

THE CITIZENSHIP ACT, 1955

[Act No. 57 of Year 1955 dated 30th. December, 1955]

An Act to provide for the acquisition and determination of Indian citizenship

Comment: From the resume of the aforementioned provisions of the Constitution and the Citizenship Act, it becomes clear that whenever any authority is called upon to decide even for the limited purpose of another law, whether a person is or is not a citizen of India, the authority must carefully examine the question and the provisions of the Citizenship Act extracted hereinbefore. Lal Babu Hussain and others, Petitioners v. Electoral Registration Officer, AIR 1995 SUPREME COURT 1189

Be it enacted by Parliament in the Sixth Year of the Republic of India as follows: -

THE CITIZENSHIP ACT, 1955

[Act No. 57 of Year 1955 dated 30th. December, 1955]

1. Short title

This Act may be called the Citizenship Act, 1955.

2. Interpretation

(1) In this Act, unless the context otherwise requires, - (a) "a Government in India" means the Central Government or a State Government.

(b) "citizen" in relation to a country specified in Schedule I, means a person who, under the citizenship or nationality law for the time being in force in that country, is a citizen or national of that country;

(c) "citizenship or nationality law" in relation to a country specified in Schedule I, means an enactment of the Legislature of that country which, at the request of the government of that country, the Central Government may, by notification in the Official Gazette, have declared to be an enactment making provision for the citizenship or nationality of that country:

PROVIDED that no such notification shall be issued in relation to the Union of South Africa except with the previous approval of both Houses of Parliament.

(d) "Indian consulate" means the office of any consular officer of the Government of India where a register of births is kept, or where there is no such office, such office as may be prescribed;

(e) "minor" means a person who has not attained the age of eighteen years;

(f) "person" does not include any company or association or body of individuals, whether incorporated or not;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "undivided India" means India as defined in the Government of India Act, 1935, as originally enacted.

(2) For the purposes of this Act, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the government of any country shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(3) 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; and where that death occurred before, and the birth occurs after the commencement of this Act, the status or description which would have been applicable to the father had he died after the commencement of this Act shall be deemed to be the status or description applicable to him at the time of his death.

(4) For the purposes of this Act, a person shall be deemed to be of full age if he is not a minor, and of full capacity if he is not of unsound mind.

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ACQUISITION OF CITIZENSHIP

3. Citizenship by birth

1[(1) Except as provided in sub-section (2), every person born in India,-

(a) on or after the 26th day of January, 1950, but before the commencement of the Citizenship (Amendment) Act, 1986;

(b) on or after such commencement and either of whose parents is a citizen of India at the time of his birth,
shall be a citizen of India by birth.]

(2) A person shall not be such a citizen by virtue of this section if at the time of his birth-

(a) his father possesses such immunity from suits and legal process as is accorded to an envoy of a foreign sovereign power accredited to the President of India and is not a citizen of India, or

(b) his father is an enemy alien and the birth occurs in a place then under occupation by the enemy.

2[4. Citizenship by descent

(1) A person born outside India,-

(a) on or after the 26th January, 1950, but before the commencement of the Citizenship (Amendment) Act, 1992, shall be a citizen of India by descent if his father is a citizen of India at the time of his birth; or

(b) on after such commencement, shall be a citizen of India by descent if either of his parents is a citizen of India at the time of his birth:]

PROVIDED that if the father of such a person 3[referred to clause (a)] was a citizen of India by descent only, that person shall not be a citizen of India by virtue of this section unless-

(a) his birth is registered at an Indian consulate within one year of its occurrence or the commencement of this Act, whichever is later, or, with the permission of the Central Government, after the expiry of the said period; or

(b) his father is, at the time of his birth, in service under a Government in India:

3[PROVIDED FURTHER that if either of the parents of such a person referred to in clause (b) was a citizen of India by descent only, that person shall not be a citizen of India by virtue of this section, unless-

(a) his birth is registered at an Indian consulate within one year of its occurrence or the commencement of the Citizenship (Amendment) Act, 1992, whichever is later, or with the permission of the Central Government, after the expiry of the said period; or

(b) either of his parents is, at the time of his birth, in service under a Government in India.

(2) If the Central Government so directs, a birth shall be deemed for the purposes of this section to have been registered with its permission, notwithstanding that its permission was not obtained before the registration.

(3) For the purposes of the proviso to sub-section (1), 4[any person] born outside undivided India who was, or was deemed to be, a citizen of India at the commencement of the Constitution shall be deemed to be a citizen of India by descent only.

5. Citizenship by registration

(1) Subject to the provisions of this section and such conditions and restrictions as may be prescribed, the prescribed authority may, on application made in this behalf, register as a citizen of India any person who is not already such citizen by virtue of the Constitution or by virtue of any of the other provisions of this Act and belongs to any of the following categories,-

(a) persons of Indian origin who are ordinarily resident in India and have been resident for five years immediately before making an application for registration;

(b) persons of Indian origin who are ordinarily resident in any country or place outside undivided India;

(c) persons who are, or have been, married to citizens of India and are ordinarily resident in India and have been so resident for five years immediately before making an application for registration.

(d) minor children of persons who are citizens of India; and

(e) persons of full age and capacity who are citizens of a country specified in Schedule I:

PROVIDED that in prescribing the conditions and restrictions subject to which persons of any such country may be registered as citizens of India under this clause, the Central Government shall have due regard to the conditions subject to which citizens of India may, by law or practice of that country, become citizens of that country by registration.

Explanation : For the purposes of this sub-section, a person shall be deemed to be of Indian origin if he, or either of his parents, was born in undivided India.

(2) No person being of full age shall be registered as a citizen of India under sub-section (1) until he has taken the oath of allegiance in the form specified in Schedule II.

(3) No person who has renounced, or has been deprived of his, Indian citizenship, or whose Indian citizenship has terminated, under this Act shall be registered as a citizen of India under sub-section (1) except by order of the Central Government.

(4) The Central Government may, if satisfied that there are special circumstances justifying such registration, cause any minor to be registered as a citizen of India.

(5) A person registered under this section shall be a citizen of India by

registration as from the date on which he is so registered; and a person registered under the provisions of clause (b)(ii) of Article 6 or Article 8 of the Constitution shall be deemed to be a citizen of India by registration as from the commencement of the Constitution or the date on which he was so registered, whichever may be later.

6. Citizenship by naturalisation

(1) Where an application is made in the prescribed manner by any person of full age and capacity who is not a citizen of a country specified in Schedule I for the grant of a certificate of naturalisation to him, the Central Government may, if satisfied that the applicant is qualified for naturalisation under the provisions of Schedule III, grant to him, a certificate of naturalisation:

PROVIDED that, if in the opinion of the Central Government, the applicant is a person who has rendered distinguished service to the cause of science, philosophy, art, literature, world peace or human progress generally, it may waive all or any of the conditions specified in Third Schedule III.

(2) The person to whom a certificate of naturalisation is granted under sub-section (1) shall, on taking the oath of allegiance in the form specified in Schedule II, be a citizen of India by naturalisation as from the date on which that certificate is granted.

5[6A. Special provisions as to citizenship of persons covered by the Assam Accord

(1) For the purposes of this section-

(a) "Assam" means the territories included in the State of Assam immediately before the commencement of the Citizenship (Amendment) Act, 1985;

(b) "detected to be a foreigner" means detected to be a foreigner in accordance with the provisions of the Foreigners Act, 1946 (31 of 1946) and the Foreigners (Tribunals) Order, 1964 by a Tribunal constituted under the said Order;

(c) "specified territory" means the territories included in Bangladesh immediately before the commencement of the Citizenship (Amendment) Act, 1985;

(d) a person shall be deemed to be Indian origin, if he, or either of his parents or any of his grandparents was born in India;

(e) a person shall be deemed to have been detected to be a foreigner on the date on which a Tribunal constituted under the Foreigners (Tribunals) Order, 1964 submits its opinion to the effect that he is a foreigner to the officer or authority concerned.

(2) Subject to the provisions of sub-sections (6) and (7), all persons of Indian origin who came before the 1st day of January, 1966 to Assam from the specified territory (including such of those whose names were included in the electoral rolls used for the purposes of the General Election to the House of the People held in 1967) and who have been ordinarily resident in Assam since the dates of their entry into Assam shall be deemed to be citizens of India as from the 1st day of January, 1966.

(3) Subject to the provisions of sub-sections (6) and (7), every person of Indian origin who-

(a) came to Assam on or after the 1st day of January, 1966 but before the 25th day of March, 1971 from the specified territory; and

(b) has, since the date of his entry into Assam, been ordinarily resident in Assam;
and

(c) has been detected to be a foreigner;

shall register himself in accordance with the rules made by the Central Government in this behalf under section 18 with such authority (hereafter in this sub-section referred to as the registering authority) as may be specified in such rules and if his name is included in any electoral roll for any Assembly or Parliamentary constituency in force on the date of such detection, his name shall be deleted therefrom.

Explanation: In the case of every person seeking registration under this sub-section, the opinion of the Tribunal constituted under the Foreigners (Tribunals) Order, 1964 holding such person to be a foreigner, shall be deemed to be sufficient proof of the requirement under clause (c) of this sub-section and if any question arises as to whether such person complies with any other requirement under this sub-section, the registering authority shall,-

(i) if such opinion contains a finding with respect to such other requirement, decide the question in conformity with such finding;

(ii) if such opinion does not contain a finding with respect to such other requirement, refer the question to a Tribunal constituted under the said Order having jurisdiction in accordance with such rules as the Central Government may make in this behalf under section 18 and decide the question in conformity with the opinion received on such reference.

(4) A person registered under sub-section (3) shall have, as from the date on which he has been detected to be a foreigner and till the expiry of a period of ten years from that date, the same rights and obligations as a citizen of India (including the right to obtain a passport under the Passport Act, 1967 (15 of 1967) and the obligations connected therewith), but shall not be entitled to have his name included in any electoral roll for any Assembly or Parliamentary constituency at any time before the expiry of the said period of ten years.

(5) A person registered under sub-section (3) shall be deemed to be a citizen of India for all purposes as from the date of expiry of a period of ten years from the date on which he has been detected to be a foreigner.

(6) Without prejudice to the provisions of section 8,-

(a) if any person referred to in sub-section (2) submits in the prescribed manner and form and to the prescribed authority within sixty days from the date of commencement of the Citizenship (Amendment) Act, 1985, a declaration that he does not wish to be a citizen of India, such person shall not be deemed to have become a citizen of India under that sub-section;

(b) if any person referred to in sub-section (3) submits in the prescribed manner and form and to the prescribed authority within sixty days from the date of commencement of the Citizenship (Amendment) Act, 1985 for year or from the date on which he has been detected to be a foreigner, whichever is later, a declaration that he does not wish to be governed by the provisions of that sub-section and sub-sections (4) and (5), it shall not be necessary for such person to register himself under sub-section (3).

Explanation : Where a person required to file a declaration under this sub-section

does not have the capacity to enter into a contract, such declaration may be filed on his behalf by any person competent under the law for the time being in force, to act in his behalf.

(7) Nothing in sub-sections (2) to (6) shall apply in relation to any person-

(a) who, immediately, before the commencement of the Citizenship (Amendment) Act, 1985, for year is a citizen of India;

(b) who was expelled from India, before the commencement of the Citizenship (Amendment) Act, 1985, for year under the Foreigners Act, 1946 for year.

(8) Save as otherwise expressly provided in this section, the provisions of this section shall have effect notwithstanding anything contained in any other law for the time being in force.]

7. Citizenship by incorporation of territory

(1) If any territory becomes a part of India, the Central Government may, by order notified in the Official Gazette, specify the persons who shall be citizens of India by reason of their connection with that territory; and those persons shall be citizens of India as from the date to be specified in the order.

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TERMINATION OF CITIZENSHIP

8. Renunciation of citizenship

(1) If any citizen of India of full age and capacity, who is also a citizen or national of another country, makes in the prescribed manner a declaration renouncing his Indian citizenship, the declaration shall be registered by the prescribed authority, and, upon such registration, that person shall cease to be a citizen of India:

PROVIDED that if any such declaration is made during any war in which India may be engaged, registration thereof shall be withheld until the Central Government otherwise directs.

(2) Where [a person] ceases to be a citizen of India under sub-section (1) every minor child of that person shall thereupon cease to be a citizen of India:

PROVIDED that any such child may, within one year after attaining full age, make a declaration that he wishes to resume Indian citizenship and shall thereupon again become a citizen of India.

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

9. Termination of citizenship

(1) Any citizen of India who by naturalisation, registration or otherwise voluntarily acquires, or has at any time between the 26th January, 1950 and the commencement of this Act voluntarily acquired, the citizenship of another country shall, upon such acquisition or, as the case may be, such commencement, cease to be a citizen of India:

PROVIDED that nothing in this sub-section shall apply to a citizen of India who, during any war in which India may be engaged, voluntarily acquires the citizenship of another country, until the Central Government otherwise directs.

(2) If any question arises as to whether, when or how any person has acquired

the citizenship of another country, it shall be determined by such authority, in such manner, and having regard to such rules of evidence, as may be prescribed in this behalf.

10. Deprivation of citizenship

(1) A citizen of India who is such by naturalisation or by virtue only of clause (c) of Article 5 of the Constitution or by registration otherwise than under clause (b)(ii) of Article 6 of the Constitution or clause (a) of sub-section (1) of section 5 of this Act shall cease to be a citizen of India, if he is deprived of that citizenship by an order of the Central Government under this section.

(2) Subject to the provisions of this section, the Central Government may, by order, deprive any such citizen of Indian citizenship, if it is satisfied that-

(a) the registration or certificate of naturalisation was obtained by means of fraud, false representation or the concealment of any material fact; or

(b) that citizen has shown himself by act or speech to be disloyal or disaffected towards the Constitution of India as by law established; or

(c) that citizen has, during any war in which India may be engaged, unlawfully traded or communicated with an enemy or been engaged in, or associated with, any business that was to his knowledge carried on in such manner as to assist an enemy in that war; or

(d) that citizen has, within five years after registration or naturalisation, been sentenced in any country to imprisonment for a term of not less than two years; or

(e) that citizen has been ordinarily resident, out of India for a continuous period of seven years, and during that period, has neither been at any time a student of any educational institution in a country outside India or in the service of a Government in India or of an international organisation of which India is a member, not registered annually in the prescribed manner at an Indian consulate his intention to retain his citizenship of India.

(3) The Central Government shall not deprive a person of citizenship under this section unless it is satisfied that it is not conducive to the public good that person should continue to be a citizen of India.

(4) Before making an order under this section, the Central Government shall give the person against whom the order is proposed to be made, notice in writing informing him of the ground on which it is proposed to be made and, if the order is proposed to be made on any of the grounds specified in sub-section (2) other than clause (e) thereof, of his right, upon making application therefor in the prescribed manner, to have his case referred to a committee of inquiry under this section.

(5) If the order is proposed to be made against a person or any of the grounds specified in sub-section (2) other than clause (e) thereof and that person so applies in the prescribed manner, the Central Government shall, and in any other case it may, refer the case to a Committee of Inquiry consisting of a Chairman (being a person who has for at least ten years held a judicial office) and two other members appointed by the Central Government in this behalf.

(6) The Committee of Inquiry shall, on such reference, hold the inquiry in such manner as may be prescribed and submit its report to the Central Government,

and the Central Government shall ordinarily be guided by such report in making an order under this section.

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SUPPLEMENTAL

11. Commonwealth citizenship

Every person who is a citizen of a Commonwealth country specified in Schedule I shall, by virtue of that citizenship, have the status of a Commonwealth citizen of India.

12. Power to confer rights of Indian citizen on citizens of certain countries

(1) The Central Government may, by order notified in the Official Gazette, make provisions on a basis of reciprocity for the conferment of all or any of the rights of a citizen of India on the citizens of any country specified in Schedule I.

(2) Any order made under sub-section (1) shall have effect notwithstanding anything inconsistent therewith contained in any law other than the Constitution of India or this Act.

13. Certificate of citizenship in case of doubt

The Central Government may, in such cases as it thinks fit, certify that a person with respect to whose citizenship of India a doubt exists, is a citizen of India; and a certificate issued under this section shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be conclusive evidence that that person was such a citizen on the date thereof, but without prejudice to any evidence that he was such a citizen at an earlier date.

14. Disposal of application under sections 5 and 6

(1) The prescribed authority or the Central Government may, in its discretion, grant or refuse an application under section 5 or section 6 and shall not be required to assign any reasons for such grant or refusal.

(2) Subject to the provisions of section 15, the decision of the prescribed authority or the Central Government on any such application as aforesaid shall be final and shall not be called in any court.

15. Revision

(1) Any person aggrieved by an order made under this Act by the prescribed authority or any officer or other authority (other than the Central Government) may, within a period of thirty days from the date of the order, make an application to the Central Government for revision of that order:

PROVIDED that the Central Government may entertain the application after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from making the application in time.

(2) On receipt of any such application under sub-section (1), the Central Government shall, after considering the application of the aggrieved person and any report thereon which the officer or authority making the order may submit,

make such order in relation to the application as it deems fit, and the decision of the Central Government shall be final.

16. Delegation of powers

The Central Government may, by order, direct that any power which is conferred on it by any of the provisions of this Act other than those of section 10 and section 18 shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercisable also by such officer or authority as may be so specified.

17. Offences

Any person who, for the purpose of procuring anything to be done or not to be done under this Act, knowingly makes any representation which is false in a material particular shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

18. Power to make rules

(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the registration of anything required or authorised under this Act to be registered, and the conditions and restrictions in regard to such registration;

(b) the forms to be used and the registers to be maintained under this Act;

(c) the administration and taking of oaths of allegiance under this Act, and the time within which, and the manner in which, such oaths shall be taken and recorded;

(d) the giving of any notice required or authorised to be given by any person under this Act;

(e) the cancellation of the registration of, and the cancellation and amendment of certificates of naturalisation relating to, persons deprived of citizenship under this Act, and the delivering up of such certificates for those purposes;

(ee) the manner and form in which and the authority to whom declarations referred to in clauses (a) and (b) of sub-section (6) of section 6A shall be submitted and other matters connected with such declarations;

(f) the registration at Indian consulates of the births and deaths of persons of any class or description born or dying outside India;

(g) the levy and collection of fees in respect of applications, registrations, declarations and certificates under this Act, in respect of the taking of an oath of allegiance, and in respect of the supply of certified or other copies of documents;

(h) the authority to determine the question of acquisition of citizenship of another country, the procedure to be followed by such authority and rules of evidence relating to such cases;

(i) the procedure to be followed by the committees of inquiry appointed under section 10 and the conferment on such committees of any of the powers, rights and privileges of civil courts;

(j) the manner in which applications for revision may be made and the procedure to be followed by the Central Government in dealing with such applications; and

(k) any other matter which is to be, or may be, prescribed under the Act.

(3) In making any rule under this section, the Central Government may provide that breach thereof shall be punishable with fine which may extend to one thousand rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

19. Repeals

[Repealed by the Repealing and Amending Act, 1960 (58 of 1960)]

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SCHEDULE I

[Sections 2(1)(b) and 5(1)(e)]

A. The following Commonwealth countries:

1. United Kingdom
2. Canada
3. Commonwealth of Australia
4. New Zealand
5. Union of South Africa
6. Pakistan
7. Ceylon
8. Federation of Rhodesia and Nyasaland
9. Ghana
10. Federation of Malaya
11. Singapore

B. The Republic of Ireland

Explanation: In this Schedule, "United Kingdom" means the United Kingdom of Great Britain and Northern Ireland, and includes the Channel Islands, the Isle of Man and all Colonies; and "Commonwealth of Australia" includes the territories of Papua and the territory of Norfolk Island.

SCHEDULE II: OATH OF ALLEGIANCE

[Sections 5(2) and 6(2)]

I, A. B. _____ do solemnly affirm (or swear) that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully observe the laws of India and fulfil my duties as a citizen of India.

SCHEDULE III: QUALIFICATIONS FOR NATURALISATION

[Section 6(1)]

The qualifications for naturalisation of a person who is not a citizen of a country specified in Schedule I are:-

(a) that he is not a subject or citizen of any country where citizens of India are prevented by law or practice of that country from becoming subjects or citizens or that country by naturalisation;

(b) that, if he is a citizen of any country he has renounced the citizenship of that country in accordance with the law therein in force in that behalf and has notified such renunciation to the Central Government;

(c) that he has either resided in India or been in the service of a Government in India or partly the one and partly the other, throughout the period of twelve months immediately preceding the date of the application;

(d) that during the twelve years immediately preceding the said period of twelve months, he has either resided in India or been in the service of a Government in India, or partly the one and partly the other, for periods amounting in the aggregate to not less than nine years;

(e) that he is of good character;

(f) that he has an adequate knowledge of a language specified in Schedule VIII to the Constitution; and

(g) that in the event of a certificate of naturalisation being granted to him, he intends to reside in India, or to enter into, or continue in, service under a Government in India or under an international organisation of which India is a member or under a society, company or body of persons established in India: PROVIDED that the Central Government may, if in the special circumstances of any particular case it thinks fit,-

(i) allow a continuous period of twelve months ending not more than six months before the date of the application to be reckoned, for the purposes of clause (c) above, as if it had immediately preceded that date;

(ii) allow periods of residence or service earlier than thirteen years before the date of the application to be reckoned in computing the aggregate mentioned in clause (d) above.