

REPUBLIC OF SOUTH AFRICA

SOUTH AFRICAN CITIZENSHIP AMENDMENT BILL

(As introduced)

(MINISTER OF HOME AFFAIRS)

[B 42—97]

REPUBLIEK VAN SUID-AFRIKA

WYSIGINGSWETSONTWERP OP SUID-AFRIKAANSE BURGERSKAP

(Soos ingedien)

(MINISTER VAN BINNELANDSE SAKE)

[W 42—97]

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GENERAL EXPLANATORY NOTE:

[**]** Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the South African Citizenship Act, 1995, so as to further regulate the citizenship of persons who were citizens of any former state by registration; to empower the Minister of Home Affairs to exempt South African citizens from the deprivation of citizenship when making use of the passport facilities of another country; to regulate the resumption of South African citizenship by persons who have lost their citizenship by virtue of the provisions of prior laws; and to effect certain consequential amendments arising from the operation of the said Act; and to provide for incidental matters.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 88 of 1995

1. Section 1 of the South African Citizenship Act, 1995 (hereinafter referred to as the principal Act), is hereby amended by the deletion in subsection (1) of the definition of “South African citizenship by registration”. 5

Amendment of section 4 of Act 88 of 1995

2. Section 4 of the principal Act is hereby amended by the deletion of subparagraph (iii) of paragraph (a) of subsection (1).

Amendment of section 9 of Act 88 of 1995

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3. (1) Section 9 of the principal Act is hereby amended by the addition of the following subsections, the existing section becoming subsection (1):

“(2) Notwithstanding anything to the contrary contained in subsection (1), the Minister may under circumstances regarded by him or her as exceptional exempt any person, on application in the prescribed form, from the provisions of the said subsection (1), in so far as they relate to the use of the passport facilities of another country, for such period and on such conditions as may be determined by the Minister.” 15

(3) The Minister may at any time withdraw an exemption contemplated in subsection (2) or withdraw, amend or supplement any condition on which any such exemption was granted.”.

(2) Any consent in writing issued before the commencement of this Act to any person or any category of persons to make use of the passport facilities of another country shall be valid as if it had been issued under a provision of the principal Act or of any other law repealed by the principal Act, as the case may be. 5

(3) The provisions of section 9(3) of the principal Act shall *mutatis mutandis* apply in respect of a consent referred to in subsection (2).

Amendment of section 11 of Act 88 of 1995 10

4. Section 11 of the principal Act is hereby amended by the substitution in subsection (3) for the words preceding subparagraph (i) of the following words:

“Whenever—

(a) a South African citizen by naturalisation or registration ceased to be a South African citizen by virtue of the provisions of any prior law; or 15

(b) a South African citizen by naturalisation **[under the provisions of section 6, 7, 8, 9 or 10]** ceases to be a South African citizen by virtue of the provisions of section 6, 7, 8, 9 or 10,

he or she shall for the purposes of the Aliens Control Act, 1991 (Act No. 96 of 1991), but subject to the provisions of subsection (4), be deemed to be an alien who is not—”. 20

Amendment of section 13 of Act 88 of 1995

5. Section 13 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (3) of the following paragraph:

“(a) Any person who **[in terms of the provisions of section 6, 7, 9 or 10 ceased to be a South African citizen]** ceased to be a South African citizen by virtue of the provisions of any prior law or ceases to be a South African citizen by virtue of the provisions of section 6, 7, 8, 9 or 10 may— 25

(i) if he or she is not a person as referred to in section 11(3) and who is residing in the Republic permanently or returns to the Republic for permanent residence therein **[or intends residing permanently in the Republic]**, as the case may be; or 30

(ii) if he or she is a person as referred to in section 11(3) and a permit for permanent residence referred to in section 25 of the Aliens Control Act, 1991 (Act No. 96 of 1991), is issued to him or her, 35
apply to the Minister in the prescribed form for the resumption of his or her former South African citizenship.”.

Amendment of section 23 of Act 88 of 1995

6. Section 23 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of the following paragraph: 40

“(a) the form of an application **[for a certificate of naturalisation as a South African citizen]**, declaration, certificate or other document under this Act;”; and

(b) by the deletion of paragraph (b).

Insertion of section 26A in Act 88 of 1995 45

7. (1) The following section is hereby inserted after section 26 of the principal Act:

“Construction of references to citizens and citizenship of former states in existing laws and in certain documents

26A. A reference in any law in force immediately prior to the commencement of this Act, or in any certificate or other document under any such law, to a citizen of any former state or citizenship of any former state shall, unless inconsistent with the context or otherwise clearly inappropriate, be construed as a reference to a South African citizen or South African citizenship, respectively.”. 50

(2) The provisions of subsection (1) shall be deemed to have come into operation on 6 October 1995.

Short title

8. This Act shall be called the South African Citizenship Amendment Act, 1997.

**MEMORANDUM ON THE OBJECTS OF THE SOUTH AFRICAN
CITIZENSHIP AMENDMENT BILL, 1997**

The South African Citizenship Act, 1995—

- (a) does not grant as of right South African citizenship to persons who were citizens of the former TBVC states by registration;
- (b) does not empower the Minister of Home Affairs clearly and specifically to exempt South African citizens from the deprivation of citizenship when making use of the passport facilities of another country;
- (c) does not adequately provide for the resumption of South African citizenship by persons who have lost their citizenship by virtue of the provisions of laws repealed by the said Act; and
- (d) does not clearly and specifically provide that a citizen of the former TBVC states or citizenship of those states is a South African citizen or South African citizenship, respectively.

The objects of the Bill are to rectify the said deficiencies.

In the opinion of the State Law Adviser, the Bill must be dealt with in accordance with the procedure prescribed by section 75 of the Constitution.