

CHAPTER 4:01

CITIZENSHIP OF ZIMBABWE ACT

Acts 23/1984, 7/1990 (s. 152(5)), 12/2001, 22/2001 (s. 4), 23/2001 (s. 49), 1/2002 (s. 43), 12/2003.

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Interpretation.

PART II

REGISTRAR-GENERAL OF CITIZENSHIP

3. Registrar-General of Citizenship.

PART III

ACQUISITION OF CITIZENSHIP BY REGISTRATION

4. Applications for registration of persons of full age and sound mind.
5. Applications for registration of persons under legal disability.
6. Rejected applications and applications from former citizens not to be considered for two years.
7. Registration.
8. Certificates of registration.

PART IV

PROHIBITION OF DUAL CITIZENSHIP AND RENUNCIATION, DEPRIVATION, LOSS AND RESTORATION OF CITIZENSHIP

9. Prohibition of dual citizenship.
- 9A. Special procedure for renunciation of citizenship by certain persons.
10. Renunciation of citizenship.
11. Deprivation of citizenship.
12. Children of persons deprived of citizenship.
13. Loss of citizenship through absence from Zimbabwe.
14. Restoration of citizenship.

PART V

GENERAL

15. Citizenship of women not affected by marriage.
16. Minister not required to give reasons for decisions.
17. Honorary citizens.
18. Certificates of citizenship in certain cases.
19. Minister may extend periods.
20. Evidence.
21. Offences and penalties.
22. Regulatory powers of Minister.
23. Transitional provision: non-citizen office-holders.

AN ACT to make further provision for citizenship of Zimbabwe and to provide for matters connected therewith or incidental thereto.

[Date of commencement: 1st December, 1984.]

WHEREAS sections 4, 5, 6 and 7 of the Constitution provide as follows (the references to “the appointed day” being references to the 18th April, 1980)—

4. A person who, immediately before the appointed day, was or was deemed to be a citizen by birth, descent or registration shall, on and after that day, be a citizen of Zimbabwe by birth, descent or registration, as the case may be.

5. (1) A person born in Zimbabwe on or after the appointed day shall be a citizen of Zimbabwe by birth unless—

(a) at the time of his birth, his father—

(i) possesses such immunity from suit and legal process as is accorded to the envoy of a foreign sovereign power accredited to Zimbabwe; and

(ii) is not a citizen of Zimbabwe;

or

(b) at the time of his birth—

(i) his father is an enemy alien; and

(ii) his mother is interned in a place set aside for the internment of enemy aliens or the birth occurs in a place then under occupation by the enemy;

or

(c) at the time of his birth, his father or, in the case of an illegitimate child, his mother is residing in Zimbabwe in contravention of the provisions of any law:

Provided that, if subsequent to his birth his father or mother, as the case may be, is accepted for permanent residence in Zimbabwe under any law in force in Zimbabwe, he shall be a citizen of Zimbabwe by birth; or

(d) at the time of his birth, his father or, in the case of an illegitimate child, his mother is—

(i) not a citizen of Zimbabwe; and

(ii) not ordinarily resident in Zimbabwe.

(2) A person born outside Zimbabwe on or after the appointed day shall be a citizen of Zimbabwe by birth if—

(a) his father, or, in the case of an illegitimate child, his mother is at the time of his birth—

(i) a citizen of Zimbabwe and resident outside Zimbabwe by reason of the service of his father or his mother, as the case may be, under the Government; or

(ii) lawfully ordinarily resident in Zimbabwe;

and

(b) his birth is registered in accordance with the law relating to the registration of births.

6. Save as is otherwise provided by section 5(2), a person born outside Zimbabwe on or after the appointed day shall be a citizen of Zimbabwe by descent if—

(a) his father or, in the case of an illegitimate child, his mother is at the time of his birth a citizen of Zimbabwe otherwise than by descent; and

(b) his birth is registered in accordance with the law relating to the registration of births.

7. (1) Any person who, immediately before the appointed day, possessed such qualifications prescribed by the law then in force relating to citizenship as would have entitled the Minister as defined in that law, upon application duly made and subject to the applicant satisfying the Minister as to certain matters, to authorize his registration as a citizen shall be entitled—

(a) upon making application at any time during the period of five years from the appointed day in such manner as may be prescribed by or under an Act of Parliament; and

(b) after satisfying the Minister for the time being responsible for citizenship as to those matters;

to be registered as a citizen of Zimbabwe.

(2) Any woman who—

(a) is, on the appointed day, married to a person who—

(i) is, on the appointed day, a citizen of Zimbabwe by virtue of the provisions of section 4; or

(ii) after the appointed day, becomes a citizen of Zimbabwe while the marriage still subsists;

or

(b) prior to the appointed day, was married to a person who—

(i) is, on the appointed day, a citizen of Zimbabwe by virtue of the provisions of section 4; or

(ii) having died before the appointed day, would, but for his death, have been a citizen of Zimbabwe by virtue of the provisions of section 4;

or

(c) on or after the appointed day, marries a person who is a citizen of Zimbabwe or who becomes a citizen of Zimbabwe while the marriage still subsists;

shall be entitled, upon making application in such manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Zimbabwe.

(3) Any person, one of whose parents is a citizen of Zimbabwe at the date of his application, shall be entitled, upon making application in such manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Zimbabwe:

Provided that, if the person is not of full age and capacity, the application shall be made on his behalf by his responsible parent or by his guardian or other lawful representative.

(4) A person adopted on or after the appointed day by order made under the law relating to the adoption of children who was not, at the date of the order, a citizen of Zimbabwe shall become a citizen of Zimbabwe on the date of the order if the adopter or, in the case of a joint adoption, the male adopter was, at the date of the order, a citizen of Zimbabwe, and such adopted person shall be regarded as a citizen of Zimbabwe by registration.

(5) The registration as a citizen of Zimbabwe of a person referred to in subsection (1), (2) or (3) who is of full age shall not be effected unless and until the person has taken and subscribed the oath of loyalty in the form set out in Schedule 1, and such person shall be registered and become a citizen of Zimbabwe by registration on the date he takes and subscribes the oath of loyalty.

(6) A person referred to in subsection (1) who has not been registered as a citizen of Zimbabwe shall, for the period referred to in that subsection, enjoy the same rights and privileges, other than those which relate to the acquisition of citizenship or which relate to qualifications for members of Parliament or voters, as a citizen of Zimbabwe.

(7) In subsection (3), “responsible parent”, in relation to a child, means—

(a) if the father is dead or the mother has been given custody of the child by order of a court or has custody of the child by virtue of the provisions of a law relating to the guardianship of children or the child is illegitimate, the mother of the child;

(b) in any other case, the father of the child.

(8) For the purposes of this section, a person shall be regarded as—

(a) of full age if he has attained the age of majority or if, being under that age, he is or has been married; and

(b) of full capacity if he is not of unsound mind.

AND WHEREAS section 9 of the Constitution provides that an Act of Parliament may make provision in respect of citizenship:

NOW, THEREFORE, be it enacted as follows:—

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Citizenship of Zimbabwe Act [Chapter 4:01].

2 Interpretation

(1) In this Act—

“foreign country” means any country other than Zimbabwe;

“former citizenship law” means—

(a) the Citizenship of Zimbabwe Act [Chapter 23 of 1974]; or

(b) the Citizenship of Southern Rhodesia and British Nationality Act, 1963 (No. 63 of 1963); or

(c) the Citizenship of Rhodesia and Nyasaland and British Nationality Act, 1957 (Federal Act No. 12 of 1957); or

(d) the Southern Rhodesia Citizenship and British Nationality Act, 1949 (No. 13 of 1949); or

(e) the law relating to naturalization in force in Zimbabwe before the 1st January, 1950;

“Minister” means the Minister of Home Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“oath of loyalty” means the oath of loyalty in the form specified in Schedule 1 to the Constitution;

“person under legal disability” means a person who is not of full age or sound mind;

“Registrar-General” means the Registrar-General of Citizenship referred to in section three;

“responsible parent”, in relation to a child, means—

(a) if the father is dead or the mother has been given custody of the child by virtue of a law relating to the guardianship of children or the child is illegitimate, the mother of the child; or

(b) in any other case, the father of the child.

(2) For the purposes of this Act—

(a) a person shall be regarded as being of full age if he has attained the age of eighteen years or if, being under that age, he is or has been married;

- (b) a person shall be regarded as not having attained a specified age until the commencement of the relevant anniversary of the day of his birth;
- (c) any period of residence, event occurring or thing done before the 18th April, 1980, in the area which on that date was included in the external boundaries of Zimbabwe shall be treated as though it were a period of residence, event occurring or thing done, as the case may be, in Zimbabwe;
- (d) a person shall be regarded as ordinarily resident in Zimbabwe if he has lawfully and voluntarily established his usual place of residence in Zimbabwe, otherwise than as a visitor, with the intention of remaining therein.

(3) For the purposes of this Act, any reference to citizenship of a foreign country shall include a reference to citizenship of one or more foreign countries.

PART II

REGISTRAR-GENERAL OF CITIZENSHIP

3 Registrar-General of Citizenship

(1) There shall be a Registrar-General of Citizenship, whose office shall be a public office and shall form part of the Public Service.

(2) The Registrar-General shall perform such functions as are conferred upon him in terms of this Act.

PART III

ACQUISITION OF CITIZENSHIP BY REGISTRATION

4 Applications for registration of persons of full age and sound mind

(1) Subject to this Part, the Minister may authorize the registration of a person as a citizen of Zimbabwe if that person—

- (a) is of full age and sound mind; and
- (b) applies for the Minister's authority in the prescribed form and manner; and
- (c) satisfies the Minister that—
 - (i) he is of good character and a fit and proper person to be registered as a citizen of Zimbabwe; and
 - (ii) at the date of his application, he is ordinarily resident in Zimbabwe and has been so resident, whether continuously or as an aggregate of a number of periods, for at least five years:

Provided that, if the President considers that the special circumstances of any particular case so warrant, he may authorize the Minister to accept a shorter period of residence; and
 - (iii) he intends, after the grant of his application, to continue to reside in Zimbabwe, subject to the exigencies of his employment; and
 - (iv) he is willing to renounce any other citizenship he may hold if he becomes a citizen of Zimbabwe.

(2) No period during which a person who applies for the Minister's authority in terms of subsection (1) was confined to or was an inmate of a prison, reformatory, mental hospital or other such institution in Zimbabwe or resided in Zimbabwe as a visitor shall be counted for the purposes of that subsection as a period of residence in Zimbabwe.

(3) Nothing in this section shall be construed as limiting in any way the entitlement of a person referred to in section 7 of the Constitution to be registered as a citizen of Zimbabwe.

5 Applications for registration of persons under legal disability

If the responsible parent or guardian or other lawful representative of a person under legal disability who is not entitled in terms of subsection (3) of section 7 of the Constitution to be registered as a citizen of Zimbabwe—

- (a) applies in the prescribed manner for the Minister's authority; and
- (b) satisfies the Minister that the person under legal disability—
 - (i) is, at the date of the application, ordinarily resident in Zimbabwe; and
 - (ii) has associations by way of descent, length of residence or otherwise with Zimbabwe which justify his registration as a citizen of Zimbabwe;

the Minister may authorize the registration of the person under legal disability as a citizen of Zimbabwe:

Provided that the Minister may, where he thinks fit, accept and grant an application made by someone who is not the responsible parent or guardian or other lawful representative of the person under legal disability to whom the application relates.

6 Rejected applications and applications from former citizens not to be considered for two years

- (1) Subject to subsection (2), the Minister shall not consider an application in terms of section *four* or *five*—
- (a) if he has previously rejected a similar application made by or in respect of the same person; or

(b) if the person by or in respect of whom the application is made was formerly a citizen of Zimbabwe but renounced his citizenship or ceased to be a citizen in terms of section *nine*; until the expiry of a period of two years beginning on the date of rejection of the previous application or the date on which that person ceased to be a citizen of Zimbabwe, as the case may be.

(2) If he considers that the special circumstances of the case warrant such action, the Minister may—

- (a) consider any application referred to in subsection (1) before the expiration of the two-year period referred to in that subsection; or
- (b) refuse to consider an application referred to in subsection (1) made by or in respect of a former citizen until the expiry of such further period as he considers appropriate after the expiry of the two-year period referred to in that subsection.

7 Registration

(1) The registration as a citizen of Zimbabwe of a person to whom subsection (1) of section *four* relates shall not be effected unless that person has taken the oath of loyalty.

(2) The Registrar-General shall notify a person who is required to take the oath of loyalty in terms of this section or in terms of subsection (5) of section 7 of the Constitution of the time within which and the person before whom he may take the oath of loyalty.

(3) A person who is required to take the oath of loyalty in terms of this section shall be registered and become a citizen of Zimbabwe by registration on the date he takes the oath of loyalty.

(4) A person whose registration as a citizen of Zimbabwe has been authorized in terms of section *five* shall become a citizen of Zimbabwe by registration on such date as the Minister may direct.

(5) A person whose foreign adoption has been recognised by the High Court in terms of Part VIIA of the Children's Act [*Chapter 5:06*] shall become a citizen of Zimbabwe by registration in terms of subsection (4) of section 7 of the Constitution on the date his birth is registered in terms of section 75E of the Children's Act [*Chapter 5:06*].

[Subsection inserted by Act 23 of 2001]

8 Certificates of registration

A person who becomes a citizen of Zimbabwe after taking the oath of loyalty in terms of section *seven* or subsection (5) of section 7 of the Constitution shall be issued with a certificate of registration as a citizen of Zimbabwe, which certificate shall be in the form prescribed.

PART IV

PROHIBITION OF DUAL CITIZENSHIP AND RENUNCIATION, DEPRIVATION, LOSS AND RESTORATION OF CITIZENSHIP

9 Prohibition of dual citizenship

(1) Subject to this section, no citizen of Zimbabwe who is of full age and sound mind shall be entitled to be a citizen of a foreign country.

(2) A citizen of Zimbabwe of full age who, by voluntary act other than marriage, acquires the citizenship of a foreign country shall immediately cease to be a citizen of Zimbabwe.

(3) A citizen of Zimbabwe who acquires by marriage the citizenship of a foreign country shall cease to be a citizen of Zimbabwe one year after the date of the marriage unless, before the expiry of that period, he has effectively renounced his foreign citizenship in accordance with the law of that foreign country and has made a declaration confirming such renunciation in the form and manner prescribed.

[Subsection amended by Act 12 of 2001.]

(4) A citizen of Zimbabwe of full age who, by some means other than by voluntary act or marriage, acquires the citizenship of a foreign country shall cease to be a citizen of Zimbabwe one year after the date of such acquisition unless, before the expiry of that period, he has effectively renounced his foreign citizenship in accordance with the law of that foreign country and has made a declaration confirming such renunciation in the form and manner prescribed.

[Subsection amended by Act 12 of 2001.]

(5) A citizen of Zimbabwe who, when he becomes of full age, is also a citizen of a foreign country shall cease to be a citizen of Zimbabwe one year after he attains his majority unless, before the expiry of that period, he has effectively renounced his foreign citizenship in accordance with the law of that foreign country and has made a declaration confirming such renunciation in the form and manner prescribed.

[Subsection amended by Act 12 of 2001.]

(6) A person of full age who becomes a citizen of Zimbabwe by registration while he is a citizen of a foreign country shall cease to be a citizen of Zimbabwe six months after such registration unless, before the expiry of that period, he has effectively renounced his foreign citizenship in accordance with the law of that foreign country and has made a declaration confirming such renunciation in the form and manner prescribed:

Provided that a person who, at any time between the 1st January, 1985, and the 31st December, 1985—

(a) became a citizen of Zimbabwe by registration; and
(b) was enrolled as a voter on any roll in terms of the Electoral Act, 1979 (No. 14 of 1979);
shall be deemed not to have lost his citizenship of Zimbabwe solely on account of his not having renounced his foreign citizenship in terms of this subsection.

[Subsection as amended by Act 12 of 2001 and by Act 23 of 2001]

(7) A citizen of Zimbabwe of full age who—

- (a) at the date of commencement of the Citizenship of Zimbabwe Amendment Act, 2001, is also a citizen of a foreign country; or
(b) at any time before that date, had renounced or purported to renounce his citizenship of a foreign country and has, despite such renunciation, retained his citizenship of that country;

shall cease to be a citizen of Zimbabwe six months after that date unless, before the expiry of that period, he has effectively renounced his foreign citizenship in accordance with the law of that foreign country and has made a declaration confirming such renunciation in the form and manner prescribed.

[Subsection substituted by Act 12 of 2001.]

(8) Notwithstanding anything to the contrary in any other enactment, but subject to subsection (9), any person who was ordinarily resident in Zimbabwe immediately before the 1st December 1984, and who ceases to be a citizen of Zimbabwe in terms of subsection (3), (4), (5), (6) or (7) shall be entitled, on and after the date on which he ceased to be a citizen of Zimbabwe—

- (a) to reside in Zimbabwe; and
(b) to acquire, hold and dispose of movable and immovable property in Zimbabwe; and
(c) to be indentured as an apprentice or trainee and to enter, practise or engage in any profession, trade, calling or employment in Zimbabwe; and
(d) to obtain education for himself and his children in Zimbabwe; and
(e) generally, to do all such things as may be done by persons who are ordinarily resident in Zimbabwe.

(9) The Minister may, by order, deprive a person of all or any of his rights under subsection (8) on the same grounds as he could deprive that person of his citizenship, if that person were a citizen of Zimbabwe by registration, and section *eleven* shall apply, *mutatis mutandis*, in respect of an order made in terms of this subsection.

(10) Notwithstanding any other provision of this section, where a person is of unsound mind for the whole or any part of any period during which he may elect to renounce his foreign citizenship in terms of subsection (3), (4), (5), (6) or (7), the period during which he may make the election shall be extended accordingly.

(11) Where he considers that it is necessary or desirable in the case of an individual to do so, and that it will not be contrary to the national interest, the President may, by order, grant such individual an exemption from all or any of the provisions of this section subject to such conditions as he may specify, and may revoke or amend any such exemption.

9A Special procedure for renunciation of citizenship by certain persons

(1) In this section—

“SADC country” means a country which is a member of the Southern African Development Community established in terms of the Treaty signed at Windhoek in the Republic of Namibia on the 17th August, 1992.

“migrant worker” means any person who entered Zimbabwe from a SADC country or left Zimbabwe for a SADC country for the purposes of employment as a—

- (a) farm labourer; or
(b) mine worker; or
(c) domestic employee; or
(d) worker in any other unskilled occupation.

(2) A person may renounce his citizenship of a SADC country and confirm his citizenship of Zimbabwe in terms of subsection (3) instead of renouncing his citizenship of a SADC country in terms of subsection (3), (4), (5), (6) or (7) of section *nine*, if—

(a) he was born in Zimbabwe and—

- (i) one of his parents was born in a SADC country and entered Zimbabwe on or before the 18th of April, 1980, as a migrant worker, and from the date of such entry until the date of birth of the person referred to in this section such parent has continuously resided in Zimbabwe; and
(ii) he has continuously resided in Zimbabwe since the date of his birth except for any temporary absence in any of the circumstances specified in subsection (2) of section *thirteen*; and
(iii) he has not at any time after the date of his birth acquired any foreign citizenship or foreign passport, whether voluntarily or otherwise, or enjoyed the protection of any foreign country;

or

(b) he was born in a SADC country and—

- (i) one of his parents was born in Zimbabwe and left Zimbabwe on or before the 18th of April, 1980, for a SADC country as a migrant worker, and such parent was resident in that country at the date of birth of the person referred to in this section; and
- (ii) he is permanently resident in Zimbabwe at the time of making an application in terms of subsection (3); and
- (iii) he has not at any time after the date of his first entry into Zimbabwe acquired any other foreign citizenship or other foreign passport, whether voluntarily or otherwise, or enjoyed the protection of any foreign country.

(3) A person referred to in subsection (2) may at any time apply to the Registrar, in the prescribed form and manner, for renunciation of his citizenship of a SADC country and confirmation of his status as a citizen of Zimbabwe and the Registrar shall, if he is satisfied that the applicant fulfils the conditions described in that subsection, issue a certificate confirming his status as a citizen of Zimbabwe.

[Section inserted by Act 12 of 2003.]

10 Renunciation of citizenship

(1) A citizen of Zimbabwe of full age and sound mind may, subject to subsection (4), make a declaration of renunciation of his citizenship of Zimbabwe.

(2) Subject to subsection (4), the responsible parent or guardian or other lawful representative of a person under legal disability may, if that person under legal disability is a citizen of Zimbabwe, with the consent of the Minister make on behalf of that person under legal disability a declaration of renunciation of his citizenship of Zimbabwe:

Provided that the Minister may, where he thinks fit, accept a declaration or renunciation in respect of a citizen under legal disability from a person other than the responsible parent or guardian or other lawful representative and, subject to subsection (4), cause such a renunciation to be registered.

(3) A declaration made in terms of subsection (1) or (2) shall not be of force or effect unless it is made and registered in the form and manner prescribed.

(4) No declaration made in terms of subsection (1) or (2) shall be registered without the authority of the Minister if the person concerned is a citizen or national of foreign country with which Zimbabwe is engaged in war, whether declared or not.

(5) Upon the registration of a declaration made in terms of this section, the person by whom or in respect of whom the declaration is made shall cease to be a citizen of Zimbabwe.

11 Deprivation of citizenship

(1) Subject to this section, the Minister may, by order, deprive a citizen of Zimbabwe by registration of his citizenship of Zimbabwe if it is discovered that when—

- (a) a certificate of naturalization or other document conferring naturalization was granted or deemed to have been granted to or in respect of the person in terms of a former citizenship law; or
- (b) a certificate of citizenship was granted to or in respect of the person in terms of a former citizenship law or this Act; or
- (c) the person was registered as a citizen in terms of a former citizenship law or this Act;

the person was not entitled to be naturalized or registered, as the case may be, as a citizen of Zimbabwe.

(2) Subject to this section, the Minister may, by order, deprive a citizen of Zimbabwe by registration of his citizenship if he is satisfied that—

- (a) the naturalization or registration of the person as a citizen in terms of a former citizenship law or this Act was obtained by means of fraud, false representation or the concealment of a material fact; or
- (b) the person has shown himself to be disloyal or disaffected towards Zimbabwe or has acted in a manner prejudicial or likely to be prejudicial to public safety or public order; or
- (c) the person has, during any war in which Zimbabwe is or has been engaged, whether such war is or was declared or not, unlawfully traded or communicated with an enemy or been engaged in or assisted with any business which was to his knowledge carried on in such a manner as to assist an enemy in that war; or
- (d) the person has, within five years after becoming a citizen in terms of a former citizenship law or this Act, been sentenced in any country to imprisonment for a period of twelve months or more; or
- (e) the person has been convicted in Zimbabwe of an offence specified in the Schedule and sentenced to imprisonment for a period of twelve months or more without the option of a fine; or
- (f) the person was, immediately before he was registered as a citizen, a prohibited person in terms of any enactment relating to immigration in force in Zimbabwe:

Provided that a person who has been registered as a citizen in terms of section 13 of the Zimbabwe Constitution (Transitional, Supplementary and Consequential Provisions) Order 1980 shall not be deprived of his citizenship on the ground that before such registration he was a prohibited person; or

- (g) the person was a citizen of a foreign country and has, in terms of the law in force in that foreign country, been deprived of that citizenship on grounds which the Minister considers are substantially similar to any of the grounds specified in subsection (1) or this subsection.
- (3) The Minister shall not deprive a person of his citizenship by order made in terms of subsection (1) or (2)—
- (a) if, by reason of the order, the person would be rendered stateless; or
 - (b) unless he is satisfied that it is not conducive to the public good that the person should continue to be a citizen of Zimbabwe.
- (4) Before making an order in terms of subsection (1) or (2), the Minister shall cause to be served on the person against whom the order is proposed to be made a notice in writing informing him of the grounds on which it is proposed to be made and of his right to have his case referred for inquiry in terms of subsection (5).
- (5) If a person against whom an order in terms of subsection (1) or (2) is proposed to be made so requests within thirty days of a notice being served upon him in terms of subsection (4), the Minister shall refer the case within twenty-one days to a commissioner appointed for the purpose by the President.
- (6) A person shall be qualified for appointment as a commissioner in terms of subsection (5) if he is or has been a judge of the Supreme Court or the High Court or is qualified in terms of section 82 of the Constitution for appointment as a judge of the Supreme Court or the High Court.
- (7) A commissioner appointed in terms of subsection (5) shall—
- (a) subject to any regulations made in terms of section *twenty-two*, conduct due inquiry into the case; and
 - (b) report to the Minister as to the necessity or expedience of making an order in terms of subsection (1) or (2), as the case may be.
- (8) The powers, rights and privileges of a commissioner appointed in terms of subsection (5) shall be the same as those conferred upon a commissioner by the Commissions of Inquiry Act [*Chapter 10:07*], other than the power to order a person to be detained in custody, and sections 9 to 13 and 15 to 18 of that Act shall apply, *mutatis mutandis*, in relation to an inquiry under this section and to a person summoned to give evidence or giving evidence at the inquiry.
- (9) A report made by any police officer or immigration officer in connection with a person against whom an order is proposed to be made in terms of subsection (1) or (2) shall not be disclosed at an inquiry held in terms of this section to any person other than the commissioner if the Minister certifies that its disclosure to any person other than the commissioner would not be in the public interest.
- (10) In deciding whether or not to deprive a person of his citizenship by order in terms of subsection (1) or (2), the Minister shall pay due regard to any report made by a commissioner in terms of subsection (7).
- (11) A person who is deprived of his citizenship by order in terms of subsection (1) or (2) shall cease to be a citizen of Zimbabwe on a date to be specified by the Minister in the order.

12 Children of persons deprived of citizenship

- (1) If a person is deprived of his citizenship of Zimbabwe by order in terms of section *eleven*, the Minister may, subject to subsections (2) and (3), by order deprive of his citizenship any child of whom the person is the responsible parent, if that child—
- (a) is not of full age; and
 - (b) is a citizen of Zimbabwe by registration.
- (2) Before making an order in terms of subsection (1), the Minister shall cause to be served on the responsible parent or guardian of the child against whom the order is proposed to be made a notice in writing informing him of the grounds on which it is proposed to be made and of his right to have his case referred for inquiry in terms of subsection (3).
- (3) If the responsible parent or guardian of a child against whom an order in terms of subsection (1) is proposed to be made so requests within thirty days of a notice being served on him in terms of subsection (2), the Minister shall refer the case for inquiry and report to a commissioner appointed for the purpose by the President, and thereafter subsections (6), (7), (8), (9) and (10) of section *eleven* shall apply, *mutatis mutandis*.
- (4) A child who is deprived of his citizenship by order in terms of subsection (1) shall cease to be citizen of Zimbabwe on a date to be specified by the Minister in the order.

13 Loss of citizenship through absence from Zimbabwe

- (1) Subject to this section, a citizen of Zimbabwe by registration shall cease to be a citizen of Zimbabwe if, after he has become of full age and while he is of sound mind, he is or has been absent from Zimbabwe for a continuous period of five years or such longer period as the Minister at his request may fix before the expiry of the period.
- (2) No period—
- (a) during which a person was absent from Zimbabwe by reason of his service—
 - (i) with an international organization of which Zimbabwe was at the time a member; or
 - (ii) in the full-time employment of—

- A. the State; or
- B. a person resident in Zimbabwe; or
- C. a society, body of persons or company, the control and management of which are in Zimbabwe; or
- D. a body incorporated directly by a law in force in Zimbabwe;

or

- (b) during which a person is absent from Zimbabwe on account of his ill-health or disability; or
- (c) during which a person takes a course of instruction of not more than five years at an educational institution outside Zimbabwe; or
- (d) during which a person who is the spouse, responsible parent, guardian, other lawful representative or child of a person referred to in paragraph (a), (b) or (c) or of a citizen of Zimbabwe by birth or descent, is absent from Zimbabwe for the purpose of being with him;

shall be taken into account in determining the length of the person's absence from Zimbabwe for the purpose of subsection (1).

(3) A request to extend the period during which a person may be absent from Zimbabwe without losing his domicile, made by a citizen of Zimbabwe in terms of any enactment relating to immigration in force in Zimbabwe, shall, if granted, be deemed for the purposes of this section to be a request granted by the Minister in terms of subsection (1).

(4) Subsection (1) shall not apply to a citizen of Zimbabwe—

- (a) who has, before, on or after the 18th April, 1980, served in the armed forces of Zimbabwe in time of war with a foreign country and has been honourably discharged therefrom; or
- (b) who has, before the 18th April, 1980, served in the armed forces of the United Kingdom or of a country which was a member of the British Commonwealth at the date of service in time of war and has been honourably discharged therefrom; or
- (c) who is the spouse of a citizen of Zimbabwe referred to in paragraph (a) or (b); or
- (d) if he would, by reason of his ceasing to be a citizen of Zimbabwe, be rendered stateless.

14 Restoration of citizenship

(1) A person who has—

- (a) been deprived of his citizenship by order in terms of section *eleven* or *twelve*; or
- (b) ceased to be a citizen in terms of section *nine* or *thirteen*;

may apply to the Minister in the prescribed form and manner for the restoration of his citizenship of Zimbabwe:

Provided that a person who was deprived of his citizenship in terms of section *twelve* shall apply in terms of this section within twelve months after the date on which he attains the age of eighteen years.

(2) The Minister may, subject to such conditions as he may fix in each case, restore citizenship of Zimbabwe to a person who has applied to him in terms of subsection (1):

Provided that—

- (i) such person shall not become a citizen of Zimbabwe until he has taken the oath of loyalty before a person specified by the Minister;
- (ii) the Minister shall not restore citizenship of Zimbabwe to any person who is also a citizen of a foreign country, except with the consent of the President.

(3) A person whose citizenship has been restored in terms of this section shall become a citizen of Zimbabwe by registration on the date he takes the oath of loyalty in terms of proviso (i) to subsection (2).

PART V

GENERAL

15 Citizenship of women not affected by marriage

A married woman shall, subject to this Act and Chapter II of the Constitution, be capable of acquiring, losing, divesting herself of and being deprived of, citizenship of Zimbabwe in all respects as if she were an unmarried woman of full age.

16 Minister not required to give reasons for decisions

The Minister shall not be required to give reasons for his refusal to grant or approve any application made in terms of this Act.

17 Honorary citizens

(1) Where, in the opinion of the President, a person has done signal honour or rendered distinguished service to Zimbabwe, the President may grant him honorary citizenship of Zimbabwe.

(2) A person to whom honorary citizenship is granted in terms of subsection (1) shall become an honorary citizen of Zimbabwe on such date as the President may fix.

(3) The grant of honorary citizenship shall not—

- (a) render the honorary citizen liable to military service or any other obligation of a citizen of Zimbabwe; or
- (b) entitle the honorary citizen to be registered as a voter; or
- (c) entitle any spouse, child or other relation of the honorary citizen to become a citizen of Zimbabwe.

18 Certificates of citizenship in certain cases

(1) The Minister may, in such cases as he thinks fit, grant a certificate of citizenship to any citizen of Zimbabwe or to any person with respect to whose citizenship a doubt exists.

(2) A certificate granted to a person in terms of subsection (1) shall, unless it is proved that it was obtained by means of fraud, false representation or the concealment of a material fact, be conclusive proof that the person was a citizen of Zimbabwe on the date of the certificate, but without prejudice to any evidence that he was a citizen of Zimbabwe at an earlier date.

19 Minister may extend periods

(1) Subject to section *thirteen*, the Minister may extend any period specified in this Act within which any act may be or is required to be done, whether before or after the period has expired.

(2) Where the Minister has extended a period in terms of subsection (1), any consequence which ensued or would have ensued, as the case may be, at the expiry of the unextended period shall be deemed not to have ensued or shall not ensue, as the case may be, until the expiry of the extended period.

20 Evidence

(1) An authority, certificate, notice or document, other than an order made in terms of section *eleven*, which in terms of this Act may be granted, issued or given by the Minister shall be good and effectual if signed by the Registrar-General or by an officer of the Public Service authorized by the Registrar-General to sign such an authority, certificate, notice or document and, when so signed, shall for all purposes be *prima facie* proof that it was granted, issued or given in accordance with this Act.

(2) A document purporting to be an entry in a register made in terms of this Act or a former citizenship law shall—

- (a) be received in evidence on its production by any person and be *prima facie* proof of the matter specified in the entry; and
- (b) be deemed, unless the contrary is proved, to have been made by or on behalf of the person by whom or on whose behalf it purports to have been made.

(3) A document purporting to be a notice, certificate, order, authority, declaration or subscription of an oath of loyalty or allegiance given, granted, issued or made in terms of this Act or a former citizenship law shall—

- (a) be received in evidence on its production by any person; and
- (b) be deemed, unless the contrary is proved, to have been given, granted, issued or made by or on behalf of the person by whom or on whose behalf it purports to have been given, granted, issued or made.

(4) For the purposes of determining, in any proceedings before a court or otherwise, whether or not a person has ceased to be a citizen of Zimbabwe the fact that the person—

- (a) possesses or has at any time possessed a valid passport or other travel document issued by the government of a foreign country; or
- (b) exercises or has at any time exercised any right or privilege accorded exclusively to citizens of a foreign country; or
- (c) without the written authority of the Minister, is serving in or has at any time served in the armed forces of a foreign country;

shall be *prima facie* proof that the person is or at that time was, as the case may be, a citizen of the foreign country.

(5) Notwithstanding anything contained in subsection (1) of section 25 of the Civil Evidence Act [*Chapter 8:01*], if in any proceedings referred to in subsection (4) the Registrar-General produces a document purporting to be a copy of any written law of a foreign country which shows that any person is, by virtue of that law, a citizen of that country, it shall be presumed, unless it is shown to the contrary, that that person is a citizen of that country.

[Subsection inserted by section 3 of Act 12 of 2003.]

21 Offences and penalties

(1) Any person who, for the purpose of procuring anything to be done or not to be done in terms of this Act, makes a statement which he knows to be false in a material particular or does not know or believe to be true shall, without prejudice to any other proceedings that may be taken against him, be guilty of an offence.

(2) Any person who is not a citizen of Zimbabwe and who, without the written permission of the Minister, makes use of a current Zimbabwean passport issued in his name shall be guilty of an offence:

Provided that it shall be a defence to a charge under this subsection for a person to prove that, when he made use of the passport concerned, he believed on reasonable grounds that he was a citizen of Zimbabwe.

(3) Any citizen of Zimbabwe who, without the written permission of the Minister, makes use of a current passport issued in his name by the government of a foreign country shall be guilty of an offence:

Provided that it shall be a defence to a charge under this subsection for a person to prove that, when he made use of the passport concerned, he was entitled in terms of section *nine* to be a citizen of the foreign country concerned.

(4) Any person who is guilty of an offence in terms of subsection (1), (2) or (3) shall be liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection as amended by Act 22 of 2001]

22 Regulatory powers of Minister

(1) The Minister may by regulation prescribe all matters which in terms of—

- (a) this Act; or
- (b) Chapter II of the Constitution; or
- (c) section 13 of the Zimbabwe Constitution (Transitional, Supplementary and Consequential Provisions) Order 1980;

are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act, Chapter II of the Constitution or section 13 of the said Order.

(2) Regulations made in terms of subsection (1) may provide for—

- (a) the manner in which applications for registration as citizens of Zimbabwe shall be made;
- (b) the manner and form in which persons with dual citizenship may be required to renounce their citizenship of a foreign country;
- (c) the time within which anything required or authorized to be done in terms of this Act is to be done;
- (d) the registration of anything required or authorized in terms of this Act to be registered;
- (e) the administration and taking of the oath of loyalty and the time within which the oath of loyalty is to be taken;
- (f) the giving of a notice required or authorized to be served on a person in terms of this Act;
- (g) the conduct of an inquiry by a commissioner appointed in terms of section *eleven* or *twelve* and the nature of evidence that may be led at such an inquiry;
- (h) the remuneration and allowances that may be paid to a commissioner appointed in terms of section *eleven* or *twelve*;
- (i) the surrender and cancellation of certificates of citizenship, passports or other documents relating to the citizenship of persons deprived of their citizenship or who renounce their citizenship or cease to be citizens in terms of this Act;
- (j) the correction of any clerical errors or errors of fact or substance in any register, certificate of citizenship or other document;
- (k) the circumstances in which and the conditions subject to which copies of certificates issued in terms of this Act may be obtained;
- (l) the imposition and recovery of fees in respect of—
 - (i) applications made to the Minister or Registrar-General in terms of this Act; or
 - (ii) registration or the making of a declaration or the grant of a certificate or the taking of an oath of loyalty; or
 - (iii) the supply of a certificate or other copy of a declaration, certificate or oath made, granted or taken by or in terms of this Act or a former citizenship law;and for the application of any such fees.

(3) Regulations made in terms of subsection (1) may provide penalties for contraventions thereof not exceeding a fine of level five or imprisonment for a period of six months or both such fine and such imprisonment.

[Subsection as amended by Act 22 of 2001]

23 Transitional provision: non-citizen office-holders

Where the holder of any office or post is required by any enactment to be a citizen of Zimbabwe, the person who held such office or post immediately before the 1st December, 1984, shall, notwithstanding the provisions of such enactment, continue to be qualified to hold it if the Minister responsible for the administration of the enactment concerned certifies in writing that he is a proper person to hold such office or post.

SCHEDULE (Section 11 (2) (e))

SPECIFIED OFFENCES

1. Treason or sedition.
2. Murder.
3. Rape.
4. Contravening section 105 of the Electoral Act [*Chapter 2:01*].
5. On or after the 18th April, 1980, contravening—

- (a) any provision of the Public Order and Security Act [*Chapter 11:17*], or the Law and Order (Maintenance) Act [*Chapter 11:07*] before its repeal by the Public Order and Security Act [*Chapter 11:17*];
[Subparagraph as amended by Act 1 of 2002]
 - (b) section 2 of the Preservation of Constitutional Government Act [*Chapter 11:11*];
 - (c) any regulation made in terms of the Emergency Powers Act [*Chapter 11:04*];
 - (d) section 4 or 5 of the Protected Places and Areas Act [*Chapter 11:12*];
 - (e) section 6 or 11 of the Unlawful Organizations Act [*Chapter 11:13*];
 - (f) any provision of the Official Secrets Act [*Chapter 11:09*].
6. Any attempt, conspiracy or incitement to commit, or being an accessory after the fact to the commission of, an offence specified in this Schedule.

downloaded from www.law.co.zw