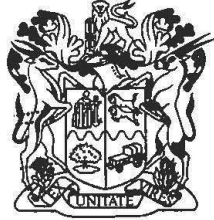


Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1151.

24 May 1991

No. 1151.

24 Mei 1991

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

70 of 1991: South African Citizenship Amendment Act, 1991.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 70 van 1991: Wysigingswet op Suid-Afrikaanse Burgerskap, 1991.

Act No. 70, 1991

SOUTH AFRICAN CITIZENSHIP AMENDMENT ACT, 1991

GENERAL EXPLANATORY NOTE:

- [** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the South African Citizenship Act, 1949, so as to make certain adjustments in consequence of the amendment of certain other laws; to further regulate the claim to South African citizenship by descent, of a person born outside the Republic; to extend the period within which a declaration may be made by any person with regard to the acquisition of South African citizenship after attaining majority; to provide that the Minister may grant exemption from the provisions according to which South African citizenship is lost as a result of certain formal acts; to further regulate the status of persons who have lost their South African citizenship by residence outside the Republic; and to provide for the resumption of South African citizenship by any person who ceased to be a South African citizen by reason of his acquisition of the citizenship or nationality of any country or territory in Africa; to amend the South African Citizenship at Attainment of Independence by Namibia Regulation Act, 1990, so as to regulate anew the resumption of South African citizenship; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 14 May 1991.)

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

Amendment of section 3 of Act 44 of 1949, as amended by section 3 of Act 64 of 1961 and section 1 of Act 95 of 1981

1. Section 3 of the South African Citizenship Act, 1949 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
 “(1) Every person born in the Union on or after the date of commencement of this Act who is not a prohibited **[immigrant] person** under any law relating to immigration shall, subject to the provisions of subsection (2), be a South African citizen.”; 10
- (b) by the substitution for paragraph (d) of subsection (2) of the following paragraph:
 “(d) his father was a prohibited **[immigrant] person** or had no right of permanent residence in the Union under the law then in force in the Union and his mother was not a South African citizen.”; 15
- (c) by the substitution for paragraph (a) of subsection (3) of the following paragraph:
 “(a) was not a prohibited **[immigrant] person**; and”; and

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- (d) by the substitution in subsection (3) for the words following paragraph (b) of the following words:
 “shall, if he is adopted by a South African citizen in accordance with the **[Children’s]** Child Care Act, **[1960]** 1983 (Act No. **[33]** 74 of **[1960]** 1983), be a South African citizen.”. 5

Amendment of section 5 of Act 44 of 1949, as amended by section 5 of Act 64 of 1961

2. Section 5 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (6) of the following paragraph:

- “(a) he is adopted in terms of the provisions of the **[Children’s]** Child Care Act, **[1960]** 1983 (Act No. **[33]** 74 of **[1960]** 1983); and”. 10

Amendment of section 6 of Act 44 of 1949, as amended by section 6 of Act 64 of 1961 and section 7 of Act 53 of 1986

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

- (a) by the addition to paragraph (a) of subsection (1) of the following subparagraph, the existing paragraph becoming subparagraph (i): 15
 “(ii) his mother is a South African citizen and his birth has been registered in terms of subparagraph (i); or”;
- (b) by the substitution for paragraph (c) of subsection (1) of the following paragraph:
 “(c) he is adopted in terms of the provisions of the **[Children’s]** Child Care Act, **[1960]** 1983 (Act No. **[33]** 74 of **[1960]** 1983), by a South African citizen and his birth is registered in accordance with the provisions of paragraph (a).”; and 20
- (c) by the substitution for paragraphs (a) and (b) of subsection (2) of the following paragraphs, respectively: 25
 “(a) he, when he enters or is found in the Union, would be a prohibited **[immigrant]** person 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]** person under the law then in force in the Union **[or]**.”.

Amendment of section 11A of Act 44 of 1949, as inserted by section 1 of Act 53 of 1978 and amended by section 3 of Act 95 of 1981, section 1 of Act 43 of 1984 and section 8 of Act 53 of 1986 30

4. Section 11A of the principal Act is hereby amended by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

- “If a declaration referred to in subsection (1) or referred to in that subsection as applied by subsection (1A) has been made by or on behalf of a minor, he may at any time during a period of **[three months]** one year after attaining majority make a declaration in the prescribed form stating that he wishes to become a South African citizen, and thereupon—”. 35

Amendment of section 15 of Act 44 of 1949, as substituted by section 10 of Act 64 of 1961 and amended by section 4 of Act 95 of 1981 40

5. Section 15 of the principal Act is hereby amended—

- (a) by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:
 “Subject to the provisions of **[subsection]** subsections (1A) and (2), a South African citizen shall cease to be a South African citizen if—”; 45
- (b) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
 “(a) he, whilst outside the Union, and not being a minor, by some voluntary and formal act, other than marriage, acquires the citizenship 50

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- or nationality of a country other than the Union **[unless the Minister directs otherwise]**; or”;
- (c) by the insertion of the following subsection after subsection (1):
- “(1A) (a) The Minister may at any time in his discretion—
- (i) exempt any person or category of persons, or any category of persons with the exception of a particular person or persons, unconditionally or on such conditions as he may deem fit, for a definite or an indefinite period from the provisions of subsection (1)(a); and
- (ii) withdraw any exemption granted in terms of subparagraph (i) to a category of persons or to any person, whether as an individual or as a member of a category of persons.
- (b) Any person or category of persons to whom the Minister has granted an exemption under paragraph (a), shall not cease or be deemed not to have ceased to be a South African citizen.”; and
- (d) by the substitution for paragraph (c) of subsection (1) of the following paragraph:
- “(c) he becomes a prohibited **[immigrant]** person for purposes of admission to the Union.”.

Amendment of section 21 of Act 44 of 1949, as amended by section 15 of Act 64 of 1961, section 1 of Act 30 of 1980, section 7 of Act 95 of 1981 and section 9 of Act 53 of 1986

6. Section 21 of the principal Act is hereby amended by the substitution in paragraph (a) of subsection (4) for the words preceding subparagraph (i) of the following words:
- “Whenever a person ceases to be a South African citizen under the provisions of section 16, 17, 19, 19*bis* or 20*bis*, he shall for the purposes of the Aliens Act, 1937, be deemed to be an alien who is not—”.

Amendment of section 25*bis* of Act 44 of 1949, as inserted by section 16 of Act 64 of 1961 and amended by section 5 of Act 23 of 1964

7. Section 25*bis* of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:
- “(1) If any person who in terms of the provisions of section **[fifteen]** 15 (1)(a), 16, 17, 18, 19 *bis* (1) (a) or 20*bis* 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 or intends residing permanently in the Union, as the circumstances may be, and is not a prohibited **[immigrant]** person 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.”.

Substitution of section 4 of Act 74 of 1990

8. The following section is hereby substituted for section 4 of the South African Citizenship at Attainment of Independence by Namibia Regulation Act, 1990:

“Resumption of South African citizenship

4. (1) If any person who in terms of the provisions of section 2 ceased to be a South African citizen, returns to the Republic for permanent residence therein or intends residing permanently in the Republic, as the circumstances may be, and is not a prohibited person under the law then in force in the Republic, the Minister may upon application in the form prescribed under the South African Citizenship Act, 1949 (Act No. 44 of 1949), allow such person to resume his former South African citizenship

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and issue to him a certificate to that effect in the form prescribed under the said Act.

(2) The provisions of section 10 (11) and (14) of the South African Citizenship Act, shall *mutatis mutandis* apply with reference to a certificate referred to in subsection (1).”

5

Short title

9. This Act shall be called the South African Citizenship Amendment Act, 1991.