

Citizenship Act (Chapter 12).

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Citizenship Act (Chapter 12).

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Citizenship Act (Chapter 12),

Being an Act to implement Part IV (*Citizenship*) of the *Constitution*¹.

1. INTERPRETATION.

In this Act -

“the regulations” means any regulations made under this Act;

“this Act” includes the regulations.

2. RENUNCIATION OF FOREIGN CITIZENSHIP AND HOLDING OF DUAL CITIZENSHIP.²

(1) Where a person aged under 19 years is required to renounce a foreign citizenship, he may do so -

(a) after attaining the age of 18 years; and

(b) by making before -

(i) a judicial officer³; or

(ii) some other person appointed by the Minister,

a declaration in Form 1.

(2) A person under 19 years of age who is a citizen or who is qualified to be a citizen may, after attaining the age of 18 years, make an application to hold a Papua New Guinea citizenship and the citizenship of a prescribed country.

(3) An application made under Subsection (2) shall be in Form 1A.

3. RENUNCIATION OF RIGHT TO PERMANENT RESIDENCE IN AUSTRALIA OR OF FOREIGN CITIZENSHIP.

A person who wishes to renounce his right to permanent residence in Australia or his status as an Australian citizen or as a citizen of another country in accordance with Section 65(4) and (5)⁴ of the *Constitution* may do so by making before -

(a) a judicial officer⁵; or

(b) some other person appointed by the Minister,

a declaration in Form 2.

¹ The original Act was made by the Constituent Assembly as a Provisional Act of Parliament. See *Constitution*, Section 266(2).

² Section 2 repealed and replaced by No. 55 of 1976, s.1. Further repealed and replaced by No. 42 of 2016, s.1.

³ This term was not defined for this purpose. It was however, defined for the purposes of Constitutional Laws by *Constitution*, Section Sch. 1.2(1). Compare, also, *Citizenship Regulations*, Section 1.

⁴ But, see, also, *Constitution* Section 64(2). *Quaere*, whether Section 3 applies in that case.

⁵ See, footnote 3.

4. APPLICATION FOR AUTOMATIC CITIZENSHIP.

An application for registration as an automatic citizen under Section 65(2)(a) of the *Constitution* shall be in Form 3.

5. REGISTRATION OF BIRTHS OVERSEAS.

(1) For the purposes of Section 66(2)(c) of the *Constitution*, the registration of a birth overseas may be made by giving to a person appointed by the Minister the prescribed particulars.

(2) The registration shall be made within one year after the birth or, with the consent of the Minister, at any time after the end of that period.

(3) The regulations may provide for the keeping of a register or registers of births overseas for the purposes of Part IV of the *Constitution*.

(4) A certificate under, or apparently under, the hand of a person appointed under Subsection (1) and purporting to set out details of registration of a birth is prima facie evidence of the facts set out in it.

6. CITIZENSHIP BY NATURALISATION.⁶

(1) An application for citizenship by naturalisation under Section 67 of the *Constitution* shall be -

- (a) in the prescribed form; and
- (b) verified as prescribed; and
- (c) accompanied by the prescribed fee.

(2) Where an application for citizenship by naturalisation is refused, a prescribed portion of the prescribed fee shall be refunded to the applicant.

6A. CITIZENSHIP BY NATURALISATION - SPORTSPERSON.⁷

(1) In deciding an application for citizenship under Section 67(4)(a) of the *Constitution*, the following matters shall be taken into account:

- (a) the applicant's sporting background; and
- (b) whether the applicant has specific qualifications or skills to be gainfully employed in the country; and
- (c) the applicant's knowledge of, or appropriate undertaking to learn, Pisin or Hiri Motu or a vernacular of the country; and
- (d) whether the applicant has any other connection to the country.

⁶ Section 6 repealed and replaced by No. 6 of 1996, s.1.

⁷ Section 6A added by No. 42 of 2016, s.2.

(2) An application for citizenship by naturalisation under Section 67(4)(a) of the *Constitution* shall be -

- (a) in the prescribed form; and
- (b) verified as prescribed; and
- (c) accompanied by the prescribed fee.

(3) Where an application for citizenship by naturalisation is refused, a prescribed portion of the prescribed fee shall be refunded to the applicant.

6B. CITIZENSHIP BY NATURALIZATION- INVESTOR.⁸

(1) In deciding an application for citizenship under Section 67(4)(b) of the *Constitution*, the following matters shall be taken into account:

- (a) the applicant's business and investment background and standing in any other country; and
- (b) the applicant's background in creating employment and imparting skills to employees in any other country; and
- (c) whether the applicant has held or holds the relevant investor visa; and
- (d) the applicant's knowledge of or appropriate undertaking to learn Pisin or Hiri Motu or a vernacular of the country; and
- (e) whether the applicant has any other connection to the country.

(2) An application for citizenship by naturalisation under Section 67(4)(b) of the *Constitution* shall be -

- (a) in the prescribed form; and
- (b) verified as prescribed; and
- (c) accompanied by the prescribed fee.

(3) Where an application for citizenship by naturalisation is refused, a prescribed portion of the prescribed fee shall be refunded to the applicant.

6C. DUAL CITIZENSHIP.⁹

(1) An application to hold a Papua New Guinea citizenship and acquire citizenship of a prescribed country under Section 64(2) of the *Constitution* shall be -

- (a) in the prescribed form; and
- (b) verified as prescribed; and
- (c) accompanied by the prescribed fee.

⁸ Ibid.

⁹ Ibid.

- (2) An application for approval to hold citizenship of a prescribed country and acquire a Papua New Guinea citizenship under Section 64(3) of the *Constitution* shall be -
- (a) in the prescribed form; and
 - (b) be verified as prescribed; and
 - (c) be accompanied by the prescribed fee.
- (3) For the purposes of Section 64(4)(a) of the *Constitution*, the applicant must produce -
- (a) a statutory declaration deposing to facts of the possibility of the applicant being granted citizenship from a prescribed country; and
 - (b) evidence in an acceptable form showing that the applicant has applied for citizenship for the prescribed country.
- (4) For the purposes of Section 64(2) and (6) of the *Constitution*, where a Papua New Guinea citizen makes an application to hold citizenship of a prescribed country whilst holding a Papua New Guinea citizenship (the applicant), the Minister may take into account the following:
- (a) the applicant has relatives or spouse who are citizens of the prescribed country; and
 - (b) the applicant has business interests in the prescribed country; and
 - (c) the applicant was born in the prescribed country; and
 - (d) the applicant has genuine medical reasons; and
 - (e) the applicant has genuine religious reasons; and
 - (f) the applicant has genuine reasons concerning education or employment; and
 - (g) any other reasons the Minister considers relevant.
- (5) For the purposes of Section 64(3) and (6) of the *Constitution*, where a citizen of a prescribed country makes an application for approval to be a Papua New Guinea citizen, the Minister may take into account the following:
- (a) the applicant has relatives or spouse who are Papua New Guinea citizens; and
 - (b) the applicant has business interests in Papua New Guinea; and
 - (c) the applicant was born in Papua New Guinea; and
 - (d) the applicant has genuine medical reasons; and
 - (e) the applicant has genuine religious reasons; and
 - (f) the applicant has genuine reasons concerning education or employment; and
 - (g) any other reasons the Minister considers relevant.
- (6) The approval of the Minister to hold dual citizenship shall be in Form 7.

7. RENUNCIATION OF PAPUA NEW GUINEA CITIZENSHIP.

Citizenship of Papua New Guinea may be renounced by making before a judicial officer or some other person authorised by the Minister a declaration in Form 4.

8. REGAINING OF CITIZENSHIP BY CERTAIN PERSONS.

For the purposes of Section 74(3) of the *Constitution*, where a child under the age of 19 years loses his citizenship the Minister may -

- (a) on application by or on behalf of the child; and
- (b) where he is satisfied that it is in the best interests of the welfare of the child to do so,

by order, grant citizenship of Papua New Guinea to the child.

9. CERTIFICATE AS TO CITIZENSHIP.

(1) An application under Section 81(1) of the *Constitution* shall be in Form 5.

(2) A certificate under Section 81(2) of the *Constitution* shall be in Form 6.

10. CITIZENSHIP ADVISORY COMMITTEE.¹⁰

(1) In this section, “Local Government Council”¹¹ includes a local level government established or operating under or by virtue of a provincial law.

(2) For the purposes of Division IV.4 of the *Constitution*, a Citizenship Advisory Committee is hereby established.

(3) The four permanent members of the Citizenship Advisory Committee shall be appointed by the Head of State, acting on advice given after consultation with the Permanent Parliamentary Committee with special functions in relation to citizenship matters.

(4) Where the person to whom a matter before the Citizenship Advisory Committee relates resides in an area which has a provincial government, the ad hoc member of the Committee shall be the person recommended to the Minister by the provincial government of that area.

(5) A provincial government shall not make a recommendation to the Minister in accordance with Subsection (4) unless it has first sought the views of -

- (a) the Local Government Council; or
- (b) where there is no Local Government Council - the leaders of the local community,

in the area in which the person, to whom a matter before the Committee relates, resides.

¹⁰ Section 10 amended by No. 33 of 1978.

¹¹ It is now referred to as “Local-level Government”. See, Section 26 and 27 of the *Organic Law on Provincial Governments and Local-level Governments* and No. 33 of 1997 *Local level Governments Administration Act 1997*. This applies to “Local Government Council” wherever it appears.

(6) Where the Provincial Government fails to recommend a person to be an *ad hoc* member within 30 days of being requested to do so, the Minister may, acting on the advice of the head of the PNG Citizenship and Immigration Services, appoint a person from the province concerned.¹²

(7) An Area Authority shall not make a recommendation to the Minister in accordance with Subsection (6) unless it has first sought the views of -

(a) the Local Government Council; or

(b) where there is no Local Government Council - the leaders of the local community, in the area in which the person, to whom a matter before the Committee relates, resides.

(8) Where the person to whom a matter before the Citizenship Advisory Committee relates resides in an area which has no provincial government and no Area Authority, the *ad hoc* member of the Committee shall be the person recommended to the Minister by the Local Government Council of the area in which the person, to whom a matter before the Committee relates, resides.

(9) A person recommended to the Minister in accordance with Subsection (4), (6) or (8) shall be appointed to the Citizenship Advisory Committee by the Minister by instrument.

(10) Unless their respective appointments are earlier terminated -

(a) the appointments of the permanent members who are members of the Parliament terminate -

(i) at the end of the first meeting of the Parliament after the general election after their appointment; or

(ii) where a member ceases to be a member of the Parliament other than by reason of general election - on the day he ceases to be a member; and

(b) the appointments of the other permanent members terminate at the end of the period of six years after their respective appointments; and

(c) the appointments of each *ad hoc* member terminates immediately after the matter or class of matters in relation to which he has been appointed is concluded.

(11) The Citizenship Advisory Committee shall meet in the province in which the person to whom a matter before the Committee relates resides.

(12) In respect of a matter referred to the Citizenship Advisory Committee by the Minister, members of the Committee shall have the same powers as Commissioners in respect of a matter referred to them under the *Commissions of Inquiry Act* (Chapter 31) and the provisions of that Act shall apply accordingly with such alterations as are necessary to make them applicable.

¹² Subsection (6) repealed and replaced by No. 42 of 2016, s.3.

(13) Subject to Subsection (11)¹³, the powers and procedures of the Citizenship Advisory Committee are as prescribed.

11. REGULATIONS.¹⁴

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, for carrying out or giving effect to this Act and generally for carrying out or giving effect to Part IV of the *Constitution*, and in particular for prescribing penalties of fines not exceeding K500.00 or imprisonment of terms not exceeding six months for offences against the regulations and for prescribing fees as authorised by this Act.

12. FEES.¹⁵

(1) The Minister responsible for financial matters may, by instrument, after consultation with the Minister responsible for the administration of this Act, establish fees applicable to applications required under this Act and the Regulations.

(2) The Minister responsible for the administration of this Act may waive or reduce fees for any application required under this Act or the Regulations where special circumstances exist concerning the income and other means of a category of applicants that, in the opinion of the Minister, are unable to meet the full fees.

¹³ *Seemle*, Subsection 12 seems like the correct provision.

¹⁴ Section 11 amended by No. 6 of 1996, s.2.

¹⁵ Section 12 added by No. 42 of 2016, s. 4.

SCHEDULE



Citizenship Act.

Act., Sec. 2(1).

Form 1.¹⁶

RENUNCIATION OF FOREIGN CITIZENSHIP BY PERSON UNDER 19 YEARS.

I, _____, having attained the age of 18 years and being to the best of my knowledge a national or citizen of or being qualified to hold the nationality or citizenship of _____, renounce that nationality or citizenship and any other nationality or citizenship (other than citizenship of Papua New Guinea) that I have, and any rights and privileges arising out of it.

- Date of Birth:
(Birth certificate or other evidence of birth must be attached in this application).
Height:
Color of hair:
Country of birth:
Names of natural parents:
Places of birth of natural parents:
Citizenship of natural parents:
Visible distinguishing marks:
Other country of possible citizenship:
Are you prepared to make the Declaration of Loyalty?

NOTE: This application must be accompanied by -
(a) your birth certificate or other acceptable document evidencing your birth; and
(b) the birth certificate or a statutory declaration from your parent who is a citizen deposing that he/she is a citizen or, if your citizen parent is deceased, a statutory declaration from a citizen that your deceased parent was a citizen of Papua New Guinea.

Dated _____ day of _____, 20 _____.

(Signature of Applicant)

16 Form 1 repealed and replaced by No. 42 of 2016, s.5(a).



Citizenship Act.

Act., Sec. 2(3).

Form 1A.¹⁷

APPLICATION BY PERSON AGED 19 YEARS TO HOLD DUAL CITIZENSHIP.

I, _____, having attained the age of 18 years and being to the best of my knowledge a national or citizen (or being qualified to hold nationality or citizenship) of _____ (*prescribed country*) apply for approval to hold that nationality or citizenship and to hold the citizenship of Papua New Guinea.

Dated _____ day of _____, 20 ____ .

(Signature of Applicant)

¹⁷ Form 1A added by No. 42 of 2016, s.5(a).



Citizenship Act.

Sec. 3.

Form 2.

**RENUNCIATION OF RIGHT TO PERMANENT RESIDENCE IN AUSTRALIA OR
OF FOREIGN CITIZENSHIP.**

I,

- (a) having been born at (*insert name of town and country*) and having (*state number*) grandparents born within the territorial limits of Papua New Guinea or an adjacent area namely -
(*insert names of grandparents and places where born*); and
- (b) being to the best of my knowledge -
 - (i) entitled to permanent residence in Australia; or
 - (ii) a national or citizen of

renounce that right to permanent residence in Australia or that nationality or citizenship and any other nationality or citizenship (other than citizenship of Papua New Guinea) that I have, and my rights to any privileges arising out of it, and state that I consider myself to be a citizen of Papua New Guinea.

Declared at _____, _____ 20__ .

(*Signature and Designation of Witness.*)

(*Signature of Declarant.*)



Citizenship Act.

Sec. 4.

Form 3.

APPLICATION FOR REGISTRATION AS A CITIZEN.

I, _____, having being born at (*insert name of town and country*) and having (*state number*) grandparents born within the territorial limits of Papua New Guinea namely - (*insert names of grandparents and places where born*) apply under Section 65(2)(a) of the **Constitution** for registration as a citizen of Papua New Guinea.

Dated _____ 20 _____ .

(*Signature of Applicant.*)



Citizenship Act.

Sec. 7.

Form 4.

RENUNCIATION OF PAPUA NEW GUINEA CITIZENSHIP.

I, _____, having reached voting age and being of full capacity, renounce my citizenship of Papua New Guinea and my rights to any privileges arising out of that citizenship, and declare that -

- * I already hold the nationality or citizenship of _____
- * The renunciation is for the purpose of obtaining the nationality or citizenship of _____

Dated _____ 20 _____ .

(*Signature and Designation of Witness.*)

(*Signature of Declarant.*)

* Strike out whichever is inapplicable.



Citizenship Act.

Sec. 9(1).

Form 5.

APPLICATION FOR CERTIFICATE AS TO CITIZENSHIP.

I, _____, being a person whose status or entitlement in relation to citizenship is, or may be, in doubt, apply for a certificate stating that I am/may become* a citizen.

The following personal particulars and other details are provided in support of my application -
(insert all details relevant to the application)

Dated _____ 20 ____ .

(Signature of Applicant.)

* Strike out whichever is inapplicable.



Citizenship Act.

Sec. 9(2).

Form 6.

CERTIFICATE OF CITIZENSHIP.

I, _____, the Minister for _____ certify that *(full name of citizen)* of *(address)* is/may become* a citizen of the Independent State of Papua New Guinea by virtue of *(insert the provision by virtue of which the person is or may become a citizen)*.

Dated _____ 20 ____ .

Minister.

* Strike out whichever is inapplicable.



Citizenship Act.

Act., Sec. 6C(6).

Form 7.¹⁸

APPROVAL TO HOLD DUAL CITIZENSHIP.

I, _____, the Minister, give approval for _____ (*full name of citizen*) of _____ (*address*) to hold citizenship of Papua New Guinea and the citizenship of _____ being a prescribed country by virtue of _____ (*insert the provision by virtue of which the person may hold dual citizenship*).

Dated _____ day of _____, 20 _____.

(*Signature of Minister*)

Office of the Commissioner-Revised Laws, PNG

¹⁸ Form 7 added by No. 42 of 2016, s.5(b).