstanding section 7 of this Act, a person born outside New Zealand shall be deemed to be a New Zealand citizen otherwise than by descent if that person's father or mother is then—

(a) A New Zealand citizen, or a New Zealand citizen by descent, pursuant to this Act; and

(b) Either—

(i) a head of mission or head of post within the meaning of the Foreign Affairs Act 1988; or

(ii) an employee in any part of the State services, or a member of the Armed Forces, on service overseas; or

(iia) a person working overseas for the public service of Niue, Tokelau, or the Cook Islands; or

(iii) an officer or employee of New Zealand Trade and Enterprise (as established by the New Zealand Trade and Enterprise Act 2003) on service overseas; or

(iv) an officer or employee of the New Zealand Tourism Board (as established by the New Zealand Tourism Board Act 1991) on service overseas.

(5) Despite section 7, a person is a New Zealand citizen by birth if—

(a) The person is born in the Independent State of Samoa; and

(b) But for reasons of medical necessity requiring the mother to travel from Tokelau to the Independent State of Samoa to give birth to the person, the person would have been born in Tokelau; and

(c) At the time of the person's birth the person would have been a New Zealand citizen by birth under subsection (1), had the person been born on that date in Tokelau.

(6) A person who is a New Zealand citizen by birth does not lose his or her New Zealand citizenship by reason of the person being adopted by a parent or parents who are neither—

(a) New Zealand citizens; nor

(b) Persons entitled to reside indefinitely in New Zealand in terms of the Immigration Act 1987 or entitled to reside indefinitely in the Cook Islands, Niue, or Tokelau.

7 Citizenship by descent

(1) Every person born outside New Zealand on or after 1 January 1978 is a New Zealand citizen by descent if, at the time of the person's birth,—

(a) His or her mother or father was a New Zealand citizen otherwise than by descent; or

(b) His or her mother or father was a New Zealand citizen by descent, and the person would otherwise be stateless.

(2) A person who is a New Zealand citizen by virtue of subsection (1) may apply for his or her citizenship status to be registered in accordance with regulations made under this Act.

(3) For the purposes of this section, the Secretary may issue a certificate stating a person's status under this section and, in the absence of evidence to the contrary, a certificate to such effect signed by the Secretary, or by a person authorised for the purpose by the Secretary, shall be sufficient evidence of the matters stated in the certificate.

(4) The citizenship of any New Zealand citizen by descent that has lapsed before the commencement of the Citizenship Amendment Act 2000 is reinstated with effect from the time it lapsed.

8 Citizenship by grant

(1) The Minister may authorise the grant of New Zealand citizenship to any person, including a person who may be a New Zealand citizen by descent, who—

- (a) Has attained the age of 16 years; and
- (b) Is of full capacity; and
- (c) Applies for citizenship in the prescribed manner; and
- (d) Satisfies the Minister that he or she meets each of the requirements specified in subsection (2).

(2) The requirements referred to in subsection (1)(d) are as follows:

- (a) That the applicant is entitled in terms of the Immigration Act 1987 to be in New Zealand indefinitely;
- (b) That the applicant was present in New Zealand –
 - (i) for a minimum of 1 350 days during the 5 years immediately preceding the date of the application; and
 - (ii) for at least 240 days in each of those 5 years, being days during which the applicant was entitled in terms of the Immigration Act 1987 to be in New Zealand indefinitely –
- (c) That the applicant is of good character;
- (d) That the applicant has sufficient knowledge of the responsibilities and privileges attaching to New Zealand citizenship;
- (e) That the applicant has sufficient knowledge of the English language;
- (f) That the applicant intends, if granted New Zealand citizenship, either—
 - (i) to continue to reside in New Zealand; or

(ii) to enter into or continue in Crown service under the New Zealand Government, or service under an international organisation of which the New Zealand Government is a member, or service in the employment of a person, company, society, or other body of persons resident or established in New Zealand.

(3) For the purposes of subsection (2)(a), a person will not be treated as entitled to be in New Zealand indefinitely if—

(a) Requirements have been imposed under the Immigration Act 1987 on the person's entitlement to reside in New Zealand indefinitely; and

(b) Those requirements have not been met in full or cancelled at the time of the person's application for citizenship.

(4) The Minister may, after consultation with the Minister of Immigration, —

(a) Waive the requirement in subsection (2)(a) if satisfied that an applicant is entitled to reside indefinitely in the Cook Islands, Niue, or Tokelau;

(b) Waive the requirement in subsection (2)(b) if satisfied that an applicant was present in the Cook Islands, Niue, or Tokelau —

(i) for a minimum of 1 350 days during the 5 years immediately preceding the date of the application; and

(ii) for at least 240 days in each of those 5 years,— being days during which the applicant was entitled to reside indefinitely in the Cook Islands, Niue, or Tokelau.

(5) For the purposes of subsection (2)(b), the Minister may treat the applicant as having been in New Zealand for any period within the period of 5 years immediately preceding the date of application for citizenship during which—

(a) The applicant was in Crown service under the New Zealand Government; or

(b) The applicant was outside New Zealand because the applicant was accompanying his or her spouse or civil union or de facto partner who was a New Zealand citizen in Crown service under the New Zealand Government.

(6) For the purposes of subsection (4)(b), the Minister may treat the applicant as having been present in the Cook Islands, Niue, or Tokelau for any period within the period of 5 years immediately preceding the date of the application for citizenship during which—

(a) The applicant served in the public service of the Government of the Cook Islands, Niue, or Tokelau; or

(b) The applicant was outside New Zealand because the applicant was accompanying his or her spouse or civil union or de facto partner who was a New Zealand citizen serving in the public service of the Cook Islands, Niue, or Tokelau.

(7) If the Minister is satisfied in a particular case that there are exceptional circumstances particular to the applicant that would justify such a course, the Minister may accept the presence by the applicant for a lesser number of days as being sufficient compliance with—

(a) The requirements of subsection (2)(b), so long as the applicant—

(i) was physically present in New Zealand for not less than 450 days during the 20-month period immediately preceding the date of the application for citizenship; and

(ii) was entitled in terms of the Immigration Act 1987 to be in New Zealand indefinitely during each of those 450 days.

(b) The requirements of subsection (4)(b), so long as the applicant—

(i) was physically present in the Cook Islands, Niue, or Tokelau for not less than 450 days during the 20-month period immediately preceding the date of the application for citizenship; and

(ii) was entitled to be in the Cook Islands, Niue, or Tokelau indefinitely during each of those 450 days.

(8) The Minister may waive the requirement in subsection (2)(e) if satisfied in a particular case that, because of the applicant's age or standard of education, or for any other reason personal to the applicant, the applicant would suffer undue hardship if compliance with the requirement of that provision were insisted upon.

(9) For the purposes of subsection (2)(f),—

(a) The intention referred to in subsection (2)(f)(i) must be a continuing intention throughout the period from the date of application for citizenship until the date that the applicant becomes a citizen under section 12;

(b) the Minister may treat an applicant as intending to continue to reside in New Zealand if the applicant intends to accompany his or her New Zealand citizen spouse or civil union or de facto partner on Crown service for the New Zealand Government or public service for the Government of the Cook Islands, Niue, or Tokelau.

9 Grant of citizenship in special cases

(1) Without limiting anything in section 8, the Minister may, upon application in the prescribed manner, authorise the grant of New Zealand citizenship to any person, including a person who may be a New Zealand citizen by descent,—

- (a) Who has not yet attained the age of 16 years; or
- (b) Whose father or mother was, at the time of that person's birth, a New Zealand citizen by descent; or
- (c) If the Minister is satisfied that granting a certificate of New Zealand citizenship to the applicant would be in the public interest because of exceptional circumstances of a humanitarian or other nature relating to the applicant; or
- (d) If the person would otherwise be stateless.

(2) In considering whether to authorise the grant of New Zealand citizenship to any person under subsection (1), the Minister—

- (a) May have regard to such of the requirements of section 8(2) (as subject to section 8(3) to (9)) as the Minister thinks fit; and
- (b) Must have regard to the requirements of section 9A (1) (but subject to the Minister's discretion under section 9A(2) and (3)).

9A Disqualifying convictions

(1) Except as provided in subsection (2), the Minister must not authorise a grant of citizenship under section 8 or section 9 to a person who has been convicted of an offence if—

- (a) The person was sentenced on conviction to—
 - (i) a term of imprisonment of 5 years or more; or
 - (ii) an indefinite term of imprisonment capable of running for 5 years or more; or
- (b) Within the preceding 7 years the person was subject to a sentence of imprisonment of less than 5 years or was subject to release under subpart 2 of Part 1 of the Parole Act 2002; or
- (c) Within the preceding 3 years the person was convicted of an offence but did not receive a sentence of imprisonment.

(2) The Minister may however authorise a grant of citizenship to a person to whom subsection (1) applies and who otherwise meets the requirements of section 8 or section 9 if satisfied that there are exceptional circumstances relating to the conviction such that a grant of citizenship should not be precluded.

(3) Nothing in this section limits the Minister's discretion to refuse a grant of citizenship if the Minister is not satisfied that the applicant is of good character.

9B Minister may rescind approval at any time up until applicant becomes citizen

Notwithstanding that the Minister may have authorised a grant of citizenship under section 8 or section 9, the Minister may rescind that authorisation at any time before the date that the person becomes a citizen under section 12, if no longer satisfied that the person meets the requirements for a grant of citizenship.

10 Grant of citizenship as of right in certain cases

(1) Notwithstanding anything in section 8 or section 9 of this Act, the Minister shall, upon application made to him in the prescribed manner, authorise the grant of New Zealand citizenship to any person who was born before the 1st day of January 1978 if, at the time of that person's birth, his mother was a New Zealand citizen otherwise than by descent.

(2) This section does not apply to a person who has previously been deprived of New Zealand citizenship by order under section 16 or section 17, or renounced his or her citizenship under section 15.

11 Minister may require oath or affirmation of allegiance to be taken

(1) The Minister may, in such case or class of cases as the Minister thinks fit, make the grant of New Zealand citizenship conditional upon the applicant taking an oath of allegiance in the form specified in Schedule 1, or making an affirmation to similar effect.

(2) Unless the Minister agrees otherwise, the oath or affirmation must be taken or made at a public citizenship ceremony.

12 Certificate of New Zealand citizenship

(1) Where the Minister authorises the grant of New Zealand citizenship to any person, the Secretary shall issue to that person a certificate of New Zealand citizenship in the prescribed form.

(2) A person to whom a certificate of New Zealand citizenship is issued under subsection (1) of this section shall be a New Zealand citizen as from the specified date.

(3) Where a certificate of New Zealand citizenship is issued to a person who is a New Zealand citizen by descent, he shall cease to have that status as from the specified date.

(4) For the purposes of subsections (2) and (3) of this section the specified date shall be –

(a) In the case of a person required under section 11 of this Act to take an oath of allegiance, the date on which he takes that oath or makes an affirmation to the same effect;

(b) In every other case, the date specified in the certificate.

Transitional Provisions Relating to Citizenship

13 Existing rights of citizenship protected

(1) Notwithstanding the repeal of the British Nationality and New Zealand Citizenship Act 1948 by section 30 of this Act, every person who, by virtue of that Act, was a New Zealand citizen immediately before the commencement of this Act, shall, subject to the succeeding provisions of this Part of this Act, continue to be a New Zealand citizen.

(2) Notwithstanding subsection (1) of this section, a person who, by virtue of the British Nationality and New Zealand Citizenship Act 1948, was, immediately before the commencement of this Act, a New Zealand citizen by descent only, shall, for the purposes of this Act, be deemed to be a New Zealand citizen by descent only.

(3) Without limiting subsection (1) or subsection (2) of this section, but subject to subsection (4) of this section, every person born outside New Zealand on or after the 1st day of January 1949 but before the 1st day of January 1978 shall be a New Zealand citizen by descent if –

(a) In any case, his father was a New Zealand citizen at the time of that person's birth; or

(b) In the case of a person born on or after the 1st day of January 1970 (being the date of the commencement of the Status of Children Act 1969), his mother was a New Zealand citizen at the time of his birth.

(4) A person shall not be a New Zealand citizen by virtue of subsection (3) of this section if that person's relevant parent was a New Zealand citizen by descent only, unless—

(a) That person or his relevant parent was born in a protectorate, protected state, mandated territory, or trust territory, or any place in a foreign country where by treaty, capitulation, grant, usage, sufferance, or other lawful means Her Majesty then had jurisdiction over British subjects; or

(b) In the case of a person born in a place other than a place mentioned in paragraph (a) of this subsection, his birth [or citizenship by descent] is registered, in accordance with regulations made under this Act, before that person has attained the age of 16 years; or

(c) The relevant parent of that person was, at the time of the person's birth, in Crown service under the New Zealand Government.

14 Applications made under British Nationality and New Zealand Citizenship Act 1948 may be proceeded with under this Act

If a person has, before the commencement of this Act,—

- (a) Applied for registration as a New Zealand citizen; or
- (b) Given notice of his intention to apply for a certificate of naturalisation; or
- (c) Applied for a certificate of naturalisation – in accordance with the provisions of the British Nationality and New Zealand Citizenship Act 1948, the application (if it has not been finally determined under that Act) or notice may be dealt with in accordance with this Act as if it were an application for the grant of New Zealand citizenship under this Act.

Loss of Citizenship

15 Renunciation of citizenship

(1) A New Zealand citizen who has attained the age of 18 years and is of full capacity and who is recognised by the law of another country as a citizen of that country may, at any time, make a declaration of renunciation of his New Zealand citizenship in the prescribed manner.

(2) Subject to subsection (3) of this section, the Minister shall cause every declaration made under subsection (1) of this section to be registered in the prescribed manner, and, as from the date of that registration, the declarant shall cease to be a New Zealand citizen.

(3) The Minister may decline to register a declaration of renunciation if –

- (a) The declarant is resident in New Zealand; or
- (b) A state of war exists between New Zealand and any other country.

(4) A person who has ceased to be a New Zealand citizen under this section may regain New Zealand citizenship only by way of a grant of citizenship under section 8 or section 8A or section 9.

16 Deprivation of New Zealand citizenship [in special cases]

Subject to section 19 of this Act, the Minister may, by order, deprive a person of his New Zealand citizenship if he is satisfied that the person has, while a New Zealand citizen and while of or over the age of 18 years and of full capacity,—

- (a) Acquired the nationality or citizenship of another country by any voluntary and formal act, and acted in a manner that is contrary to the interests of New Zealand; or
- (b) Voluntarily exercised any of the privileges or performed any of the duties of another nationality or citizenship possessed by him in a manner that is contrary to the interests of New Zealand.

17 Deprivation of New Zealand citizenship in case of fraud, etc

(1) This section applies to a New Zealand citizen who has acquired that citizenship –

(a) By registration under the British Nationality and New Zealand Citizenship Act 1948; or

(b) By naturalisation under that Act; or

(c) By grant under this Act or the Citizenship (Western Samoa) Act 1982.

(2) Subject to section 19 of this Act, the Minister may, by order, deprive a New Zealand citizen to whom this section applies of his New Zealand citizenship if he is satisfied that the registration, naturalisation, grant, or any grant requirement was procured by fraud, false representation, or wilful concealment of relevant information, or by mistake.

(3) The Minister may not deprive a person of New Zealand citizenship under subsection (2) if –

(a) The citizenship was acquired by mistake; and

(b) To deprive the person of that citizenship would leave the person stateless.

18 Effect of order

A person in respect of whom an order is made under section 16 or section 17 of this Act shall cease to be a New Zealand citizen as from the date of the order.

19 Court review of grounds for depriving person of citizenship

(1) Before making an order under section 16 or section 17 of this Act depriving any person of New Zealand citizenship, the Minister shall serve on that person a notice –

(a) Stating that he intends to make such an order; and

(b) Citing the section of this Act under which he considers that he has grounds to make such an order; and

(c) Specifying the grounds on which he intends to make such an order; and

(d) Advising the person of his right to have the matter reviewed by the Court in accordance with the succeeding provisions of this section.

(2) Every person upon whom a notice is served under subsection (1) of this section may, within 28 days after it is served on him, apply to the High Court for a declaration that there are insufficient grounds to justify the making of an order under section 16 or, as the case may require, section 17 of this Act depriving the applicant of New Zealand citizenship; and the Court may make or refuse to make such a declaration accordingly.

(3) Notwithstanding any of the foregoing provisions of this section, in any case where the whereabouts of the person concerned are unknown or for any other reason service on him of a notice under this section is not practicable, the Minister may apply to the Court for the dispensing of the requirement to serve notice; and, in such a case, if the Court dispenses with that requirement, it shall proceed to consider the merits of the case, in accordance with the provisions of this section, as if the person concerned had applied to the Court for a declaration of the kind referred to in subsection (2) of this section.

(4) Where the Court makes such a declaration, the Minister shall not thereafter, without fresh cause, make an order under section 16 or section 17 of this Act depriving the applicant of New Zealand citizenship.

(5) [Repealed]

(6) Subject to the succeeding provisions of this section, the procedure in respect of an application under this section shall be in accordance with the rules of Court.

(7) When hearing any application under this section the Court may receive as evidence any statement, document, information, or matter that, in the opinion of the Court, may assist it to deal justly with the application before it, whether or not the same would be otherwise admissible in proceedings before the Court.

(8) Where the Court is satisfied that it is desirable to do so by reason of the confidential nature of any evidence submitted or to be submitted to it in respect of any application under this section, the Court may, of its own motion or on the application of any party to the proceedings, –

(a) Take or hear the evidence in private;

(b) Make an order prohibiting the publication of any report or account of the whole or any part of any such evidence (whether heard or taken in public or private).

(9) The determination of the High Court on any such application shall be final.

20 Saving of obligations incurred before loss of citizenship, etc

A person who ceases to be a New Zealand citizen shall not thereby be discharged from any obligation, duty, or liability in respect of any act or thing done or omitted to be done before he ceased to be a New Zealand citizen.

Miscellaneous Provisions Relating to Citizenship

21 Evidentiary certificates

(1) Any person who wishes to obtain confirmation of whether he or she is or is not a New Zealand citizen may apply to the Minister in the prescribed manner for a certificate confirming the person's status in that respect.

(2) The Minister shall, if satisfied that any such person is or is not a New Zealand citizen, issue a certificate to that effect.

(3) A certificate issued under this section shall, unless it is proved that the issue of the certificate was procured by fraud, false representation, or the wilful concealment of relevant information, or was the result of administrative error, be evidence that the person named in the certificate was or was not, on the date on which the certificate was issued, a New Zealand citizen, but without prejudice to any evidence that he or she was or was not a New Zealand citizen at an earlier date.

22 Minister may delegate functions and powers to overseas representatives

(1) The Minister may from time to time, by writing under his hand, authorise any New Zealand overseas representative in any country to perform and exercise in that country any of the Minister's functions and powers under this Part of this Act.

(2) In the performance or exercise of any such functions or powers, the New Zealand overseas representative shall act in accordance with all directions in that behalf given to him by the Minister, whether generally or in a particular case.

(3) Any authority and any directions under this section may be given to a specified person, or to the holder for the time being of a specified office.

PART 2

MISCELLANEOUS PROVISIONS

23 Capacity as to property

(1) Subject to subsection (2) of this section and to any other enactment, every person who is not a New Zealand citizen shall be entitled to take, acquire, hold, and dispose of real or personal property in the same manner in all respects as if he were a New Zealand citizen.

(2) Subsection (1) of this section shall not—

(a) Qualify an alien for any office, or for any parliamentary or other franchise, for which he is not otherwise qualified;

(b) Qualify an alien to be the owner of a ship registered in New Zealand, or of a share in any such ship;

(c) Entitle an alien to acquire property without any consent required under the Overseas Investment Act 2005;

(d) Entitle a person to any right or privilege as a New Zealand citizen, except the rights and privileges conferred on him in respect of property by that subsection.

24 General provisions as to certificates and other documents

(1) For the purposes of this section the term document means a certificate or other document issued under this Act; and includes a certificate or other document issued under any enactment referred to in section 25(1) of this Act; and also includes a duplicate of any such certificate or other document.

(2) No person shall alter or deface a document otherwise than pursuant to this Act.

(3) Every person to whom a document is or has been issued shall, on the expiry or revocation of the document, or of the exemption or condition or status evidenced by it, deliver the document to the Secretary.

(4) If a document that has been damaged to the extent that it is no longer legible is returned to the Secretary, or if the Secretary is satisfied that a document has been destroyed, lost, or stolen, the Secretary shall, upon application by the person to whom the document was issued and upon payment of the prescribed fee, issue a duplicate of the document.

25 Evidence

(1) Every document purporting to be a notice, certificate, or declaration, or an entry in a register, or a subscription of an oath of allegiance given, granted, or made under this Act, the British Nationality and Status of Aliens (in New Zealand) Act 1923 or any enactment repealed by that Act, the British Nationality and Status of Aliens (in New Zealand) Act 1928, or the Registration of Aliens Act 1917, or any enactment repealed by section 30 of 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 whose behalf it purports to have been given, granted, or made.

(2) Evidence of any document to which subsection (1) of this section applies may be given by production of a document purporting to be certified as a true copy thereof by such person and in such manner as may be prescribed.

(3) Any entry in a register made under this Act or any other Act referred to in subsection (1) of this section shall be received as evidence of the matters stated in the entry.

(4) For the purposes of this Act, a certificate given by or on behalf of the Minister that a person was at any time in Crown service under the New Zealand Government shall be conclusive evidence of that fact.

26 Discovery of documents held under this Act

(1) Notwithstanding section 17 or section 27 of the Crown Proceedings Act 1950, but subject to subsection (2) of this section, no Court shall have power in any civil proceedings to require the Crown to make discovery of a document or to produce a document for inspection if the document is held by or on behalf of the Crown for any of the purposes of this Act.

(2) Subsection (1) of this section does not apply to proceedings relating to any matter arising under this Act to which the Crown is a party.

26A Disclosure of citizenship information to certain specified agencies for certain purposes

(1) The purpose of this section is to authorise the disclosure of citizenship information to certain specified agencies for certain purposes.

(2) The Secretary and the chief executive of a specified agency listed in the first column of Schedule 4 may enter into an agreement for the disclosure by the Secretary to the chief executive of citizenship information only for the purpose described in the second column in relation to the specified agency.

(3) For the purposes of subsection (2), an agreement made in relation to citizenship information to be used to verify whether a person is eligible to hold a New Zealand passport, must be entered into by the Secretary in his or her capacity as the holder of citizenship information with himself or herself in the capacity as the holder of information under the Passports Act 1992.

(4) An agreement entered into under subsection (2) may be varied by the Secretary and the chief executive.

(5) The Secretary may disclose citizenship information to the chief executive only in accordance with Schedule 4 and an agreement entered into under subsection (2).

(5A) Despite anything in this section, the Secretary may disclose information about a person's citizenship status or the citizenship status of a person's parent or parents to the Registrar-General appointed under section 79 (1) of the Births, Deaths, and Marriages Registration Act 1995 for the purpose of recording that person's citizenship status on his or her birth record.

(6) In this section, –

"citizenship information" means information held by the Secretary that relates to the acquisition or loss of citizenship by, or the citizenship status of, any person; and includes information as to any change of identity or gender

"specified agency" has the meaning given to it by section 97 of the Privacy Act 1993.

26B Access to information for citizenship purposes

(1) The Secretary and the chief executive of the Department of Labour (the chief executive) may enter into an agreement for access by the Secretary, or officers of the Department of Internal Affairs designated by the Secretary for the purpose, to information held by the chief executive by virtue of being responsible for the administration of the Immigration Act 1987 that is needed for or relevant to –

(a) Citizenship investigations and the accurate assessment of applications for a grant of citizenship; or

(b) Determining whether a person is a New Zealand citizen by birth.

(2) An agreement entered into under subsection (1) may be varied by the Secretary and the chief executive.

(3) Before entering into an agreement under subsection (1), or varying an agreement under subsection (2), the Secretary and the chief executive must consult with the Privacy Commissioner on the terms of the agreement or variation.

(4) The Privacy Commissioner may require the Secretary and the chief executive to review an agreement under this section, and report on the result of the review to the Privacy Commissioner, at intervals not shorter than 12 months.

(5) For citizenship purposes, the Secretary or designated officers of the Department of Internal Affairs may access information held by the chief executive only in accordance with an agreement entered into under this section.

27 Offences and penalties

(1) Every person commits an offence, and is liable on conviction on indictment to imprisonment for a term not exceeding 5 years or a fine not exceeding \$15,000, or both, who –

(a) For the purpose 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 any 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) In contravention of section 24, knowingly—

(i) alters or defaces a document; or

(ii) fails to deliver a document; or

(d) Knowingly or recklessly lends or parts with a document (as defined in section 24(1)) for unlawful purposes; or

(e) 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) Every person commits an offence, and is liable on conviction on indictment to imprisonment for a term not exceeding 10 years or a fine not exceeding \$50,000, or both, who, knowingly and without reasonable excuse,—

- (a) Records, deletes, or alters any entry in a citizenship register or database; or
- (b) Takes a citizenship document (including any blank certificate) from where it is officially kept; or
- (c) Issues a citizenship document to a person who has no lawful entitlement to the document.

28 Regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes –

- (a) Prescribing anything that under this Act is to be prescribed;
- (b) Providing for the registration of anything required or authorised under this Act to be registered;
- (c) Providing for the administration and taking of oaths of allegiance under this Act, prescribing the time within which oaths of allegiance shall be taken, and providing for the registration of oaths of allegiance;
- (d) Providing for the giving of any notice required or authorised to be given to any person under this Act;
- (e) Providing for the cancellation and amendment of certificates of naturalisation and certificates of New Zealand citizenship, and for the cancellation of the registration of such certificates, relating to persons deprived of New Zealand citizenship under this Act, and providing for the surrender of such certificates by such persons;
- (f) Providing for the registration, by officers in the service of the New Zealand Government –
 - (i) of the births and deaths of persons of any class or description born or dying in any Commonwealth country, or in a protected state, or in any foreign country;
 - (ii) of citizenship by descent of persons born in any Commonwealth country, or in a protected state, or in any foreign country.
- (g) Enabling the births and deaths, and the citizenship by descent, of New Zealand citizens and British protected persons to be registered in any country in which the New Zealand Government has for the time being no overseas representatives –

(i) By persons serving in the diplomatic, consular, or other foreign service of any country that, by arrangement with the New Zealand Government, has undertaken to represent that Government's interests in that country; or

(ii) By any person authorised in that behalf by the Governor-General.

(h) Providing for the keeping of records, registers, and indexes for the purposes of this Act, and enabling persons to inspect and make copies of any entry in any such record, register, or index –

(i) Prescribing the fees payable, or the rate at which fees are to be calculated, and providing for the recovery and application of such fees, in respect of—

(i) any application made under this Act;

(ii) the registration of any document under this Act;

(iii) the making of any declaration under this Act;

(iv) the taking of an oath of allegiance under this Act;

(v) the grant of any certificate under this Act;

(vi) the issue of any copy (whether certified or not) of any notice, certificate, order, declaration, or entry given, granted, or made under this Act;

(vii) the inspection of any record, register, or index kept under this Act;

(viiia) the giving of written advice or the provision of written information, by or on behalf of the Secretary and whether generally or in relation to a particular case, in respect of all or any of the following:

(A) The eligibility of any person for citizenship by descent;

(B) The acquisition by any person of citizenship;

(C) The status of any person under this Act; (viiib) The issue of a certificate under section 7 (3) of this Act;

(viii) Any other matter arising under this Act;

(j) [Repealed]

(k) Prescribing offences in respect of the contravention of or non-compliance with any regulations made under this Act, and prescribing the amount of any fine that may be imposed in respect of any such offence, being an amount not

exceeding \$200 and, where the offence is a continuing one, a further amount not exceeding \$20 for every day during which the offence has continued;

(1) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Every fee prescribed by or under regulations made under this section shall be reasonable, having regard to the costs and expenses incurred and borne by or on behalf of the Secretary in respect of the matter for which the fee is payable.

29 Application of Act to Cook Islands, Niue, and Tokelau

(1) Whereas in accordance with Article 46 of the Constitution of the Cook Islands (as set out in Schedule 2 to the Cook Islands Constitution Amendment Act 1965) the Government of the Cook Islands has requested and consented to the enactment of a provision extending all of the provisions of this Act to the Cook Islands as part of the law of the Cook Islands: Be it therefore enacted as follows:

The provisions of this Act shall extend to the Cook Islands as part of the law of the Cook Islands.

(2) Whereas in accordance with Article 36 of the Constitution of Niue (as set out in Schedule 2 to the Niue Constitution Act 1974) the Niue Assembly has by resolution requested and consented to the enactment of a provision extending all of the provisions of this Act to Niue as part of the law of Niue: Be it therefore enacted as follows:

The Niue Act 1966 is hereby amended by inserting, after section 684, the following section:

"684A Citizenship Act in force in Niue "

The Citizenship Act 1977 shall extend to and be in force in Niue."

(3) The provisions of this Act shall be in force in Tokelau.

30 Repeals, consequential amendments, and revocation

(1) The enactments specified in Schedule 2 to this Act are hereby consequentially repealed.

(2) The enactments specified in Schedule 3 to this Act are hereby consequentially amended in the manner indicated in that Schedule.

(3) The Citizenship Deprivation Rules 1949 are hereby consequentially revoked.

SCHEDULES

SCHEDULE 1

Oath of allegiance

Section 11

I, [Full name], swear that I will be faithful and bear true allegiance to Her [or His] Majesty [Specify the name of the reigning Sovereign, as thus: Queen Elizabeth the Second, Queen of New Zealand,] Her [or His] heirs and successors, according to law, and that I will faithfully observe the laws of New Zealand and fulfil my duties as a New Zealand citizen.

SCHEDULE 2 Enactments consequentially repealed

Section 30(1)

1948, No 15 – The British Nationality and New Zealand Citizenship Act 1948.
1948, No 28 – The Aliens Act 1948: Sections 3 to 13.
1959, No 38 – The British Nationality and New Zealand Citizenship Amendment Act 1959.
1965, No 71 – The Aliens Amendment Act 1965: So much of the Schedule as relates to sections 3 to 13 of the Aliens Act 1948.
1965, No 72 – The British Nationality and New Zealand Citizenship Amendment Act 1965.
1967, No 56 – The Aliens Amendment Act 1967.
1969, No 70 – The British Nationality and New Zealand Citizenship Amendment Act 1969.
1970, No 123 – The Western Samoa Amendment Act 1970.
1973, No 51 – The British Nationality and New Zealand Citizenship Amendment Act 1973.

SCHEDULE 3 Enactments consequentially amended

Section 30(2)

Enactment	Amendment
1955, No 93 – The Adoption Act 1955	By repealing section 16(2)(e), and substituting the following paragraph: "(e) Subject to the Citizenship Act 1977, the adoption order shall not affect the race, nationality, or citizenship of the adopted child."
1961, No 68 – The Western.	By omitting so much of Schedule 2 as relates to the British Nationality and New Zealand Citizenship Act 1948

Samoa Act 1961

1968, No 36 –
The Diplomatic
Privileges and
Immunities Act
1968

By omitting from section 7 (2) the words "paragraph (a) of the British Nationality and New Zealand Citizenship Act 1948", and substituting the words "paragraph (a) of subsection (2) of section 6 of the Citizenship Act 1977"

1969, No 18 –
The Status of
.Children Act 1969

By omitting so much of the Schedule as relates to the British Nationality and New Zealand Citizenship Act 1948

1970, No 137 –
The Age of
Majority Act 1970

By omitting so much of Schedule 1 as relates to the British Nationality and New Zealand Citizenship Act 1948

1971, No 11 –
The Consular
Privileges and
Immunities Act
1971

By omitting so much of Schedule 1 as relates to the British Nationality and New Zealand Citizenship Act 1948.

SCHEDULE 4

Disclosure of information to specified agencies

Section 26A

Specified agency	Purpose
Department of Internal Affairs	To verify whether a person is eligible to hold a New Zealand passport
Registrar-General appointed under section 79 (1) of the Births, Deaths, and Marriages Registration Act 1995	For the Registrar-General to be satisfied whether or not a person is a New Zealand citizen
Department of Inland Revenue	To verify the identity of a person to establish— (a) The tax file number of the person; (b) The details of an applicant for child support
Department of Labour	To verify— (a) A person's citizenship status; (b) A person's entitlement to reside in New Zealand
Department of Work and Income	To (a) verify a person's eligibility or continuing eligibility for benefits, war pensions, loans, or allowances

(b) verify a person's eligibility or continuing eligibility for a community services card

Ministry of Education

To verify and update student information on the National Student Index