

CHAPTER 22

THE ANTIGUA AND BARBUDA CITIZENSHIP ACT

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ANTIGUA AND BARBUDA CITIZENSHIP

*(19th August, 1982.)*17/1982.
18/1989.

1. This Act may be cited as the Antigua and Barbuda Citizenship Act. **Short title.**

*PART I**Preliminary*

2. (1) For the purposes of this Act, the expression— **Interpretation.**

"alien" means a person who is not a Commonwealth citizen or a British protected person;

"British protected person" means a person who is a British protected person for the purposes of the British Nationality Act, 1948 of the United Kingdom or any Act of the United Kingdom Parliament amending or replacing that Act;

"the Commonwealth" means Antigua and Barbuda, any country mentioned in the First Schedule and any dependency of any such country; **First Schedule.**

"the Constitution" means the Constitution of Antigua and Barbuda set out in Schedule 1 to the Antigua and Barbuda Constitution Order, 1981; **S.I. 198111106. Cap. 23.**

"Consulate of Antigua and Barbuda" means the office of a consular officer of the Government or, where there is no such office, such office as may be prescribed;

"father", in relation to a child born out of wedlock and not legitimated, includes a person who acknowledges and can show that he is the father of the child or has been found by a court of competent jurisdiction to be the father of the child;

"foreign country" means a country that is not part of the Commonwealth;

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

“parent” includes the mother of a child born out of wedlock;

“service of the Government” includes service as an employee of any statutory board which is in receipt of moneys provided from the Consolidated Fund or voted by Parliament.

(2) For the purposes of this Act, a person born aboard a registered 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) A person shall for the purposes of this Act be of full age if he has attained the age of eighteen years and of full capacity if he is not of unsound mind.

(4) For the purposes of this Act, a person shall be deemed not to have attained a given age until the commencement of the relevant anniversary of the day of his birth.

(5) A person born out of wedlock and legitimated by the subsequent marriage of his parents shall as from the date of the marriage or of the commencement of this Act, whichever is later, be treated for the purposes of this Act as if he had been born legitimate.

(6) A person shall be deemed for the purposes of this Act to have been legitimated by the subsequent marriage of his parents if, by the law of the place where his father was domiciled at the time of the marriage, the marriage operated immediately or subsequently to legitimate him, and not otherwise.

(7) Subject to subsection (8) of this section, in calculating for the purposes of this Act any period of residence in Antigua and Barbuda—

(a) a period of absence from Antigua and Barbuda of less than six months;

(b) a period of absence from Antigua and Barbuda for the purpose of education of such kind, in such coun-

try and for such time, as may be either generally or specially approved by the Minister; and

(c) a period of absence from Antigua and Barbuda for reasons of health or any other cause prescribed generally or specially by the Minister,

shall be treated as residence in Antigua and Barbuda, and a person shall be deemed to be resident in Antigua and Barbuda on a particular day if he had been resident in Antigua and Barbuda before that day and that day is included in any period of absence referred to in this subsection.

(8) In calculating for the purposes of this Act any period of residence in Antigua and Barbuda, account shall not be taken—

(a) of any period during which a person was not lawfully resident in Antigua and Barbuda; or

(b) of any period spent as an inmate of any prison or as a person detained in lawful custody in any place other than a mental hospital under the provisions of any enactment in force in Antigua and Barbuda; or

(c) except with the consent of the Minister, of any period during which a person is allowed to remain temporarily in Antigua and Barbuda under the authority of any enactment in force in Antigua and Barbuda relating to immigration.

(9) In this Act, any reference to Antigua and Barbuda being at or engaged in any war shall be construed as a reference to a time when Antigua and Barbuda is engaged in hostilities with another country.

PART II

Acquisition of Citizenship

3. (1) For the purposes of section 113 (a) of the Constitution, where after the 31st October 1981, a newborn infant is found abandoned in Antigua and Barbuda, that infant shall, unless the contrary is shown, be deemed to have been born in Antigua and Barbuda and thereby to have become a citizen of Antigua and Barbuda at the date of his birth.

Additional grounds of citizenship, and registration of certain persons as citizens.

(2) Subject to subsections (4), (7) and (8) of this section, a person who would, but for the fact that he was not on the 31st October, 1981, a citizen of the United Kingdom and Colonies, have become a citizen of Antigua and Barbuda in accordance with paragraph (a) of section 112 of the Constitution may, upon making application to the Minister in the prescribed manner be registered at the discretion of the Minister as a citizen of Antigua and Barbuda.

First Schedule.

(3) Subject to subsections (4), (7) and (8) of this section, a citizen of any country mentioned in the First Schedule to this Act, being a person of full age and capacity may, on making application therefor to the Minister in the prescribed manner, be registered at the discretion of the Minister as a citizen of Antigua and Barbuda if he satisfies the Minister that he—

(a) has been ordinarily resident in Antigua and Barbuda; or

(b) has been in the service of the Government; or

(c) has had partly such residence and partly such service,

for a period of not less than seven years ending with the date of his application, of which not less than five years in the aggregate must have been spent in Antigua and Barbuda, or for such shorter period so ending as the Minister may in the special circumstances of any particular case accept.

(4) Subsections (2) and (3) of this section do not apply to any person who under section 112 (e) of the Constitution becomes or under section 114 (1)(a), 114 (1)(b) or 114 (1)(c) of the Constitution is entitled to be registered as a citizen of Antigua and Barbuda.

(5) Subject to subsections (7) and (8) of this section, a person is entitled, upon making application under this subsection to the Minister in the prescribed manner, to be registered as a citizen of Antigua and Barbuda if he satisfies the Minister that—

(a) he is and has always been stateless; and

(b) that he was born in Antigua and Barbuda.

(6) An application for registration under subsections (2) and (5) of this section of a minor shall be made on his behalf by his parent or guardian or, if the minor is or has been married, by the minor himself.

(7) The Minister may, if he is satisfied that there are reasonable grounds in the interests of defence, public safety, public morality or public order for so doing, refuse to register as a citizen of Antigua and Barbuda any person who—

(a) under section 114 (1) (c) of the Constitution or subsection (5) of this section, is entitled to be registered as a citizen of Antigua and Barbuda and applies to be so registered; or

(b) pursuant to subsection (2) or (3) of this section applies to be registered as a citizen of Antigua and Barbuda.

(8) Without prejudice to the generality of subsection (7) of this section, the Minister may refuse to register as a citizen of Antigua and Barbuda any person referred to in that subsection if he is satisfied that the applicant—

(a) is not of good character; or

(b) has been convicted by a competent court in any country of a criminal offence for which he was sentenced to death or has been detained under a sentence of imprisonment of twelve months or more imposed on him on his conviction of a criminal offence by such a court, and in either case, has not received a free pardon in respect of the offence; or

(c) has engaged in activities, whether within or outside of Antigua and Barbuda, which, in the opinion of the Minister, are prejudicial to the safety of Antigua and Barbuda or to the maintenance of law and public order in Antigua and Barbuda; or

(d) has been adjudged or otherwise declared bankrupt under any law in force in any country and has not been discharged; or

(e) not being the dependent of a citizen of Antigua and Barbuda, has not sufficient means to maintain himself and is likely to become a public charge.

(9) Where a person who has acquired citizenship of Antigua and Barbuda by registration either under the Constitution or this Act desires to be issued with a certificate of such registration, that person may, on making application in writing therefor to the Minister, be issued by the Minister with a certificate of such registration in the prescribed form.

Effect of
adoption order
on non-citizen
minors.

4. Where under any enactment in force in Antigua and Barbuda relating to the adoption of children an adoption order is made in respect of a minor not a citizen of Antigua and Barbuda, then if the adopter or in the case of a joint adoption the male adopter is a citizen of Antigua and Barbuda, the minor shall become a citizen of Antigua and Barbuda as from the date of the order.

Effect of
registration as a
citizen.

5. A person registered under section 3 of this Act or pursuant to section 114 of the Constitution shall be a citizen of Antigua and Barbuda by registration as from the date on which he is registered.

Naturalisation of
aliens and
British protected
persons.
Second Schedule.

6. The Minister may at his discretion, if application therefor is made to him in the prescribed manner by any alien or British protected person of full age and capacity who satisfies him that he is qualified under the Second Schedule for naturalisation, grant to him a certificate of naturalisation, and the person to whom that certificate is granted shall, on taking the oath or affirmation of allegiance in the form specified in the Third Schedule, be a citizen of Antigua and Barbuda by naturalisation as from the date on which that certificate is granted.

Third Schedule.

PART III

Loss of Citizenship

Renunciation of
Citizenship.

7. (1) Any citizen of Antigua and Barbuda who has attained the age of eighteen years and who—

(a) is also a citizen or national of any other country; or

(b) intends to become a citizen or national of any other country,

shall be entitled to renounce his citizenship of Antigua and Barbuda by a declaration made in such manner as may be prescribed:

Provided that—

in the case of a person who is not a citizen or national of any other country at the date of registration of his declaration of renunciation, if he does not become such a citizen or national within six months from the date of registration he shall be, and shall be deemed to have remained, a citizen of Antigua and Barbuda notwithstanding the making and registration of his declaration of renunciation.

(2) Subject to subsection (3) of this section, where a declaration is made under subsection (1) of this section the Minister shall cause the declaration to be registered in such manner as may be prescribed and, upon such registration, the person who made the declaration shall cease to be a citizen of Antigua and Barbuda.

(3) The Minister may, in his discretion, withhold registration of any declaration made under subsection (1) of this section if the declaration is made at any time when Antigua and Barbuda is at war where the declaration is made by a person who is or who intends to become a national or citizen—

(a) of any country with which Antigua and Barbuda is at war, or

(b) of any country as respects which, because Antigua and Barbuda is at war, it would, in the interests of national security or public policy, be undesirable or inexpedient for that person to be or become a citizen or national thereof.

(4) Where a person who has renounced his citizenship of Antigua and Barbuda under this section desires to be issued with a certificate of such renunciation, that person may, on making application in writing therefor to the Minister, be issued by the Minister with a certificate of such renunciation in the prescribed form.

8. Subject to section 10 of this Act, the Minister may, in his discretion, by Order deprive of his citizenship any

**Deprivation of
Citizenship
where citizenship
was by
registration.**

person who is a citizen of Antigua and Barbuda by virtue of registration if the Minister is satisfied that such registration as a citizen was obtained by false representation or fraud or wilful concealment of material facts or if that citizen is convicted in Antigua and Barbuda of an act of treason or sedition.

Deprivation of citizenship in cases of naturalisation.

9. (1) Subject to section 10 of this Act, the Minister may, in his discretion, by Order deprive of his citizenship any citizen of Antigua and Barbuda who is such by naturalisation if the Minister is satisfied that the certificate of naturalisation of that citizen was obtained by false representation or fraud or wilful concealment of material facts or if that citizen has—

- (a) at any time after naturalisation—
 - (i) been convicted of treason or sedition by a competent court in any part of the Commonwealth; or
 - (ii) been convicted by a competent court in any country of a criminal offence on conviction of which the death penalty or a term of imprisonment of not less than seven years may be imposed,

and in either case has not received a free pardon in respect of the offence; or

- (b) within five years after naturalisation been convicted by a competent court in any country of a criminal offence and sentenced to imprisonment for a term of not less than twelve months and has not received a free pardon in respect of the offence; or

- (c) shown himself by act or speech to be disloyal or disaffected towards Antigua and Barbuda; or

- (d) during any war in which Antigua and Barbuda was engaged, unlawfully traded or communicated with the enemy or been engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist an enemy in that war; or

- (e) engaged in activities, whether within or outside of Antigua and Barbuda, which, in the opinion of the Minister, are prejudicial to the safety of Antigua

and Barbuda or to the maintenance of law and public order in Antigua and Barbuda.

(2) The Minister shall not deprive any person of citizenship under this section on the ground mentioned in paragraph (b) of subsection (1) of this section if it appears to him that that person would thereupon become stateless.

10. (1) The Minister shall not deprive a person of citizenship under section 8 or 9 of this Act unless he is satisfied that it is not conducive to the public good that such person should continue to be a citizen of Antigua and Barbuda.

Procedure upon orders for deprivation of citizenship.

(2) Before making an order under section 8 or 9 of this Act, the Minister 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 section 8 of this Act, of his right to an enquiry under this section and, at any such enquiry, to have legal representation of his own choice.

(3) Where the order is proposed to be made on any of the grounds specified in section 8 of this Act and the person against whom the order is proposed to be made applies in the prescribed manner for an enquiry, the Minister shall, and in any other case the Minister may, at his discretion, refer the case to a committee of enquiry consisting of a chairman, being a person who is or has held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court, and of not less than two other members appointed by the Minister.

(4) (a) The powers, rights and privileges of a committee of enquiry appointed under this section shall be the same as those conferred on a commission appointed under the Commissions of Inquiry Act and the provisions of that Act shall, *mutatis mutandis*, apply in relation to any enquiry under this section and to any person summoned to give evidence at the enquiry.

Cap. 91.

(b) Without prejudice to the generality of the foregoing provisions of this subsection, any power

exercisable by the Governor-General under the Commissions of Inquiry Act shall, in the application of that Act to an enquiry under this section, be exercisable by the Minister.

(5) A person who is deprived of his citizenship of Antigua and Barbuda by an order under section 8, 9 or 11 of this Act, shall, upon the making of the order, cease to be a citizen of Antigua and Barbuda.

Deprivation of citizenship of Antigua and Barbuda where persons deprived of citizenship elsewhere First Schedule.

11. (1) Where any citizen of Antigua and Barbuda, who is such by naturalisation, was also a citizen of any country mentioned in the First Schedule but has been deprived of his citizenship of that country on grounds which in the opinion of the Minister are substantially similar to any of the grounds specified under subsection (1) of section 9 of this Act, the Minister may at his discretion by order deprive him of his citizenship of Antigua and Barbuda if the Minister is satisfied that it is not conducive to the public good that such person should continue to be a citizen of Antigua and Barbuda.

(2) Before making an order under this section, the Minister 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 may refer the case to a committee of enquiry constituted in the manner, and having the powers, rights and privileges, provided for in subsections (3) and (4) of section 10 of this Act.

PART IV

Miscellaneous

Certificate of citizenship in cases of doubt.

12. (1) The Minister may, in such cases as he thinks fit, on application made by or on behalf of any person with respect to whose citizenship of Antigua and Barbuda a doubt exists, whether on a question of fact or law, certify that such person is a citizen of Antigua and Barbuda.

(2) A certificate issued under this section shall, unless it is proved that it was obtained by means of fraud, false representation or wilful concealment of any material fact, be conclusive evidence that such person was such a citizen

on the date thereof, but without prejudice to any evidence that he was such a citizen at any earlier date.

13. The Minister shall not be required to assign any reason for the grant or refusal of any application under this Act, the decision on which is at his discretion; and the decision of the Minister on any such application shall not be subject to any appeal or review in any court.

Minister's discretion not to be questioned and decisions to be final.

14. (1) Every document purporting to be a notice, certificate, order or declaration or an entry in a register or a subscription of an oath or affirmation of allegiance, given, granted or made under this Act or under Chapter VIII of the Constitution shall be received in evidence and shall, unless the contrary is proved, be deemed to have been given, granted or made by or on behalf of the person by whom or on whose behalf it purports to have been given, granted or made.

Evidence.

(2) *Prima facie* evidence of any such document as aforesaid may be given by production of a document purporting to be certified as a true copy thereof by such person and in such manner as may be prescribed.

(3) Any entry in a register made under this Act or under Chapter VIII of the Constitution shall be received as evidence of the matters stated in the entry.

15. (1) The Minister may make regulations generally for giving effect to this Act and in particular may make regulations—

Regulations.

(a) prescribing anything required by this Act or by Chapter VIII of the Constitution to be prescribed;

(b) for the registration of anything required or authorised under this Act or under Chapter VIII of the Constitution to be registered;

(c) for the administration and taking of oaths of allegiance under this Act, for the time within which oaths of allegiance shall be taken and for the registration of oaths of allegiance;

(d) fixing the fees to be paid in respect of—

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- (i) any application made to the Minister under this Act; or
 - (ii) any registration or the making of any declaration or the grant of any certificate or the taking of any oath of allegiance, required or authorised to be made, granted or taken by or under this Act or by or under Chapter VIII of the Constitution; or
 - (iii) supplying a certified or other copy of any notice, certificate, order, declaration or entry, given, granted or made as aforesaid,

and providing for the application of any such fees;

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

(f) for the cancellation of the registration of, and the cancellation and amendment of certificates of naturalisation relating to, persons deprived of citizenship under this Act or under Chapter VIII of the Constitution, and for requiring such certificates to be delivered up for such purposes;

(g) for the registration by consular officers or other officers in the service of the Government of the births and deaths of persons of any class or description born or dying outside Antigua and Barbuda;

(h) for enabling the births and deaths of citizens of Antigua and Barbuda born or dying in any country in which the Government has for the time being no diplomatic or consular representatives, to be registered;

- (i) by persons serving in the diplomatic, consular or other foreign service of any country which, by arrangement with the Government, has undertaken to represent the Government's interest in that country; or
- (ii) by a person authorised in that behalf by the Minister.

(2) Regulations made under this section shall, as soon as may be after they are made, be laid before each Chamber

of the Legislature, and if either Chamber, resolves that any of those regulations shall be annulled, that regulation is void as from the date of the resolution, but without prejudice to the validity of anything done thereunder or to the making of a new regulation.

16. (1) Any person who for the purpose of procuring anything to be done or not to be done under this Act or under Chapter VIII of the Constitution makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular shall be guilty of an offence and shall be liable on conviction thereof by a court of summary jurisdiction to a fine of five hundred dollars or to imprisonment for three months or to both such fine and imprisonment. **Offences.**

(2) Any person who fails to comply with any requirement imposed on him by regulations with respect to the delivering up of certificates of naturalisation shall be guilty of an offence and shall be liable on conviction thereof by a court of summary jurisdiction to a fine of five hundred dollars or to imprisonment for three months.

17. (a) The Minister may from time to time by **Order**— **After: 2004 of c.**

- (i) add any country to or delete any country from the countries specified in the First Schedule; or
 - (ii) make such other variations to that Schedule as he may consider to be appropriate; and
- (b) no such Order shall be made unless the draft thereof has been laid before the Legislature and approved by Resolution of each Chamber.

FIRST SCHEDULE Ss. 2, 3, 11, 17

Australia, the Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, Canada, Cyprus, Dominica, The Gambia, Ghana, Grenada, Guyana, India, Jamaica, Karibati, Kenya, Lesotho, Malawi, Malaysia, the Maldives, Malta, Mauritius, Nauru, New Zealand, Nigeria, Papua-New Guinea,

Saint Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Seychelles, Sierra Leone, Singapore, Solomon Islands, Sri Lanka, Swaziland, Tanzania, Tonga, Trinidad and Tobago, Tuvalu, Uganda, United Kingdom and Colonies, Vanuatu, West Samoa, Zambia, Zimbabwe.

SECOND SCHEDULE

S. 6

Qualifications for Naturalisation

1. Subject to paragraph 2, the qualifications for naturalisation of an alien who applies therefor are—

(a) that he has resided in Antigua and Barbuda throughout the period of twelve months immediately preceding the date of the application; and

(b) that during the seven years immediately preceding the said period of twelve months he has resided in Antigua and Barbuda for periods amounting in the aggregate to not less than five years; and

(c) that he is in the opinion of the Minister of good character; and

(d) that he intends in the event of a certificate being granted to him to reside in Antigua and Barbuda.

2. The Minister may, if in the special circumstances of any particular case he thinks fit, 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 sub-paragraph (a) of paragraph 1, as if it had immediately preceded that date.

3. The qualifications for naturalisation of a British protected person who applies therefor are—

(a) that he is ordinarily resident in Antigua and Barbuda and has been so resident for a period of not less than seven years, ending with the date of his application, of which not less than five years in the aggregate must have been spent in Antigua and Barbuda, or for such shorter period so ending as the Minister may in the special circumstances of any particular case accept; and

(b) the qualifications specified in subparagraph (c) and
(d) of paragraph 1.

THIRD SCHEDULE

S. 6

Oath (or Affirmation) of Allegiance

I, _____, do swear (or solemnly affirm) that
I will faithfully bear true allegiance to Her Majesty Queen Elizabeth
the Second, Her Heirs and Successors, according to Law.

SO HELP ME GOD (To be omitted in
affirmation)
