

# NATIONALITY AND CITIZENSHIP.

No. 83 of 1948.

## An Act relating to British Nationality and Australian Citizenship.

[Assented to 21st December, 1948.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

### PART I.—PRELIMINARY.

1. This Act may be cited as the *Nationality and Citizenship Act* Short title. 1948.
2. This Act shall come into operation on a date to be fixed by Commencement. Proclamation.
3. The Acts specified in the First Schedule to this Act are repealed. Repeal.
4. This Act is divided into Parts, as follows :— Parts.
  - Part I.—Preliminary.
  - Part II.—British Nationality.
  - Part III.—Australian Citizenship.
    - Division 1.—Citizenship by Birth or Descent.
    - Division 2.—Citizenship by Registration.
    - Division 3.—Citizenship by Naturalization.
    - Division 4.—Loss of Citizenship.
  - Part IV.—Transitional Provisions.
  - Part V.—Miscellaneous.

## Definitions.

5.—(1.) In this Act, unless the contrary intention appears—

“alien” means a person who is not a British subject, an Irish citizen or a protected person ;

“Australia” includes Norfolk Island and the Territory of Papua ;

“Australian consulate” means the office of a diplomatic or consular officer of the Australian Government at which a register of births is kept, or, in a country where there is no such office or in New Guinea, such office as is approved by the Minister and includes an office of the Department of Immigration ;

“British subject” means a person who is, or is deemed to be, a British subject under the provisions of this Act ;

“certificate of naturalization” means a certificate of naturalization granted under this Act ;

“certificate of registration” means a certificate of registration granted under this Act ;

“child” includes an adopted child, a step-child and a child born out of wedlock ;

“foreign country” does not include a trust territory, a state or territory which is or becomes a protectorate or protected state for the purposes of the Act of the Parliament of the United Kingdom known as the British Nationality Act, 1948, the New Hebrides or Canton Island ;

“naturalized person” means a person who under any law, whether in force before or after the date of commencement of this Act, becomes or became a British subject or an Irish citizen by virtue of a certificate of citizenship or a certificate of naturalization granted to him or in which his name is or was included or, in the case of a married woman, by virtue of a declaration that she desires or desired to acquire British nationality, and includes a person who under any such law was deemed to be a naturalized British subject by reason of his residence with his father or mother ;

“New Guinea” means the Territory of New Guinea ;

“protected person” means a person who is included in such prescribed classes of persons as are under the protection of the Government of any part of His Majesty’s dominions ;

“responsible parent”, in relation to a child, means the father of that child, or, where the father is dead or the mother has been given the custody of the child by order of a court, or the child was born out of wedlock and resides with the mother, means the mother of that child ;

“service under an Australian government” means service, whether within Australia or elsewhere, under the Commonwealth or an authority of the Commonwealth or under a State or Territory or an authority of a State or Territory ;

“Territory” means a Territory under the authority of the Commonwealth;

“the Australian Government” means His Majesty’s Government in the Commonwealth of Australia;

“the United Kingdom and Colonies” includes the Channel Islands and the Isle of Man;

“trust territory” means a territory administered by the government of any part of His Majesty’s dominions under the trusteeship system of the United Nations.

(2.) References in this Act to any country to which section seven of this Act applies include references to the dependencies of that country.

(3.) For the purposes of this Act—

(a) a person born on a registered ship or aircraft shall be deemed to have been born at the place at which the ship or aircraft was registered and a person born on an unregistered ship or aircraft belonging to the government of a country shall be deemed to have been born in that country;

(b) a person shall be of full age if he has attained the age of twenty-one years and of full capacity if he is not of unsound mind;

(c) a person shall be deemed not to have attained a specified age until the commencement of the relevant anniversary of the date of his birth;

(d) the United Kingdom and Colonies shall be deemed to constitute one country; and

(e) a person shall be deemed to be ordinarily resident in a country if—

(i) he has his home in that country; or

(ii) that country is the country of his permanent abode notwithstanding that he is temporarily absent therefrom,

but he shall be deemed not to be so resident if he resides in that country for a special or temporary purpose only.

6. This Act shall extend to the Territories under the authority of the Commonwealth.

*Extension  
of Act to  
Territories.*

## PART II.—BRITISH NATIONALITY.

7.—(1.) A person who, under this Act, is an Australian citizen or, by an enactment for the time being in force in a country to which this section applies, is a citizen of that country shall, by virtue of that citizenship, be a British subject.

*British  
nationality  
by virtue of  
citizenship.*

(2.) The countries to which this section applies are the following countries, namely, the United Kingdom and Colonies, Canada, New Zealand, the Union of South Africa, Newfoundland, India, Pakistan, Southern Rhodesia and Ceylon.

Continuance  
of certain  
Irish citizens  
as British  
subjects.

8.—(1.) An Irish citizen who, immediately prior to the date of commencement of this Act, was also a British subject shall not by reason of anything contained in the last preceding section be deemed to have ceased to be a British subject if at any time he gives notice in the prescribed form and manner to the Minister claiming to remain a British subject on all or any of the following grounds:—

- (a) that he is or has been in the service under an Australian government;
- (b) that he is the holder of an Australian passport issued by the Australian Government; or
- (c) that he has associations by way of descent, residence or otherwise with Australia or New Guinea.

(2.) A claim under the last preceding sub-section may be made on behalf of a child who has not attained the age of sixteen years by a person who satisfies the Minister that he is the responsible parent or the guardian of the child.

(3.) Where, under the law for the time being in force in a country to which section seven of this Act applies, provision corresponding to the foregoing provisions of this section is made for enabling Irish citizens to claim to remain British subjects, a person who is, by virtue of that law, a British subject shall be deemed also to be a British subject by virtue of this section.

Laws applicable  
to British  
subjects and  
Irish citizens  
who are  
not Australian  
citizens.

9.—(1.) A British subject or an Irish citizen who is not an Australian citizen shall not be guilty of an offence under any law of the Commonwealth or of a Territory (other than the *Navigation Act 1912-1942*) by reason of anything done or omitted to be done in a country to which section seven of this Act applies, in Ireland or in a foreign country unless—

- (a) the act or omission would be an offence if he were an alien; and
- (b) in the case of an act or omission in a country to which section seven of this Act applies or in Ireland, it would be an offence if the country in which the act was done or the omission made were a foreign country.

(2.) Subject to the last preceding sub-section, a law of the Commonwealth or of a Territory in force at the date of commencement of this Act and a law of the Commonwealth or of a Territory which, although passed or made prior to that date, comes into force on or after that date shall, until provision to the contrary is made, continue to have effect in relation to Irish citizens who are not British subjects in like manner as they have effect in relation to British subjects.

### PART III.—AUSTRALIAN CITIZENSHIP.

#### Division 1.—Citizenship by Birth or Descent.

Citizenship  
by birth.

10.—(1.) Subject to this section, a person born in Australia after the commencement of this Act shall be an Australian citizen by birth.

(2.) A person shall not be an Australian citizen by virtue of this section if, at the time of his birth—

- (a) his father was not an Australian citizen and possessed the immunity from suit and legal process which is accorded to an envoy of a foreign country accredited to His Majesty ;  
or
- (b) his father was an enemy alien and the birth occurred in a place then under occupation by the enemy.

**11.—**(1.) Subject to this section, a person born outside Australia after the commencement of this Act shall be an Australian citizen by descent if—

- (a) at the time of the birth—
  - (i) his father was an Australian citizen ; or
  - (ii) in the case of a person born out of wedlock, his mother was an Australian citizen or a British subject ordinarily resident in Australia or New Guinea ; and
- (b) the birth is registered at an Australian consulate within one year after its occurrence or, in special circumstances, within such extended period as the Minister allows.

(2.) A person who, after the commencement of this Act, is born in a country to which section seven of this Act applies, and whose father, or, in the case of a person born out of wedlock, whose mother, was an Australian citizen not ordinarily resident in Australia or New Guinea at the time of the birth, shall not become an Australian citizen under this section if, under the law of that country, he became a citizen of that country at birth.

#### *Division 2.—Citizenship by Registration.*

**12.—**(1.) The Minister may, upon application in the prescribed manner, grant a certificate of registration as an Australian citizen to a person who is a citizen of a country to which section seven of this Act applies, or an Irish citizen, and satisfies the Minister—

- (a) that he is of full age and of full capacity ;
- (b) that he has resided in Australia or New Guinea, or partly in Australia and partly in New Guinea, for not less than five years during the eight years immediately preceding the date of the application or, in such specified cases as the Minister, upon application in the prescribed manner, approves, for such shorter period (not being less than twelve months) as the Minister allows ;
- (c) that he is of good character ;
- (d) that he has an adequate knowledge of the English language or, if he has not such a knowledge, that he has resided in Australia or New Guinea, or partly in Australia and partly in New Guinea, for a continuous period of not less than twenty years ;

- (e) that he has an adequate knowledge of the responsibilities and privileges of Australian citizenship; and
- (f) that he intends, if registered, to continue to reside in Australia or New Guinea, to enter or continue in the service under an Australian government, in the service of an international organization of which the Australian Government is a member, or service in the employment of a person, society, company or body of persons resident or established in Australia or New Guinea.

(2.) Notwithstanding anything contained in the last preceding sub-section, the Minister may, upon application in the prescribed form, grant a certificate of registration as an Australian citizen to a person who is a citizen of a country to which section seven of this Act applies or an Irish citizen and is not of full age or is a woman married to an Australian citizen and is residing with her husband in Australia or New Guinea as a permanent resident.

(3.) The Minister may, upon application in the prescribed form, include in a certificate of registration granted under this Act the names of any children not of full age of whom the grantee is the responsible parent or the guardian.

Effect of registration.

13.—(1.) A person to whom a certificate of registration as an Australian citizen has been granted shall be an Australian citizen by registration as from the date upon which the certificate is granted.

(2.) A person whose name is under the last preceding section included in a certificate of registration shall, if not already an Australian citizen, be an Australian citizen by registration as from the date upon which his name is so included.

#### *Division 3.—Citizenship by Naturalization.*

Declaration of intention to apply for naturalization.

14.—(1.) An alien or a protected person shall not be entitled to obtain a certificate of naturalization unless, not earlier than one year after his entry into Australia or New Guinea, he makes a declaration in the prescribed form of his intention to apply for the grant of a certificate of naturalization as an Australian citizen.

(2.) An alien or a protected person may make application in the prescribed form for the grant of a certificate of naturalization as an Australian citizen not earlier than two years and not later than seven years after the making of the declaration of intention or, in any case in which a declaration of intention is not required, not earlier than one year after his entry into Australia or New Guinea.

(3.) The Minister may, upon application in the prescribed form by a person who has, under paragraph (a) or (b) of sub-section (2.) of the next succeeding sub-section, been allowed to reckon residence or service, exempt that person from the requirements of sub-section (1.) of this section.

15.—(1.) The Minister may grant a certificate of naturalization Citizenship by naturalization. as an Australian citizen to an alien or to a protected person who has made application in accordance with the last preceding section and satisfies the Minister—

- (a) that he complies with qualifications corresponding to those specified in paragraphs (a), (c), (d), (e) and (f) of sub-section (1.) of section twelve of this Act;
- (b) that he has resided continuously in Australia or New Guinea, or partly in Australia and partly in New Guinea, throughout the period of one year immediately preceding the date of the application; and
- (c) that, in addition to the residence required under the last preceding paragraph, he has resided in Australia or New Guinea, or partly in Australia and partly in New Guinea, or has had service under an Australian government, or partly such residence and partly such service, for periods amounting in the aggregate to not less than four years during the eight years immediately preceding that date.

(2.) For the purposes of paragraph (c) of the last preceding sub-section, the Minister may, in such cases as he thinks fit—

- (a) allow residence in a country other than a foreign country to be reckoned as if it had been residence in Australia;
- (b) allow service under the Government of a country to which section seven of this Act applies, or of a province or territory of any such country, to be reckoned as if it had been service under an Australian government; and
- (c) allow periods of residence or service earlier than eight years preceding the date of the application to be reckoned in computing the aggregate period mentioned in that paragraph.

(3.) Notwithstanding anything contained in the preceding provisions of this Division, the Minister may, upon application in the prescribed form, grant a certificate of naturalization as an Australian citizen to an alien who is not of full age.

(4.) Notwithstanding anything contained in section fourteen of this Act or in paragraph (a) or (b) of sub-section (1.) of this section, the Minister may, upon application in the prescribed form, grant a certificate of naturalization as an Australian citizen to an alien woman who satisfies the Minister—

- (a) that she is the wife of an Australian citizen; and
- (b) that she has resided with her husband in Australia or New Guinea, or partly in Australia and partly in New Guinea, for a continuous period of not less than one year.

(5.) The Minister may, upon application in the prescribed form, include in a certificate of naturalization granted under this Act the names of any children not of full age of whom the grantee is the responsible parent or the guardian.

**Effect of  
naturalization.**

**16.—(1.)** A person to whom a certificate of naturalization has been granted shall be an Australian citizen by naturalization—

- (a) in the case of a person who has attained the age of sixteen years—as from the date upon which he takes in the prescribed manner an oath of allegiance in accordance with the form contained in the Second Schedule to this Act; or
- (b) in the case of a person who has not attained that age—as from the date upon which the certificate is granted.

(2.) A person whose name is under the last preceding section included in a certificate of naturalization shall, if not already an Australian citizen, be an Australian citizen by naturalization as from the date upon which his name is so included or the date upon which the grantee of the certificate of naturalization becomes an Australian citizen by naturalization, whichever is the later.

*Division 4.—Loss of Citizenship.*

**Loss of  
citizenship on  
acquisition of  
another  
nationality.**

**17.** An Australian citizen of full age and of full capacity, who, whilst outside Australia and New Guinea, by some voluntary and formal act, other than marriage, acquires the nationality or citizenship of a country other than Australia, shall thereupon cease to be an Australian citizen.

**Renunciation  
of citizenship**

**18.—(1.)** Where, under the law of some country other than Australia, an Australian citizen acquires, at birth or whilst not of full age or by reason of marriage, the nationality or citizenship of that country, he may, at any time after attaining the age of twenty-one years or after the marriage, make a declaration renouncing his Australian citizenship.

(2.) A person who became an Australian citizen by reason of the inclusion of his name in a certificate of registration or a certificate of naturalization granted to his responsible parent or his guardian may, at any time after attaining the age of twenty-one years, make a declaration renouncing his Australian citizenship.

(3.) Where a person ceases to be an Australian citizen or is deprived of his Australian citizenship under the provisions of this Division and his wife acquires, under the law of some country other than Australia, the nationality or citizenship of her husband, she may, at any time after acquiring that nationality or citizenship, make a declaration renouncing her Australian citizenship.

(4.) Subject to the next succeeding sub-section, the Minister shall register a declaration made under this section and thereupon the person making the declaration shall cease to be an Australian citizen.

(5.) Where, during a war in which Australia is engaged, a declaration is made under this section by a person who is a national or citizen of a foreign country, the Minister may refuse to register the declaration.



**19.** An Australian citizen who, under the law of a country other than Australia, is a national or citizen of that country and serves in the armed forces of a country at war with Australia shall, upon commencing so to serve, cease to be an Australian citizen.

Loss of citizenship by reason of service in armed forces of an enemy country.

**20.** An Australian citizen who is such by registration or is a naturalized person and, after the date of commencement of this Act, has resided outside Australia and New Guinea for a continuous period of seven years shall cease to be an Australian citizen unless—

Loss of citizenship by residence outside Australia.

- (a) he has, at least once during the second and each subsequent year, or at such other times as the Minister, in special circumstances, allows, during that period, given the prescribed notice, at an Australian consulate, of his intention to retain his Australian citizenship ;
- (b) he has so resided by reason of his service under an Australian government or his service with an international organization of which the Australian Government is a member or his service in the employment of a person, society, company or body of persons resident or established in Australia or New Guinea ;
- (c) he has given the notice referred to in paragraph (a) of this section for portion of that period and has had such service for the remainder of that period ; or
- (d) he is a person not of full age and resides with his responsible parent or his guardian who is an Australian citizen.

**21.—(1.)** Where the Minister is satisfied that an Australian citizen who is such by registration or is a naturalized person—

Deprivation of citizenship.

- (a) has shown himself by act or speech to be disloyal or disaffected towards His Majesty ;
- (b) has, during any war in which Australia is or has been engaged, unlawfully traded or communicated with the enemy or been engaged on or associated with any business which was to his knowledge carried on in such a manner as to assist an enemy in that war ;
- (c) was registered or naturalized by means of fraud, false representation or the concealment of some material circumstances ;
- (d) was not, at the date on which he was registered or naturalized, of good character ; or
- (e) has, within five years after that date, been sentenced in any country to imprisonment for a term of twelve months or more,

the Minister may, by order, deprive that citizen of his Australian citizenship, and thereupon the person in respect of whom the order is made shall cease to be an Australian citizen.

(2.) The Minister shall not make an order under this section in respect of a person unless satisfied that it is not conducive to the public good that that person should continue to be an Australian citizen.

(3.) Before making an order on any of the grounds set out in paragraphs (a), (b), (c) and (d) of sub-section (1.) of this section, the Minister shall give to the person in respect of whom the order is proposed to be made a notice in writing informing him of the ground on which the order may be made and that he may apply to the Minister to have the question whether the order should be made referred to a committee for inquiry and report and, if that person so applies, the Minister shall refer the question accordingly.

(4.) For the purposes of this section, the Governor-General may appoint a committee of inquiry, the chairman of which shall be a person who holds or has held the office of Justice or Judge of a Federal Court or of a Court of a State or Territory or who is or has been a barrister or solicitor of the High Court or of the Supreme Court of a State of not less than five years' standing.

(5.) The practice and procedure and the powers, rights and privileges of a committee appointed under this section shall be as prescribed.

Deprivation of Australian citizenship of persons deprived of citizenship elsewhere.

**22.** Where an Australian citizen who—

(a) is a naturalized person ; and

(b) was a citizen of a country to which section seven of this Act applies and has, under a provision of the law of the country of which he was such a citizen, been deprived of citizenship of that country on grounds which, in the opinion of the Minister, are substantially similar to any of the grounds specified in sub-section (1.) of the last preceding section,

the Minister may, if he is satisfied that it is not conducive to the public good that that person should continue to be an Australian citizen, by order, deprive that person of his Australian citizenship, and thereupon that person shall cease to be an Australian citizen.

Children of persons who lose or are deprived of citizenship.

**23.—(1.)** Where the responsible parent or the guardian of a person not of full age ceases to be an Australian citizen under section seventeen, eighteen, nineteen or twenty of this Act, that person shall cease to be an Australian citizen if he is or thereupon becomes, under the law of some country outside Australia, a national or citizen of that country.

(2.) Where a person is deprived of his Australian citizenship under section twenty-one or twenty-two of this Act, the Minister may, by order, direct that all or any of the children of whom that person is the responsible parent or the guardian and who are not of full age shall cease to be Australian citizens, and thereupon they shall cease to be Australian citizens.

(3.) A person who has ceased to be an Australian citizen under the preceding provisions of this section may, within one year after attaining the age of twenty-one years or, in special circumstances, within such extended period as the Minister allows, make a declaration that he wishes to resume Australian citizenship and, upon the registration of the declaration in the prescribed manner, he shall again become an Australian citizen.

## PART IV.—TRANSITIONAL PROVISIONS.

**24.** In this Part, "British subject" includes a person who was, immediately prior to the date of commencement of this Act, entitled in Australia or a Territory to all political and other rights, powers and privileges to which a natural-born British subject was then entitled.

Definition of British subject for the purposes of this Part.

**25.—(1.)** A person who was a British subject immediately prior to the date of commencement of this Act shall, on that date, become an Australian citizen if—

Transitional provisions.

- (a) he was born in Australia and would have been an Australian citizen if section ten of this Act had been in force at the time of his birth;
- (b) he was born in New Guinea;
- (c) he was a person naturalized in Australia; or
- (d) he had been, immediately prior to the date of commencement of this Act, ordinarily resident in Australia or New Guinea, or partly in Australia and partly in New Guinea, for a period of at least five years.

(2.) A person shall not become an Australian citizen by virtue of the last preceding sub-section if, but for paragraph (d) of that sub-section, he would have ceased to be a British subject on the date of commencement of this Act.

(3.) A person born outside Australia and New Guinea—

- (a) who was a British subject immediately prior to the date of commencement of this Act;
  - (b) whose father was a person to whom paragraph (a), (b) or (c) of sub-section (1.) of this section applies; and
  - (c) who enters or entered Australia,
- shall become an Australian citizen on that date or on the date upon which he enters Australia, whichever is the later.

(4.) A woman who—

- (a) was a British subject immediately prior to the date of commencement of this Act;
  - (b) had, prior to that date, been married to a person who becomes or, if he is dead, would, but for his death, have become an Australian citizen under this section; and
  - (c) entered Australia prior to that date,
- shall on that date become an Australian citizen.

(5.) A person who was born out of wedlock outside Australia, the countries to which section seven of this Act applies and Ireland and, prior to the date of commencement of this Act, entered Australia shall become an Australian citizen on that date if his mother was at the time of his birth a British subject ordinarily resident in Australia or New Guinea.

(6.) A person who entered Australia prior to the date of commencement of this Act and who, at the time of his entry or subsequently, was—

- (a) a prohibited immigrant within the meaning of the Immigration Act; or
- (b) a person who had applied for, or was issued with, a certificate of exemption under section four of that Act,

shall not become an Australian citizen under this section unless, prior to that date, he had been granted permission by the Minister, or by an officer under that Act, to remain in Australia for permanent residence.

(7.) A person who enters Australia after the commencement of this Act and who, at the time of his entry, is—

- (a) a prohibited immigrant within the meaning of the Immigration Act; or
- (b) a person who applies for, or is issued with, a certificate of exemption under section four of that Act,

shall not become an Australian citizen under this section.

(8.) In this section—

“ the Immigration Act ” means the *Immigration Restriction Act* 1901, and, when considered in relation to any time, means that Act as amended as in force at that time;

“ person naturalized in Australia ” means—

- (a) a person to whom a certificate of naturalization was granted in Australia or a Territory;
- (b) a person who, by reason of the inclusion of his name in any such certificate, was deemed to be a person to whom a certificate of naturalization was granted;
- (c) a person who, by virtue of any law in force in Australia or a Territory, was deemed to be a naturalized British subject by reason of his residence with his father or mother; or
- (d) a married woman who, by virtue of any such law, made a declaration that she desired to acquire British nationality.

British subjects  
without  
citizenship

26.—(1.) A person who—

- (a) was a British subject immediately prior to the date of commencement of this Act; and
- (b) was not at that date an Australian citizen or a citizen of a country to which section seven of this Act applies or an Irish citizen,

shall remain a British subject without citizenship, but shall cease to be a British subject without citizenship if he becomes an Australian citizen, a citizen of any such country, an Irish citizen or an alien.

(2.) Subject to the next two succeeding sub-sections, the law in force in Australia, immediately prior to the date of commencement of this Act, in relation to British nationality shall continue to apply, as if this Act had not been passed, to a person who remains, or is deemed to be, a British subject without citizenship while he remains, or is deemed to be, such a British subject.

(3.) Where a person who remains, or is deemed to be, a British subject without citizenship marries a woman who is not a British subject, she shall not, by reason of the marriage, become a British subject.

(4.) Where a woman who remains, or is deemed to be, a British subject without citizenship marries an alien or an Irish citizen she shall not, by reason of the marriage, cease to be a British subject.

(5.) A person who, after the date of commencement of this Act is born in a country outside Australia shall, if he becomes a British subject by virtue of the law in force in a country to which section seven of this Act applies but does not, under this Act or the law in force in any such country, become an Australian citizen or a citizen of any such country, be deemed to be a British subject without citizenship, but shall cease to be a British subject without citizenship if he becomes an Australian citizen, a citizen of any such country, an Irish citizen or an alien.

(6.) A person who remains, or is deemed to be, a British subject without citizenship shall, for the purposes of any application made by him for registration as an Australian citizen, be deemed to be a citizen of a country to which section seven of this Act applies.

**27.** Where, at any time prior to the date of commencement of this Act, a woman ceased to be a British subject by reason that—

Women who have ceased to be British subjects by reason of marriage.

(a) on her marriage to an alien she acquired the nationality of her husband ; or

(b) during the continuance of the marriage, her husband, being a British subject, acquired a new nationality and, by reason of her husband acquiring the new nationality, she also acquired that nationality,

she shall be deemed, for the purposes of this Act, to have been a British subject immediately prior to that date.

**28.—(1.)** Where a person whose British nationality was conditional upon his complying with the second proviso to sub-section (1.) of section six of the *Nationality Act 1920*, or of that Act as amended from time to time, failed to comply with that proviso, that person shall, if he would, but for that failure, have been a British subject immediately prior to the date of commencement of this Act, be deemed, for the purposes of this Act, then to have been a British subject.

Persons who have ceased to be British subjects by failure to make declaration of retention of British nationality.

(2.) In determining whether, for the purposes of the last preceding sub-section, a woman who has married an alien would, but for her failure to comply with the proviso referred to in that sub-section, have been a British subject immediately prior to the date of the commencement of this Act, the marriage shall be disregarded.

Children of persons naturalized before 1st January, 1921.

**29.** A person whose father or mother was granted a certificate of naturalization in Australia before the first day of January, One thousand nine hundred and twenty-one, and who, by reason only that the certificate was not a certificate of naturalization as defined in section five of the *Nationality Act* 1920, was not deemed to be a British subject, shall be deemed, for the purposes of this Act, to have been a British subject immediately prior to the date of commencement of this Act.

Citizenship of children who cease to be British subjects on loss of British nationality of parent.

**30.—(1.)** This section shall apply to any person who—

(a) under the provisions of sub-section (1.) of section twenty of the *Nationality Act* 1920, or of that Act as amended from time to time, ceased to be a British subject by reason that he was a minor child of a person ceasing to be a British subject; and

(b) on the date of commencement of this Act, would, but for the provisions of that sub-section, have been either an Australian citizen, or a British subject without citizenship by virtue of section twenty-six of this Act,

and, in determining whether, for the purposes of this section, a woman who had married an alien would, but for those provisions, have been an Australian citizen or such a subject, the marriage shall be disregarded.

(2.) If a person to whom this section applies makes a declaration in the prescribed manner, within one year after the date of the commencement of this Act or the date upon which he attains the age of twenty-one years, whichever is the later, or within such further period as the Minister allows, that he wishes to resume British nationality, the Minister shall cause the declaration to be registered.

(3.) Upon the registration of the declaration, the person who made the declaration shall become an Australian citizen or, as the case may be, a British subject without citizenship.

(4.) The provisions of section twenty-six of this Act shall apply to a person who, under this section, becomes such a British subject without citizenship.

Application for naturalisation pending at the commencement of the Act.

**31.—(1.)** Where an application for a certificate of naturalization was made to the Minister prior to the date of commencement of this Act but was not granted before that date and the person to whom the application relates satisfies the Minister that he complies with paragraphs (a), (b) and (c) of sub-section (1.) of section fifteen of this Act, the Minister may treat the application as if it were an application under this Act for a certificate of naturalization and the provisions of this Act shall apply accordingly.

(2.) Where an application for a certificate of naturalization was made before, or is made within two years after, the date of commencement of this Act, the Minister may grant the application notwithstanding that the provisions of section fourteen of this Act have not been complied with.

PART V.—MISCELLANEOUS.

32.—(1.) Notwithstanding anything contained in this Act, the Minister may, upon application in accordance with the prescribed form, grant a certificate of registration or a certificate of naturalization as an Australian citizen to a person with respect to whose status as an Australian citizen a doubt exists. Certificate of registration or naturalization in case of doubt.

(2.) Before granting the certificate, the Minister may require that person to comply with such provisions of this Act as the Minister specifies.

(3.) A certificate granted under this section shall, unless it is proved that it was obtained by means of fraud, a false representation or the concealment of some material fact, be conclusive evidence that the person was an Australian citizen on the date of the certificate but without prejudice to any evidence that he was an Australian citizen at an earlier date.

33.—(1.) If any territory becomes a part of Australia, the Governor-General may, by order published in the *Gazette*, declare that the persons included in such classes of persons as are specified in the order shall, as from such date as is so specified, become Australian citizens by reason of their connexion with that territory. Citizenship by incorporation of territory.

(2.) A person included in any such class shall, as from the date so specified, become an Australian citizen.

34.—(1.) A person born out of wedlock and legitimated by the subsequent marriage of his parents shall, as from the date of the marriage or of the commencement of this Act, whichever is the later, be treated, for the purpose of determining whether he is an Australian citizen, or was a British subject immediately prior to the date of the commencement of this Act, as if he had been born in wedlock. Legitimated children.

(2.) A person shall not, for the purposes of this section, be deemed to have been legitimated by the subsequent marriage of his parents unless, by the law of the place in which his father was domiciled at the time of the marriage, the marriage operated immediately or subsequently to legitimate him.

35.—(1.) Any reference in this Act to the status or description of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the status or description of the father at the time of the father's death. Posthumous children.

(2.) Where the death occurred prior to, and the birth occurred after, the date of commencement of this Act, the status or description which would have been applicable to the father if he had died after that date shall be deemed to be the status or description applicable to him at the time of his death.

Evidence in support of application for registration or naturalization.

**36.—**(1.) An applicant for a certificate of registration or a certificate of naturalization shall advertise in the prescribed manner his intention to apply for registration or naturalization and shall satisfy the Minister in the prescribed manner that he has done so.

(2.) An applicant for a certificate of registration or a certificate of naturalization, being a person of full age, shall produce in support of his application—

- (a) his own statutory declaration stating his name, age, birthplace, occupation and residence, and such other matters as are prescribed ; and
- (b) certificates of character from three Australian citizens, two of whom are householders and one of whom is a Justice of the Peace, a postmaster, a teacher of a public school, an officer of the Police force of the Commonwealth or of a State or a Territory, or any other person included in a class of persons approved by the Minister.

Representations to Minister with regard to any person who has applied for registration or naturalization.

**37.—**(1.) A person may make representations to the Minister in respect of a person who has applied, or has advertised his intention to apply, for a certificate of registration or a certificate of naturalization.

(2.) The representations shall be supported by a statutory declaration.

Confinement in gaol not to be reckoned as residence.

**38.** Any period during which an applicant for a certificate of registration or a certificate of naturalization is confined in a gaol, reformatory, prison or hospital for the insane in Australia or New Guinea shall be disregarded in determining the period of residence for the purposes of the grant of such a certificate.

Determination of questions of residence, &c.

**39.** Where a question arises under this Act whether a person was ordinarily resident in Australia or New Guinea, the question may be determined by the Minister and his decision thereon shall be final.

Discretion of Minister.

**40.** The Minister may grant or refuse an application made to him without assigning any reason.

Formalities regarding oath of allegiance.

**41.** The Minister may make arrangements for the oath of allegiance under this Act to be taken in public before a Justice, Judge or Magistrate of the Commonwealth or of a State or Territory and to be accompanied by proceedings designed to impress upon applicants the responsibilities and privileges of Australian citizenship.



## 42. The Minister shall—

- (a) enrol as of record memorials of all certificates of registration and certificates of naturalization ;
- (b) cancel all such certificates the holders of which have been deprived of Australian citizenship ;
- (c) cause to be made indexes of certificates of registration and of certificates of naturalization and permit any person at all reasonable times to inspect the indexes and to make copies of the certificates on payment of the prescribed fee ;
- (d) cause to be laid before both Houses of the Parliament as soon as practicable after the thirtieth day of June in each year a return showing the number of persons to whom certificates of registration and certificates of naturalization have been granted, their former nationality or citizenship, and the countries in which they ordinarily resided immediately before entering Australia or New Guinea ; and
- (e) cause to be published in the *Gazette* from time to time a list of the names and addresses of persons to whom certificates of registration and certificates of naturalization have been granted or who have been deprived of Australian citizenship.

Record of certificates and fees.

43. A declaration made under this Act or under any other Act which was at any time in force in relation to nationality or naturalization may be proved in legal proceedings by the production of a copy of the original declaration certified by the Minister or by a person thereto authorized in writing by the Minister to be a true copy, and the production of the declaration or copy shall be evidence that the person therein named as declarant made the declaration on the date therein mentioned.

Evidence of declarations.

44. An entry in a register made under this Act or under any other Act which was at any time in force in relation to nationality or naturalization may be proved by a copy certified by the Minister or by a person thereto authorized in writing by the Minister, to be a true copy of the entry, and the copy of the entry shall be evidence of any matters authorized by or under this Act or any other such Act to be inserted in the register.

Evidence of entries in registers.

45. For the purposes of the next four succeeding sections, "certificate of naturalization" includes a certificate of naturalization issued under an Act repealed by this Act or by any other Act or under a State Act or under an Ordinance of a Territory.

Definition of certificate of naturalization for certain purposes.

46. A certificate of registration, a certificate of naturalization or an order under this Act may be proved in legal proceedings by the production of a copy of the original certificate or order certified by the Minister or by a person thereto authorized in writing by the Minister to be a true copy.

Evidence of certificates of naturalization or orders.

Amendment of  
certificates.

47.—(1.) Where the Minister is satisfied that it is desirable for any reason that a certificate of registration or a certificate of naturalization should be amended, he may amend the certificate.

(2.) A certificate which has been amended in pursuance of this section shall be of effect as so amended and the Minister shall cause the memorial of the certificate enrolled under section forty-two of this Act to be amended accordingly.

Certificate of  
registration or  
naturalization  
to be  
surrendered  
where order  
of deprivation  
made.

48. Where an order is made under this Act depriving a person of his Australian citizenship, that person shall, on or before the date upon which the order takes effect, surrender his certificate of registration or his certificate of naturalization, as the case may be, to the Minister for cancellation.

Penalty : One hundred pounds.

Offences in  
relation to  
certificates.

49. A person shall not, except in accordance with this Act or any other law or as prescribed—

(a) part with the possession of a certificate of registration or a certificate of naturalization granted to him ; or

(b) receive, or have in his possession, a certificate of registration or a certificate of naturalization not granted to him.

Penalty : One hundred pounds.

Penalty for  
false  
representation  
or statement.

50. A person shall not, for any of the purposes of this Act, knowingly make a false representation or a statement false in a material particular.

Penalty : Imprisonment for three months.

Reference in  
other laws to  
British subjects.

51. Where in any Act or Ordinance or in any instrument under an Act or an Ordinance (including rules, regulations and by-laws) a reference is made to a British subject, howsoever expressed, and no distinction is made between the rights, powers, privileges, obligations, duties or liabilities of natural-born British subjects and those of naturalized British subjects, the reference shall be read as a reference to a British subject within the meaning of this Act.

Provisions of  
this Act to be  
exclusive of  
State laws.

52. The provisions of this Act shall apply to the exclusion of any provisions, providing for British nationality or Australian citizenship, of any law of a State, whether the law was passed or made before or after the commencement of this section.

Regulations.

53. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, for or in relation to—

(a) the time within which anything required or authorized to be done under this Act shall be done ;

- (b) the registration of anything required or authorized under this Act to be registered ;
- (c) the administration and taking of an oath of allegiance for the purposes of this Act ;
- (d) the giving of any notice which under this Act is required or authorized to be given to any person ;
- (e) the registration of the births and deaths of persons included in any class or description of persons born or dying elsewhere than in Australia ;
- (f) the imposition and recovery of fees in respect of—
  - (i) any application under this Act ;
  - (ii) any registration, the making of any declaration, the grant of any certificate or the taking of the oath of allegiance authorized to be made, granted or taken under this Act ; and
  - (iii) the supplying of a certified or other copy of any declaration, certificate or oath made, granted or taken under this Act ;
- (g) the issue of certificates declaratory of the Australian citizenship of persons who are Australian citizens ;
- (h) the conditions upon which persons may render, for reward, services in respect of applications under this Act including the charges which may be made in respect of any such service ;
- (j) the imposition of penalties not exceeding a fine of Fifty pounds, or imprisonment for a period not exceeding six months, for any offence against the regulations ; and
- (k) the investing of any court of a State with federal jurisdiction to order reparation for loss suffered by reason of any offence against this Act or the regulations.

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## THE SCHEDULES.

### FIRST SCHEDULE.

Section 3.

#### ACTS REPEALED.

*Nationality Act 1920.*  
*Nationality Act 1925.*  
*Nationality Act 1930.*  
*Nationality Act 1936.*  
*Nationality Act 1946.*  
*Nationality Act (No. 2) 1946.*

### SECOND SCHEDULE.

Section 16.

#### OATH OF ALLEGIANCE.

I, A.B., swear by Almighty God that I will be faithful and bear true allegiance to His Majesty King George the Sixth, his heirs and successors according to law, and that I will faithfully observe the laws of Australia and fulfil my duties as an Australian citizen.