

CITIZENSHIP ACT, 1982

No. 25



of 1982

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Interpretation
3. Establishment of Citizenship Committee
4. Citizenship by birth
5. Citizenship by descent
6. Citizenship by adoption
7. Registration of adopted child over three years old
8. President's power to register citizens
9. Effect of registration as a citizen
10. Naturalization
11. Qualifications for naturalization
12. Naturalization of married women
13. Dual citizenship
14. Renunciation of citizenship by reason of dual citizenship or nationality
15. Deprivation of citizenship
16. Commonwealth citizen
17. Posthumous children
18. Decision of Minister to be final
19. Certificate of citizenship in case of doubt
20. Evidence
21. Offences
22. Regulations
23. Repeal of Act and continuance of Regulations (Cap. 25:01) (Sub. Leg).
24. Preservation of existing citizenship
25. Savings
26. Transitional provisions

An Act to provide for the acquisition and loss of citizenship of Botswana and for matters related thereto

Date of Assent: 18.10.82

Date of Commencement: on Notice

ENACTED by the Parliament of Botswana.

Short title and commencement	1. This Act may be cited as the Citizenship Act, 1982, and shall come into operation on such date as the Minister may, by notice published in the Gazette, appoint.
Interpretation	2. In this Act, unless the context otherwise requires, — “certificate of naturalization” means a certificate of naturalization under this Act; “child” includes a child born out of wedlock, and the expressions “father”, “mother” and “parent” shall be construed accordingly; “prescribed” means prescribed by regulations.
Establishment of Citizenship Committee	3. (1) There is hereby established a committee to be known as the Citizenship Committee, which shall consist of the following persons — (a) the Minister who shall be Chairman; (b) the Chairman of the House of Chiefs; (c) one member of the National Assembly appointed by the President; and (d) two persons from the general public appointed by the President. (2) In the exercise of his functions under this Act the Minister shall consult the Citizenship Committee.
Citizenship by birth	4. (1) A person born in Botswana shall be a citizen of Botswana by birth: Provided that a person shall not be a citizen of Botswana by virtue of this subsection if at the time of his birth, he acquires the citizenship of another country by descent through his father. (2) A person born before the commencement of this Act shall not be a citizen by virtue of this section unless he was a citizen at the time of such commencement.
Citizenship by descent	5. (1) A person born outside Botswana shall be a citizen of Botswana by descent if, at the time of his birth, — (a) his father was a citizen of Botswana; or (b) in the case of a person born out of wedlock, his mother was a citizen of Botswana. (2) A person born before the commencement of this Act shall not be a citizen by virtue of this section unless he was a citizen at the time of such commencement.
Citizenship by adoption	6. A child of not more than three years old adopted under the provisions of any written law relating to the adoption of children shall, if he was not a citizen at the date of such adoption, become a citizen by adoption on the date of such adoption if the adopter or, in the case of a joint adoption, the male adopter, was at the date of adoption a citizen.
Registration of adopted child of over three years	7. The Minister may cause a child of over three years old adopted by a citizen of Botswana under the provisions of any written law relating to the adoption of children to be registered as a

citizen, if such a child was not a citizen at the date of the adoption, upon application made in the prescribed manner by the adopter.

8. The President may cause to be registered as a citizen —

- (a) any person, as a token of honour, who in his opinion has done signal honour or rendered distinguished service to Botswana; or
- (b) any person not otherwise entitled to or eligible for citizenship of Botswana with respect to whom special circumstances exist which, in the opinion of the President, warrant such registration.

President's
power to
register
citizens

9. A person registered under section 7 or 8 shall be a citizen of Botswana by registration from the date on which he is registered.

Effect of
registration
as a
citizen

10. The Minister may grant a certificate of naturalization to a person of full age and capacity who satisfies the Minister that he is qualified under section 11 for naturalization, and that person shall, on taking the oath of allegiance, be a citizen of Botswana by naturalization from the date on which the certificate is granted.

Naturaliz-
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11. (1) Subject to subsection (2), the qualifications for naturalization of any person shall be that —

Qualifi-
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- (a) he has been resident in Botswana for a continuous period of 12 months immediately preceding the date of his application, for a certificate of naturalization;
- (b) he has not earlier than 6 or later than 5 years immediately before the date of his application for a certificate of naturalization, lodged with the Minister a written declaration of his intention to make such an application;
- (c) during the period of 12 years immediately preceding the period of 12 months prescribed by paragraph (a) he has been resident in Botswana for periods amounting in the aggregate to not less than 10 years;
- (d) he is of good character;
- (e) he has sufficient knowledge of the Setswana Language and such other language as may be prescribed; and
- (f) he intends, in the event of a certificate of naturalization being granted to him, to reside in Botswana.

(2) Where the Minister is of the opinion that special circumstances exist he may allow —

- (a) a continuous period of 12 months' resident in Botswana, ending not more than 6 months before the date of the application for a certificate of naturalization, to be reckoned for the purposes of subsection (1) (a) as if that period had immediately preceded that date;
- (b) periods of residence earlier than 13 years immediately preceding the date of application for a certificate of naturalization to be reckoned for the purposes of subsection (1) (c).

(3) Where an applicant has made an application for a certificate of naturalization under subsection (1), the Minister shall cause a notice of the application to be published in the Gazette and in a newspaper circulating in the district in which the applicant resides and the publication shall be displayed in such public offices and places as may be determined by the Minister.

(4) Where a notice is published in accordance with subsection (3), any person who objects to the applicant being granted a certificate of naturalization shall, within 30 days immediately after publication of the notice, notify the Minister in writing of his objection and of the grounds therefor.

(5) Before granting a certificate of naturalization under section 10 the Minister shall take into consideration any objection of which he has been notified in accordance with subsection (4).

Naturalization of married women

12. (1) A woman who is married to a citizen of Botswana or who was married to a citizen and has not since remarried may, at any time after such marriage, make an application to the Minister for the grant of a certificate of naturalization.

(2) The Minister may grant a certificate of naturalization to an applicant under subsection (1) if immediately preceding the date of her application she has been resident in Botswana for a continuous period amounting in the aggregate not less than two and a half years.

(3) Where an applicant under subsection (1) has not been resident in Botswana for the period specified in subsection (2), the Minister may, pending the fulfilment of the resident requirement, grant to such applicant a certificate of temporary citizenship on such terms and conditions as may be prescribed.

Dual citizenship

13. Any person who is a citizen of Botswana and also a citizen of another country shall, upon the attainment of the age of 21 years, cease to be a citizen of Botswana unless he has, immediately before the attainment of the age of 21 years, —

- (a) renounced his citizenship of that other country;
- (b) taken the oath of allegiance; and
- (c) made such declaration of his intentions concerning residence as may be prescribed.

Renunciation of citizenship by reason of dual citizenship or nationality

14. (1) If any citizen of Botswana of full age and capacity who is also a citizen of another country makes a declaration of renunciation of citizenship of Botswana, the Minister, if he is satisfied that that person is not ordinarily resident in Botswana shall, and in all other cases may, cause the declaration to be registered and, upon such registration, that person shall cease to be a citizen of Botswana:

Provided that the Minister may withhold registration of any such declaration if in his opinion it is contrary to public policy.

(2) For the purposes of this section any woman who is or has been married shall be deemed to be of full age.

15. The Minister may by order deprive a person of citizenship of Botswana if he is satisfied that that person — Deprivation of citizenship

- (a) has, by a voluntary and formal act other than marriage, acquired citizenship of another country;
- (b) has obtained naturalization by means of fraud, false representation or concealment of any material fact; or
- (c) being a citizen by naturalization —
 - (i) has failed, on being so required by the Minister, to renounce, within a specified time, his citizenship of any other country or to take the oath of allegiance;
 - (ii) has shown himself by act or speech to be disloyal or disaffected towards Botswana;
 - (iii) during any hostilities in which Botswana was or is engaged, unlawfully traded or communicated with any enemy or was or is engaged in or associated with any business which was or is to his knowledge carried on in such a manner as to assist an enemy in those hostilities;
 - (iv) has within 5 years after becoming naturalized been sentenced in any country to imprisonment for a term of not less than 3 years; or
 - (v) has been resident in other countries for a continuous period of 7 years and during that period has not given notice in writing to the Minister of his intention to retain his citizenship of Botswana:

Provided, however, that the 7 year period may not be renewed more than twice unless it is proved to the satisfaction of the Minister that special circumstances exist for such further renewal after the second renewal and it is in the public interest so to do.

16. Every person who is a citizen of Botswana or of any Commonwealth country shall, by virtue of that citizenship, also have the status of a Commonwealth citizen. Commonwealth citizen

17. Any reference in this Act to the status or description of a parent of a person at the time of that person's birth shall, if he was born after the death of that parent, be construed as a reference to the status or description of that person at the time of the parent's death. Posthumous children

18. The Minister shall not be required to assign any reason for any decision taken under any of the provisions of this Act and no such decision shall be subject to appeal or review in any court. Decision of Minister to be final

19. The Minister may, on application made by or on behalf of any person with respect to whose citizenship of Botswana a doubt exists, whether on a question of fact or law, certify that that person is a citizen of Botswana; and a certificate issued under this section shall, Certificate of citizenship in case of doubt

unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be conclusive evidence that that person was a citizen on the date thereof, without prejudice to any evidence that he was a citizen at an earlier date.

- Evidence** 20. Every document or a certified copy thereof purporting to be a notice, certificate, order or declaration, or an entry in a register, or a subscription to an oath of allegiance, given, granted or made under this Act shall be received in evidence and shall, unless the contrary is proved, be deemed to have been given, granted or made by or on behalf of the person by whom or on whose behalf it purports to have been given, granted or made.
- Offences** 21. Any person who —
(a) for the purpose of procuring anything to be done or not to be done under this Act makes any statement which he knows to be false or does not believe to be true in any material particular shall be guilty of an offence and on conviction thereof shall be liable to a term of imprisonment not exceeding 5 years or to a fine not exceeding P5 000 or to both; or
(b) fails to comply with any requirement imposed on him by instrument made under this Act shall be guilty of an offence and on conviction thereof shall be liable to a term of imprisonment not exceeding 12 months or to a fine not exceeding P1 000.
- Regulations** 22. The Minister may, by statutory instrument, make regulations generally for the carrying into effect of the provisions of this Act.
- Repeal of Act and continuance of Regulations Cap. 25:01 (Sub. Leg.)** 23. (1) The Citizenship of Botswana (Supplementary Provisions) Act is hereby repealed.
(2) Any instrument made under the Citizenship of Botswana (Supplementary Provisions) Act which was in force immediately before the commencement of this Act shall continue in force as if made under this Act.
- Preservation of existing citizenship** 24. Every person who was a citizen of Botswana at the commencement of this Act shall remain a citizen notwithstanding the repeal effected by section 23.
- Savings** 25. Notwithstanding the repeals effected by the Constitution (Amendment) Act, 1982, and this Act, any application for the acquisition of citizenship of Botswana which was lodged with the Minister on or before 31st July, 1982, shall be dealt with in accordance with the law for the time being in force immediately before the commencement of this Act.
- Transitional provisions** 26. Notwithstanding the provisions of section 11 (1) (b), where after the commencement of this Act, a person who intends to apply for a certificate of naturalization has been resident in Botswana for

a period of 7 years or more immediately before the commencement of this Act, such person shall lodge with the Minister a written declaration of his intention to apply for a certificate of naturalization,

- (a) in the case of a person who has been resident for more than 7 years but less than 9 years, at least 12 months before the date of his application for a certificate of naturalization; and
- (b) in the case of a person who has been resident for more than nine years, at least 6 months before the date of his application.

PASSED by the National Assembly this 19th day of August, 1982.

B. K. TEMANE,
Clerk of the National Assembly.