

No. 64, 1961.]

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.

ACT

To amend the South African Citizenship Act, 1949.

(Afrikaans text signed by the State President.)
(Assented to 28th June, 1961.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of
section 1 of
Act 44 of 1949.

1. Section *one* of the South African Citizenship Act, 1949 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the deletion in sub-section (1), in the definition of "Commonwealth country", of the words "other than the Union", and the substitution therein for the words "Southern Rhodesia" of the words "the Federation of Rhodesia and Nyasaland"; and
- (b) by the substitution in the said sub-section, in the definition of "father", for the word "includes" of the word "means".

Amendment of
section 2 of
Act 44 of 1949.

2. Section *two* of the principal Act is hereby amended by the substitution in sub-section (2) for all the words after the word "Act", where it occurs for the third time, of the words: "shall be a South African citizen if—

- (a) at the commencement of this Act he resides in the Union or South-West Africa; or
- (b) at any time after the commencement of this Act he is lawfully admitted to the Union or South-West Africa for permanent residence therein, and he did not at any time whilst outside the Union or South-West Africa, by some voluntary and formal act, other than marriage, acquire the citizenship or nationality of a country other than the Union."

Amendment of
section 3 of
Act 44 of 1949.

3. Section *three* of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of sub-section (2) of the following paragraph:
"(a) his father—

- (i) was a person enjoying diplomatic immunity in the Union in terms of any law relating to diplomatic privileges, or was a career representative of the government of another country, or was a person employed in the embassy or legation of such a government or in the office of such a career representative, or was a member of the household or a servant of any such person; and

- (ii) was not a South African citizen or had not been lawfully admitted to the Union for permanent residence therein, and his mother was not a South African citizen; or"; and

- (b) by the insertion in paragraph (d) of the said sub-section, after the word "immigrant", of the words "or had no right of permanent residence in the Union", and the addition at the end of the said paragraph of the words "and his mother was not a South African Citizen".

Amendment of
section 4 of
Act 44 of 1949.

4. Section *four* of the principal Act is hereby amended by the substitution for sub-section (1) of the following sub-section:

"(1) Any person who is by virtue of the provisions of—

- (a) section *two* or *three* a South African citizen; or
- (b) section *five* or *six* a South African citizen, and whose father was at the time of such person's birth—

- (i) in the service of the Government of the Union; or
- (ii) the representative or the employee of a person or an association of persons resident or established in the Union; or

- (iii) in the service of an international organization of which the Government of the Union was then a member,

shall, subject to the provisions of sub-section (2) of this section, be a South African citizen by birth."

Amendment of
section 5 of
Act 44 of 1949.

5. Section *five* of the principal Act is hereby amended—
- (a) by the insertion in paragraph (b) of sub-section (3), before the word "is", of the words "on the date of commencement of this Act"; and
 - (b) by the addition thereto of the following sub-section:
 - "(6) Notwithstanding the provisions of sub-section (4), any person born outside the Union prior to the date of commencement of this Act shall be a South African citizen if—
 - (a) he is adopted in terms of the provisions of the Children's Act, 1960 (Act No. 33 of 1960); and
 - (b) he would be such a citizen by virtue of the provisions of sub-section (1) if he were the natural child of his adoptive father."

Amendment of
section 6 of
Act 44 of 1949.

6. Section *six* of the principal Act is hereby amended—
- (a) by the substitution for paragraphs (a) and (b) of sub-section (1) of the following paragraphs:
 - "(a) his father was, at the time of the birth, a South African citizen and the birth is, within one year thereof or such longer period as the Minister may in the special circumstances of the case approve, registered at a Union consulate or such other place as may be prescribed; or
 - (b) a certificate of the resumption of previous South African citizenship has, in terms of section *twenty-five bis*, been issued to his responsible parent, he has entered the Union for permanent residence therein and the birth is within one year after the issue of such certificate or such longer period as the Minister may in the special circumstances of the case approve, registered in the Union in the prescribed manner; or
 - (c) he is adopted in terms of the provisions of the Children's Act, 1960 (Act No. 33 of 1960), by a South African citizen and his birth is registered in accordance with the provisions of paragraph (a)."; and
 - (b) by the substitution for sub-section (2) of the following sub-section:
 - "(2) Notwithstanding the provisions of sub-section (1), no person who, after the date of commencement of this Act, is born outside the Union shall be a South African citizen if—
 - (a) he, when he enters or is found in the Union, would be a prohibited immigrant in terms of any law relating to immigration; or
 - (b) his father or his mother was, at the time of his birth, a prohibited immigrant under the law then in force in the Union; or
 - (c) a marriage between his natural parents in the Union would, in terms of the Prohibition of Mixed Marriages Act, 1949 (Act No. 55 of 1949), be unlawful."

Amendment of
section 7 of
Act 44 of 1949.

7. Section *seven* of the principal Act is hereby amended by the insertion in sub-section (1), after the word "person", of the words "other than a person referred to in paragraph (b) of sub-section (1) of section *four*,".

Amendment of
section 8 of
Act 44 of 1949.

8. Section *eight* of the principal Act is hereby amended—
- (a) by the substitution in paragraph (c) of sub-section (1) for the word "six" of the word "seven";
 - (b) by the insertion in sub-section (2), after the word "aircraft", of the words "or a public means of transport" and, after the word "registered", of the words "or licensed", and by the addition at the end thereof of the following words: "and for such purposes the Minister may, in his discretion, regard as a period of residence in the Union any period during which an applicant for registration has been employed outside the Union on a ship, aircraft or public means of transport operating from the Union, and any period during which a woman who is an applicant for registration has been resident outside the Union with her husband while the latter was so employed, notwithstanding the fact that such ship, aircraft or public means of transport was not registered or licensed in the Union";
 - (c) by the insertion after sub-section (3) of the following sub-sections:

“(3)*bis* For the purposes of sub-section (1) the Minister shall regard one half of any previous period during which an applicant for registration had been resident in the Union prior to the period of seven years immediately preceding the date of his application, but not exceeding a period of two years, as a period of residence in the Union during the said period of seven years.

(3)*ter* If an applicant is able to read and write both official languages of the Union to the satisfaction of the Minister, the Minister may grant a certificate of registration to him, notwithstanding the fact that the applicant had been resident in the Union for a period of only three years during the seven years immediately preceding the date of his application.”;

- (d) by the insertion in sub-section (4) after the word “child”, where it occurs for the first time, of the words “who is not or has not been married and who is a citizen of a Commonwealth country or of the Republic of Ireland or”, and, after the word “country”, of the words “or of the Republic of Ireland”;
- (e) by the insertion after sub-section (4) of the following sub-sections:

“(4)*bis* The Minister may waive the requirements of paragraph (a) of sub-section (1) in relation to an applicant who is or has been married.

(4)*ter* The Minister may, notwithstanding the provisions of sub-section (1), upon application in the prescribed form, grant a certificate of registration as a South African citizen to any person who is not already a South African citizen and—

(a) who, or whose father or paternal grandfather or paternal great-grandfather, was born prior to the first day of September, 1900, in any part of South Africa included in the Union, or was a burgher of the late South African Republic or of the late Orange Free State Republic at any time prior to that date; and

(b) who satisfies the Minister that he has been lawfully admitted to the Union for permanent residence therein.”;

- (f) by the deletion in sub-section (5) of the word “married”;
- (g) by the substitution for paragraphs (a), (b) and (c) of the said sub-section of the following paragraphs:

“(a) she is the wife or widow of a South African citizen and she has been lawfully admitted to the Union for permanent residence therein and has resided in the Union for a period of not less than two years immediately preceding the date of her application and after the date of her marriage to such citizen; or

(b) she is the wife of a South African citizen, if she enters the Union or is found therein, she would not be a prohibited immigrant in terms of any law relating to immigration and she has resided with her husband in the Union or, while he was employed in the service of the Government of the Union, outside the Union for a period of not less than two years.”;

- (h) by the insertion in sub-section (6) after the word “national” of the words “or if, in the opinion of the Minister, there are special circumstances present in his case,”, and the substitution therein for the word “six” of the word “seven”;

- (i) by the insertion after sub-section (6) of the following sub-section:

“(6)*bis* For the purposes of this section any person who, on the date on which his application is considered by the Minister, would comply with the requirements of this section in regard to residence and ordinary residence in the Union, if such date were the date of his application, shall be deemed to have complied therewith on the date of his application.”;

- (j) by the deletion in sub-section (8) of the words “is not a citizen of a Commonwealth country and”;
- (k) by the substitution in the said sub-section for the word “three” of the word “six”, and the insertion therein, after the word “Schedule”, of the words “or, if he

- objects on religious grounds to the taking of an oath, made a corresponding solemn affirmation”;
- (l) by the insertion after the said sub-section of the following sub-section:
“(8)*bis* If a certificate of registration has, in terms of this section, been granted to a person, a certificate of registration shall not be issued to him unless he has, within a period of six months from the date of notification of the grant of the certificate, complied with the conditions prescribed.”;
- (m) by the substitution in sub-section (9) for the word “require” of the words “in respect of”, and by the insertion therein, after the word “registration”, of the words “make such enquiries as he may deem fit and require such person”;
- (n) by the insertion after sub-section (9) of the following sub-section:
“(9)*bis* If the Minister has refused an application for a certificate of registration by or on behalf of any person, the Minister shall not be obliged to reconsider such application at any time, but shall not consider another application for a certificate of registration by or on behalf of such person until the expiration of a period of at least one year from the date upon which the person in question was advised of the Minister’s decision.”; and
- (o) by the insertion in sub-section (10) after the word “shall”, where it occurs for the first time, of the words “subject to the provisions of sub-section 9*bis*.”.

Amendment of
section 10 of
Act 44 of 1949.

9. Section *ten* of the principal Act is hereby amended—
- (a) by the deletion of paragraph (b) of sub-section (1);
- (b) by the substitution in paragraph (d) of the said sub-section for the word “seven” of the word “eight”;
- (c) by the insertion in sub-section (2), after the word “aircraft”, of the words “or a public means of transport” and, after the word “registered”, of the words “or licensed”, and by the addition at the end thereof of the following words: “and for such purposes the Minister may, in his discretion, regard as a period of residence in the Union any period during which an applicant for naturalization has been employed outside the Union on a ship, aircraft or public means of transport operating from the Union, and any period during which a woman who is an applicant for naturalization has been resident outside the Union with her husband while the latter was so employed, notwithstanding the fact that such ship, aircraft or public means of transport was not registered or licensed in the Union”;
- (d) by the insertion after sub-section (3) of the following sub-sections:
“(3)*bis* For the purposes of sub-section (1) the Minister shall regard one half of any previous period during which an applicant for naturalization had been resident in the Union prior to the period of eight years immediately preceding the date of his application, but not exceeding a period of two years, as a period of residence in the Union during the said period of eight years.
(3)*ter* If an applicant is able to read and write both official languages of the Union to the satisfaction of the Minister, the Minister may grant a certificate of naturalization to him, notwithstanding the fact that the applicant had been resident in the Union for a period of only four years during the eight years immediately preceding the date of his application.”;
- (e) by the insertion in sub-section (4) after the word “child”, where it occurs for the first time, of the words “who is not or has not been married, and”;
- (f) by the substitution for sub-section (5) of the following sub-section:
“(5) The Minister may waive the requirements of paragraph (a) of sub-section (1) in relation to an applicant who is or has been married.”;
- (g) by the deletion in sub-section (6) of the word “married”;
- (h) by the substitution for paragraphs (a), (b) and (c) of the said sub-section of the following paragraphs:

- “(a) she is the wife or widow of a South African citizen and she has been lawfully admitted to the Union for permanent residence therein and has resided in the Union for a period of not less than three years immediately preceding the date of her application and after the date of her marriage to such citizen; or
- (b) she is the wife of a South African citizen, she has in terms of any law relating to immigration obtained permission to enter the Union for permanent residence therein and she has resided with her husband in the Union or, while he was employed in the service of the Government of the Union, outside the Union for a period of not less than three years.”;
- (f) by the substitution for sub-section (7) of the following sub-section:
“(7) For the purposes of this section any person who, on the date on which his application is considered by the Minister, would comply with the requirements of this section in regard to residence and ordinary residence in the Union, if such date were the date of his application, shall be deemed to have complied therewith on the date of his application.”;
- (j) by the insertion in sub-section (8) after the word “national” of the words “or if, in the opinion of the Minister, there are special circumstances present in his case,” and the substitution therein for the word “seven” of the word “eight”;
- (k) by the substitution in sub-section (11) for the word “three” of the word “six”, and the insertion therein, after the word “Schedule”, of the words “or, if he objects on religious grounds to the taking of an oath, made a corresponding solemn affirmation”;
- (l) by the insertion after the said sub-section of the following sub-section:
“(11)*bis* If a certificate of naturalization has, in terms of this section, been granted to a person, a certificate of naturalization shall not be issued to him unless he has, within a period of six months from the date of notification of the grant of the certificate, complied with the conditions prescribed.”;
- (m) by the substitution in sub-section (12) for the word “require” of the words “in respect of”, and by the insertion therein, after the word “naturalization” of the words “make such enquiries as he may deem fit and require such person”; and
- (n) by the substitution in sub-section (13) for all the words after the word “not” of the following words: “be obliged to reconsider such application at any time, but shall not consider another application for a certificate of naturalization by or on behalf of such person until the expiration of a period of at least one year from the date upon which the person in question was advised of the Minister’s decision.”.

Substitution
of section 15 of
Act 44 of 1949.

10. The following section is hereby substituted for section *fifteen* of the principal Act:

“Loss of
South
African
citizenship
generally.

15. (1) Subject to the provisions of sub-section (2), a South African citizen shall cease to be a South African citizen if—

- (a) he, whilst outside the Union, and not being a minor, by some voluntary and formal act, other than marriage, acquires the citizenship or nationality of a country other than the Union; or
- (b) he in terms of the laws of any other country also has the citizenship or nationality of that country, and serves in the armed forces of such country while it is at war with the Union; or
- (c) he becomes a prohibited immigrant for purposes of admission to the Union.

(2) If a person referred to in paragraph (a) or (b) of sub-section (1) acquired the citizenship or nationality of the country in question while it was at war with the Union, he shall not cease to be a

South African citizen under that sub-section, unless the Minister by order deprives him of his South African citizenship.”.

Amendment of section 16 of Act 44 of 1949.

11. Section *sixteen* of the principal Act is hereby amended—
(a) by the substitution for sub-section (3) of the following sub-sections:

“(3) A South African citizen who was by virtue of the provisions of paragraph (a) of section *one* of the Union Nationality and Flags Act, 1927 (Act No. 40 of 1927), a Union national immediately prior to the date of commencement of this Act, and who acquired the citizenship or nationality of a country other than the Union before that date and while he was a minor, may at any time, if he has attained the age of twenty-one years, make a declaration in the prescribed form renouncing his South African citizenship.

(3)*bis* A woman who is a South African citizen by virtue of the provisions of paragraph (b) of sub-section (1) of section *fourteen* and who in consequence of marriage acquired the citizenship or nationality of a country other than the Union, may at any time during the subsistence of the marriage or thereafter make a declaration in the prescribed form renouncing her South African citizenship.”; and

(b) by the addition at the end of sub-section (5) of the following words: “Provided that the Minister may refuse to cause any declaration made in terms of this section to be registered while the Union is at war with any other country.”.

Amendment of section 17 of Act 44 of 1949.

12. Section *seventeen* of the principal Act is hereby amended—

(a) by the deletion of the word “or” at the end of paragraph (d), and of paragraph (e) of sub-section (1); and

(b) by the addition at the end of sub-section (4) of the words “or in relation to a woman who is in terms of sub-section (1) of section *fourteen* deemed to be a South African citizen by registration”.

Insertion of section 19*bis* in Act 44 of 1949.

13. The following section is hereby inserted in the principal Act after section *nineteen*:

“De-privation of South African citizenship on grounds of acquisition of citizenship of another country.

19*bis*. (1) The minister may by order deprive a South African citizen, who is not a minor, of his South African citizenship if he is satisfied that such citizen—

(a) has at any time after the commencement of this Act, by some voluntary and formal act in the Union, other than marriage, acquired the citizenship or nationality of a country other than the Union; or

(b) has at any time after the commencement of this Act, whether in or outside the Union—

(i) made an oath or other declaration of allegiance to any country other than the Union; or

(ii) made a declaration renouncing his South African citizenship with intent to accept any other citizenship or nationality.

(2) If the Minister in terms of sub-section (1) deprives a South African citizen of his citizenship, such citizen shall cease to be a South African citizen.”.

Insertion of section 20*bis* in Act 44 of 1949.

14. The following section is hereby inserted in the principal Act after section *twenty*:

“De-privation of citizenship in case of children.

20*bis*. (1) Whenever the responsible parent of a minor has in terms of the provisions of section *fifteen*, *nineteen*, *nineteen bis* or *twenty* ceased to be a South African citizen, the Minister may order that such minor, if he was born outside the Union, shall cease to be a South African citizen.

(2) Any person who has under sub-section (1) ceased to be a South African citizen, may at any time within one year after attaining the age of twenty-one years make a declaration in the pre-

scribed form that he wishes to resume South African citizenship, and if the Minister thinks fit he may direct that such declaration be registered, and upon registration thereof such person shall resume his former South African citizenship."

Amendment of
Section 21 of
Act 44 of 1949.

15. Section *twenty-one* of the principal Act is hereby amended by the addition thereto of the following sub-section:

"(3) Whenever a person ceases to be a South African citizen under the provisions of section *twenty bis*, he shall be regarded as having the citizenship or nationality which he had before he became a South African citizen, and if he had no other citizenship or nationality, he shall be regarded as having the citizenship or nationality of his responsible parent."

Insertion of
section 25*bis* in
Act 44 of 1949.

16. The following section is hereby inserted in the principal Act after section *twenty-five*:

**"Re-
sumption
of South
African
citizenship.** 25*bis*. If any person who in terms of the provisions of section *fifteen* ceased to be a South African citizen by reason of the acquisition by him, by some voluntary and formal act, of the citizenship or nationality of any country or territory in Africa or of any other country by virtue of his residence in any country or territory in Africa, returns to the Union for permanent residence therein and is not a prohibited immigrant under the law then in force in the Union, the Minister may upon application in the prescribed form allow such person to resume his former South African citizenship and issue to him a certificate to that effect in the prescribed form."

Amendment of
section 27 of
Act 44 of 1949.

17. Section *twenty-seven* of the principal Act is hereby amended—

- (a) by the substitution in sub-section (1) for the word "shall" of the word "may"; and
- (b) by the insertion in sub-section (2), after the word "indicate", of the words "in addition to such other particulars as the Minister may think fit,"

Amendment of
section 29 of
Act 44 of 1949.

18. Section *twenty-nine* of the principal Act is hereby amended—

- (a) by the deletion of paragraph (a) of sub-section (1);
- (b) by the deletion in paragraph (b) of the said sub-section of the words "and in one Afrikaans and one English newspaper circulating in the district in which he ordinarily resides,";
- (c) by the substitution in paragraph (c) of the said sub-section for all the words after the word "published" of the words "that notice";
- (d) by the addition at the end of sub-section (2) of the words "or in respect of a person referred to in sub-section (6), (8) or (10) of the said section"; and
- (e) by the deletion of sub-section (3).

Amendment of
section 35 of
Act 44 of 1949.

19. Section *thirty-five* of the principal Act is hereby amended by the insertion in sub-section (1), after the word "Act", of the words "or a prior law".

Amendment of
section 36 of
Act 44 of 1949.

20. Section *thirty-six* of the principal Act is hereby amended by the insertion after the word "was" of the words "resident or".

Insertion of
section 36*bis* in
Act 44 of 1949.

21. The following section is hereby inserted in the principal Act after section *thirty-six*:

**"Delegation
of powers
and duties.** 36*bis*. The Minister may authorize any officer in his Department to exercise or perform subject to his control and directions any power or duty conferred or imposed upon him by this Act, and any power or duty so exercised or performed by any such officer, shall be deemed to have been exercised or performed by the Minister."

Amendment of
section 39 of
Act 44 of 1949.

22. Section *thirty-nine* of the principal Act is hereby amended—

- (a) by the substitution in paragraph (b) for the words "or *twenty*" of the words "*nineteen bis, twenty or twenty bis*"; and
- (b) by the substitution for paragraph (d) of the following paragraph:
- "(d) once in every three months cause to be published in the *Gazette* a return of all persons to whom certificates of registration or naturalization have been issued during the preceding three months, and in that return cause to be set forth, in respect of each such person—
- (i) his full name;
 - (ii) his date of birth;
 - (iii) his place of birth;
 - (iv) his citizenship or nationality immediately prior to the grant of the certificate of registration or naturalization;
 - (v) the date of the issue and number of such certificate; and
 - (vi) such other information as he may from time to time deem fit."

Substitution of
First Schedule to
Act 44 of 1949.

23. The following Schedule is hereby substituted for the First Schedule to the principal Act:

"First Schedule.

OATH OF ALLEGIANCE.

I, A.B., do hereby swear that at all times I will be faithful to the Union of South Africa, will faithfully observe the Law of the said Union, and will fulfil my duties as a South African citizen."

Commencement of
certain
provisions.

24. (1) Sections *two, four and five*, paragraph (a) of section *six*, and section *seven* shall be deemed to have come into operation on the second day of September, 1949, and section *sixteen* on the twenty-fourth day of November, 1960.

(2) The provisions of sections *one and three*, paragraph (b) of section *six*, sections *eight to fifteen* inclusive and sections *seventeen to twenty-three* inclusive shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette* and different dates may be so fixed in respect of different provisions.

Application of
Act.

25. This Act shall apply in the Territory of South-West Africa and in the Prince Edward Islands.

Short title.

26. This Act shall be called the South African Citizenship Amendment Act, 1961.