

New Zealand.



ANALYSIS.

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1923, No. 46.

AN ACT to consolidate and amend the Law relating to British Nationality and the Status of Aliens in New Zealand, and to provide for the Naturalization of Aliens in New Zealand

[Reserved for the signification of His Majesty's pleasure:]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the British Nationality and Status of Aliens (in New Zealand) Act, 1923, and shall come into operation on the day on which His Majesty's assent thereto is notified by the Governor-General by a Proclamation published in the *Gazette*, or on such later date (being not later than three months after the date of the Proclamation) as is specified in that behalf in the Proclamation.

2. (1.) In this Act, if not inconsistent with the context,—
“British subject” means a person who is a natural-born British subject, or a person to whom a certificate of naturalization has been granted in New Zealand:

“ Alien ” means a person who is not a British subject as defined by this section, and includes a person who has acquired by naturalization the status of a British subject elsewhere than in New Zealand :

“ Certificate of naturalization ” means a certificate of naturalization granted under this Act :

“ Minister ” means the Minister of Internal Affairs.

(2.) This section has no application in the interpretation of the sections set forth in the First Schedule to this Act.

Certain Imperial enactments declared to be in force in New Zealand.

3. (1.) The several sections forming part of the British Nationality and Status of Aliens Acts, 1914 to 1922 (Imperial), as the said several sections are set forth in the First Schedule to this Act, are hereby, save only as modified by this Act, declared to be part of the law of New Zealand, and shall, save as so modified, be read together with and be deemed to form part of this Act. The said Acts of the Parliament of the United Kingdom are hereinafter referred to as the said Acts.

(2.) Except as provided by subsection one of this section, the said Acts shall not be deemed to be in force in New Zealand.

(3.) Acquisition by any person of the status of a British subject by naturalization granted in the United Kingdom or in any of the dominions, colonies, possessions, or territories of His Majesty other than New Zealand shall not be deemed to have conferred, and shall not confer upon such person, the status of a British subject in New Zealand.

Naturalization.

4. (1.) When any alien friend residing in New Zealand desires to be naturalized as a British subject in New Zealand, he may present to the Minister an application in writing signed by him, setting forth—

- (a.) His name, age, birthplace, residence, occupation, and nationality :
- (b.) The length of his residence in New Zealand and his desire to settle therein either permanently or for a limited period, stating such limited period (if any) :
- (c.) A request that a certificate of naturalization may be granted to him.

(2.) Every such application shall be verified by a statutory declaration subscribed by the applicant.

Minister of Internal Affairs may grant certificates of naturalization.

5. (1.) If the Minister is satisfied—

- (a.) That the applicant has either resided within New Zealand for a period not less than the prescribed time or has been in the service of the Crown in any part of His Majesty's dominions for not less than five years within the last eight years ; and
- (b.) That the applicant is of good character and has an adequate knowledge of the English language ; and
- (c.) That the applicant intends, if his application is granted, to continue to reside in His Majesty's dominions, or to enter, or continue in, the service of the Crown ; and

(d.) That in all other respects the applicant is a person fit to hold and exercise the rights of a British subject in New Zealand—
the Minister may grant a certificate of naturalization to the applicant.

(2.) The grant of a certificate of naturalization to any such alien shall be in the absolute discretion of the Minister, and he may, with or without assigning any reason, give or withhold the certificate as he thinks most conducive to the public good, and no appeal shall lie from his decision.

(3.) A certificate of naturalization shall not be issued to the applicant or have any effect until the Minister is satisfied that the oath of allegiance in the form set forth in the Second Schedule to this Act has been taken by the applicant before a Magistrate or a Justice of the Peace.

(4.) Every Magistrate and every Justice of the Peace is hereby authorized to administer the said oath of allegiance to a person in whose favour the Minister has approved the grant of a certificate of naturalization.

(5.) The Magistrate or Justice who so administers the oath of allegiance shall forthwith certify in writing to the Minister that the oath has been duly administered and taken.

6. A person to whom a certificate of naturalization is granted under this Act shall, subject to the provisions of this Act, be entitled in New Zealand to all political and other rights, powers, and privileges, and be subject to all obligations, duties, and liabilities, to which a natural-born British subject is entitled or subjected, and shall have in New Zealand to all intents and purposes the status of a natural-born British subject.

Person naturalized in New Zealand to have status of natural-born British subject.

7. The Minister may in his absolute discretion, in such cases as he thinks fit, grant a special certificate of naturalization to any person with respect to whose nationality as a British subject a doubt exists, and may specify in the certificate that [the grant thereof is made for the purpose of quieting doubts as to the right of the person to be a British subject in New Zealand, and the grant or acceptance of such a special certificate shall not be deemed to be any admission that the person to whom it is granted was not previously a British subject.

Special certificates of naturalization in cases of doubt as to true status.

8. (1.) Where an alien obtains a certificate of naturalization under this Act the Minister may, if he thinks fit, on the application of the alien, include in the certificate the name of any child of the alien born before the date when the certificate takes effect, and being a minor, and that child shall thereupon, if not already a British subject, become a British subject in New Zealand; but any such child may within one year after attaining his majority make a declaration of alienage, and shall thereupon cease to be a British subject.

Special provisions as to naturalization of minors.

(2.) The Minister may, in his absolute discretion in any special case, grant a certificate of naturalization to a minor whether or not the conditions required by this Act have been complied with.

(3.) Except as provided by this section, a certificate of naturalization shall not be granted to any person under disability.

9. An alien who has been naturalized in New Zealand before the passing of this Act may apply to the Minister for a certificate of naturalization under this Act, and the Minister may, in his discretion, grant to such applicant a certificate of naturalization under this Act without compliance with the conditions required by this Act in respect of application for original certificates under this Act.

Persons heretofore naturalized may obtain certificates of naturalization under this Act

Records of
naturalization.

10. (1.) The Minister shall enrol for safe custody as of record a duplicate of all certificates of naturalization issued under this Act.

(2.) The Minister shall cause proper indexes to be made to certificates enrolled by him as aforesaid, and shall permit every person desirous of so doing to inspect the same and make copies thereof on payment of the fee of one shilling for every such inspection.

(3.) Copies of certificates enrolled as aforesaid shall, if certified to be true copies by the Minister, be admissible in evidence for all purposes.

(4.) Such fees shall be charged for certified copies as the Minister prescribes.

Revocation of
certificates of
naturalization.

11. (1.) When it is made to appear to the Minister that a certificate of naturalization under this Act has been obtained by false representation or fraud, or by concealment of material circumstances, or that the person to whom the certificate is granted has shown himself by act or speech to be disaffected or disloyal to His Majesty, the Minister may, in his discretion, revoke the certificate, and such revocation shall have effect from such date as the Minister may direct.

(2.) The Governor-General in Council at any time after the grant of a certificate of naturalization under this Act, if satisfied that it is advisable, either generally in the public interest or for special reasons affecting the person to whom such certificate has been granted, that the naturalization of such person should be revoked, may by Order in Council revoke such certificate of naturalization as on and from a date to be appointed by such Order.

(3.) The duty and discretion imposed and conferred upon the Minister by subsection one hereof, and upon the Governor-General in Council by subsection two hereof, is hereby declared to be absolute, and may be exercised in every case upon such material and for such reasons as appear to the Minister or to the Governor-General in Council respectively to be sufficient, and no order of the Minister or Order in Council made under this section shall be questioned in any Court or by any proceeding on any ground whatsoever.

(4.) Where a certificate of naturalization is revoked the former holder thereof shall be regarded as an alien and as a subject of the State to which he belonged at the time the certificate was granted.

(5.) Where a certificate of naturalization is revoked under any provision of this section such certificate of naturalization shall be forthwith delivered by the person for the time then being in possession thereof to the Minister for cancellation.

(6.) A person in possession of such revoked certificate who refuses or neglects to deliver the same to the Minister commits an offence against this Act, and is liable on summary conviction to a fine of one hundred pounds.

Effect of revocation
of certificate of
naturalization on
status of wife and
minor children.

12. Where a certificate of naturalization is revoked the Governor-General in Council or the Minister, as the case may be, may direct that the wife and minor children (or any of them) of the person whose certificate is revoked shall cease to be British subjects, and any such person shall thereupon become an alien; but, except where the Governor-General in Council or the Minister directs as aforesaid, the nationality of the wife and minor children of the person whose certificate is revoked

shall not be affected by the revocation, and they shall remain British subjects:

Provided that—

- (a.) It shall be lawful for the wife of any such person within six months after the date of the revocation to make a declaration of alienage, and thereupon she and any minor children of her husband and herself shall cease to be British subjects, and shall become aliens; and
- (b.) The Governor-General in Council or the Minister shall not make any such direction as aforesaid in the case of a wife who was at birth a British subject, unless he is satisfied that if she had held a certificate of naturalization in her own right the certificate could properly have been revoked under this Act.

Special Status of Aliens in New Zealand.

13. The following additions to and modifications of the provisions of section seventeen of the British Nationality and Status of Aliens Act, 1914 (Imperial), in its application to New Zealand are hereby enacted:—

Capacity of aliens
as to property in
New Zealand.

- (a.) Subject to the provisions of any Act now in force in New Zealand, or hereafter to be passed by the Parliament of New Zealand, restricting the rights of persons owing allegiance present or original to Sovereigns or States having been lately, or which may hereafter be, at war with His Majesty, real property in New Zealand of every description may be taken, acquired, held, and disposed of by an alien in the same manner in all respects as by a natural-born British subject, and title thereto may be derived through, from, or in succession to an alien in the same manner in all respects as through, from, or in succession to a natural-born British subject.
- (b.) The said section seventeen shall not be construed as in any manner repealing or affecting legislation now being or hereafter to be in force in New Zealand imposing restrictions on trade with any nation lately at war with His Majesty, but shall always be read and interpreted together with and subject to the provisions of such legislation.

Application of Act to Cook Islands and Western Samoa.

14. (1.) Subject to the provisions of this section, this Act shall apply to the Cook Islands and to Western Samoa in the same manner in all respects as if those territories were for all purposes part of New Zealand; and the term "New Zealand" as used in this Act shall, both in New Zealand and in the said territories respectively, be construed accordingly as including the Cook Islands and Western Samoa.

Naturalization of
aliens in Cook
Islands and Western
Samoa.

(2.) In the application of this Act to the Cook Islands and Western Samoa—

- (a.) The power to grant certificates of naturalization conferred on the Minister by section five hereof shall be vested in the Governor-General, and, in the case of a person resident in the Cook Islands, shall be exercised on the

recommendation of the Minister for the Cook Islands, and, in the case of a person resident in Western Samoa, shall be exercised on the recommendation of the Minister of External Affairs :

- (b.) The oath of allegiance referred to in section five hereof shall be taken before a Judge or Commissioner of the High Court of the Cook Islands, or a Judge or Commissioner of the High Court of Western Samoa, as the case may require, and every such Judge and Commissioner is hereby respectively authorized to administer the said oath accordingly :
- (c.) The powers conferred on the Minister by section eight hereof shall be vested in the Governor-General :
- (d.) The powers conferred on the Governor-General in Council and the Minister by sections eleven and twelve of this Act in respect of the revocation of letters of naturalization shall be exercised only by the Governor-General in Council.

General.

Regulations.

15. The Governor-General in Council may make regulations generally for carrying into effect the objects of this Act, and in particular with respect to the following matters :—

- (a.) Prescribing the qualifying period of residence in New Zealand for persons applying for naturalization, or different periods of such residence for different classes of such persons :
- (b.) The form and registration of certificates of naturalization :
- (c.) The form and registration of declarations of alienage and declarations of resumption or retention of British nationality :
- (d.) The imposition and application of fees in respect of any registration authorized to be made by this Act or any Act hereby repealed, and in respect of the making of any declaration or the grant of any certificate authorized to be made or granted by this Act, and in respect of any thing authorized or required to be done pursuant to this Act.

Repeals.

16. (1.) The enactments specified in the Third Schedule hereto are hereby repealed.

Savings

(2.) With respect to the enactments hereby repealed the following provisions shall apply :—

- (a.) All applications, certificates, letters of naturalization, prescriptions, indexes, instruments, and generally all acts of authority which originated under any of the said enactments or any enactment thereby repealed, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
- (b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

BRITISH NATIONALITY AND STATUS OF ALIENS ACT, 1914.

[4 & 5 Geo. 5, c. 17.]

[As amended in accordance with the British Nationality and Status of Aliens Act, 1918 (8 and 9 Geo. 5, c. 38), and the British Nationality and Status of Aliens Act, 1922 (12 and 13 Geo. 5, c. 44).]

PART I.

NATURAL-BORN BRITISH SUBJECTS.

1. (1.) The following persons shall be deemed to be natural-born British subjects, namely:—

- (a.) Any person born within His Majesty's dominions and allegiance; and
- (b.) Any person born out of His Majesty's dominions whose father was at the time of that person's birth a British subject, and who fulfils any of the following conditions: that is to say, if either—
 - (i.) His father was born within His Majesty's allegiance; or
 - (ii.) His father was a person to whom a certificate of naturalization had been granted; or
 - (iii.) His father had become a British subject by reason of any annexation of territory; or
 - (iv.) His father was at the time of that person's birth in the service of the Crown; or
 - (v.) His birth was registered at a British Consulate within one year or, in special circumstances, with the consent of the Secretary of State, two years after its occurrence, or, in the case of a person born on or after the first day of January, nineteen hundred and fifteen, who would have been a British subject if born before that date, within twelve months after the first day of August, nineteen hundred and twenty-two; and
- (c.) Any person born on board a British ship, whether in foreign territorial waters or not:

Definition of natural-born British subject.

4 & 5 Geo. 5, c. 17, sec. 1.
8 & 9 Geo. 5, c. 38, sec. 2.
12 & 13 Geo. 5, c. 44, sec. 1.

Provided that the child of a British subject, whether that child was born before or after the passing of this Act, shall be deemed to have been born within His Majesty's allegiance if born in a place where by treaty, capitulation, grant, usage, sufferance, or other lawful means His Majesty exercises jurisdiction over British subjects:

Provided also that any person whose British nationality is conditional upon registration at a British Consulate shall cease to be a British subject unless within one year after he attains the age of twenty-one, or within such extended period as may be authorized in special cases by regulations made under this Act,—

- (i.) He asserts his British nationality by a declaration of retention of British nationality, registered in such manner as may be prescribed by regulations made under this Act; and
- (ii.) If he is a subject or citizen of a foreign country under the law of which he can, at the time of asserting his British nationality, divest himself of the nationality of that foreign country by making a declaration of alienage or otherwise, he divests himself of such nationality accordingly.

(2.) A person born on board a foreign ship shall not be deemed to be a British subject by reason only that the ship was in British territorial waters at the time of his birth.

(3.) Nothing in this section shall, except as otherwise expressly provided, affect the status of any person born before the commencement of this Act.

(4.) The certificate of a Secretary of State that a person was at any date in the service of the Crown shall, for the purposes of this section, be conclusive.

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PART III.

GENERAL.

National Status of Married Women and Infant Children.

National status of married women. **10.** The wife of a British subject shall be deemed to be a British subject, and the wife of an alien shall be deemed to be an alien: Provided that where a man ceases during the continuance of his marriage to be a British subject it shall be lawful for his wife to make a declaration that she desires to retain British nationality, and thereupon she shall be deemed to remain a British subject; and provided that where an alien is a subject of a State at war with His Majesty it shall be lawful for his wife, if she was at birth a British subject, to make a declaration that she desires to resume British nationality, and thereupon the Secretary of State, if he is satisfied that it is desirable that she be permitted to do so, may grant her a certificate of naturalization.

Status of widows. **11.** A woman who, having been a British subject, has by or in consequence of her marriage become an alien shall not by reason only of the death of her husband, or the dissolution of her marriage, cease to be an alien; and a woman who, having been an alien, has by or in consequence of her marriage become a British subject shall not by reason only of the death of her husband, or the dissolution of her marriage, cease to be a British subject.

Status of children. **12.** (1.) Where a person being a British subject ceases to be a British subject, whether by declaration of alienage or otherwise, every child of that person, being a minor, shall thereupon cease to be a British subject, unless such child, on that person ceasing to be a British subject, does not become by the law of any other country naturalized in that country:

Provided that where a widow who is a British subject marries an alien, any child of hers by her former husband shall not by reason only of her marriage cease to be a British subject, whether he is residing outside His Majesty dominions or not.

(2.) Any child who has so ceased to be a British subject may, within one year after attaining his majority, make a declaration that he wishes to resume British nationality, and shall thereupon again become a British subject.

Loss of British Nationality.

Loss of British nationality by foreign naturalization. **13.** A British subject who, when in any foreign State and not under disability, by obtaining a certificate of naturalization, or by any other voluntary and formal act, becomes naturalized therein shall thenceforth be deemed to have ceased to be a British subject.

Declaration of alienage. **14.** (1.) Any person who by reason of his having been born within His Majesty's dominions and allegiance or on board a British ship is a natural-born British subject, but who at his birth or during his minority became under the law of any foreign State a subject also of that State, and is still such a subject, may, if of full age and not under disability, make a declaration of alienage, and on making the declaration shall cease to be a British subject.

(2.) Any person who though born out of His Majesty's dominions is a natural-born British subject may, if of full age and not under disability, make a declaration of alienage, and on making the declaration shall cease to be a British subject.

Power of naturalized subjects to divest themselves of their cases. **15.** Where His Majesty has entered into a convention with any foreign State to the effect that the subjects or citizens of that State to whom certificates of naturalization have been granted may divest themselves of their status as such subjects, it shall be lawful for His Majesty, by Order in Council, to declare that the convention has been entered into by His Majesty; and from and after the date of the order any person having been originally a subject or citizen of the State therein referred to, who has been naturalized as a British subject, may, within the limit of time provided in the convention, make a declaration of alienage, and on his making the declaration he shall be regarded as an alien and as a subject of the State to which he originally belonged as aforesaid.

Saving of obligations incurred before loss of nationality. **16.** Where any British subject ceases to be a British subject he shall not thereby be discharged from any obligation, duty, or liability in respect of any act done before he ceased to be a British subject.

Status of Aliens.

Capacity of alien as to property. **17.** Real and personal property of every description may be taken, acquired, held, and disposed of by an alien in the same manner in all respects as by a natural-

Ibid., sec. 17.

born British subject; and a title to real and personal property of every description may be derived through, from, or in succession to an alien in the same manner in all respects as through, from, or in succession to a natural-born British subject:

Provided that this section shall not operate so as to—

- (1.) Confer any right on an alien to hold real property situate out of the United Kingdom; or
- (2.) Qualify an alien for any office or for any municipal, parliamentary, or other franchise; or
- (3.) Qualify an alien to be the owner of a British ship; or
- (4.) Entitle an alien to any right or privilege as a British subject, except such rights and privileges in respect of property as are hereby expressly given to him; or
- (5.) Affect any estate or interest in real or personal property to which any person has or may become entitled, either mediately or immediately, in possession or expectancy, in pursuance of any disposition made before the twelfth day of May, eighteen hundred and seventy, or in pursuance of any devolution by law on the death of any person dying before that day.

18. An alien shall be triable in the same manner as if he were a natural-born British subject. Trial of alien.
4 & 5 Geo. 5, c. 17,
sec. 18.

Supplemental.

25. Nothing in this Act shall affect the grant of letters of denization by His Majesty. Saving for letters of
denization.
Ibid., sec. 25.

27. (1.) In this Act, unless the context otherwise requires,—
The expression “British subject” means a person who is a natural-born British subject, or a person to whom a certificate of naturalization has been granted, or a person who has become a subject of His Majesty by reason of any annexation of territory:
The expression “alien” means a person who is not a British subject:
The expression “certificate of naturalization” means a certificate of naturalization granted under this Act or under any Act repealed by this or any other Act:
The expression “disability” means the status of being a married woman, or a minor, lunatic, or idiot:
The expression “territorial waters” includes any port, harbour, or dock:
The expression “British Consulate” means the office of any British consular officer where a register of births is kept, and includes, in the case of any territory where there is no British Consulate and there is a British Resident or other representative of His Majesty, the office of such Resident or representative.

(2.) Where in pursuance of this Act the name of a child is included in a certificate of naturalization granted to his parent, or where, in pursuance of any Act repealed by this Act, any child has been deemed to be a naturalized British subject by reason of residence with his parent, such child shall, for the purposes of this Act, be deemed to be a person to whom a certificate of naturalization has been granted.

SECOND SCHEDULE.

OATH OF ALLEGIANCE.

I, _____, swear by Almighty God that I will be faithful and bear true allegiance to His Majesty King George the Fifth, his heirs and successors, according to law.

THIRD SCHEDULE.

ENACTMENTS REPEALED.

- 1908, No. 5.—The Aliens Act, 1908.
1917, No. 8.—The Revocation of Naturalization Act, 1917.
1920, No. 8.—The Revocation of Naturalization Amendment Act, 1920.
1921, No. 72.—The Finance Act, 1921–22, section 9.