

# REPRINT

## CITIZENSHIP ACT 2018

**As in force at: 31 January 2019**

**STATUS: HISTORICAL**

This version is that in force at the date stated above. It does not include amendments made since that date.

For list of amendments see Endnotes

**AN ACT RELATING TO CITIZENSHIP OF SOLOMON ISLANDS**

# CITIZENSHIP ACT 2018

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# CITIZENSHIP ACT 2018

As in force at: 31 January 2019

## PART 1 PRELIMINARY MATTERS

### 1 Short title

This Act may be cited as the *Citizenship Act 2018*.

### 2 Commencement

This Act commences on the day appointed by the Minister by notice in the *Gazette*.

### 3 Definitions

In this Act:

**“birth citizen”** means a citizen who became a citizen on the person’s birth and includes a person who has resumed their birth citizenship on application under Part 3;

**“citizen”** means a citizen of Solomon Islands;

**“citizenship certificate”** means a certificate issued under section 31;

**“Commission”** means the Citizenship Commission continued in existence by section 7;

**“married”**: 2 persons are married if they are a man and a woman who are married to one another under the law of Solomon Islands or another country;

**“oath or affirmation of allegiance”** means the oath or affirmation of allegiance prescribed in Schedule 1 to the *Constitution*;

**“pledge of citizenship”** means the pledge set out in the Schedule;

**“primary applicant”**, in relation to an application for citizenship, has the meaning given in section 15(1);

**“residence requirement”** means the requirement to reside in Solomon Islands specified in section 16.

**4 [Deleted in Committee]**

**5 Who is a citizen**

A person is a citizen if:

- (a) the person:
  - (i) is a citizen by virtue of Chapter III of the *Constitution*; or
  - (ii) becomes a citizen by adoption under section 17 of the *Adoption Act 2004*; or
  - (iii) becomes a citizen on application under Part 3; or
  - (iv) became a citizen under the *Citizenship Act* (Cap. 57); and
- (b) the person has not ceased to be a citizen.

**6 Act binds Crown**

This Act binds the Crown.

**PART 2 CITIZENSHIP COMMISSION**

**7 Continuation of Citizenship Commission**

The Citizenship Commission established by section 3 of the *Citizenship Act* (Cap. 57) continues in existence.

**8 Membership of Commission**

- (1) The Commission consists of at least 5 and not more than 7 members appointed by the Minister by *Gazette* notice.
- (2) A person is not eligible to be a member of the Commission unless the person is a citizen.
- (3) The Minister must appoint one of the members to be the chairperson of the Commission.
- (4) A member of the Commission holds office for the period of up to

3 years specified in the notice of appointment and is eligible for reappointment.

## **9 Vacation of office**

A person ceases to be a member of the Commission if:

- (a) the member resigns by giving written notice to the Minister; or
- (b) the member's term of office comes to an end and the person is not reappointed; or
- (c) the member's appointment is terminated under section 10.

## **10 Termination of appointment**

- (1) The Minister may terminate the appointment of a member of the Commission:
  - (a) on the ground of misbehaviour or misconduct; or
  - (b) on the ground of physical or mental inability to satisfactorily perform the duties of the office; or
  - (c) if the person is absent from 3 consecutive meetings of the Commission without leave granted by the chairperson; or
  - (d) the person is convicted of an offence for which the available penalty includes a term of imprisonment; or
  - (e) if the person becomes bankrupt.
- (2) A termination of appointment must be made in writing.

## **11 Commission Rules**

- (1) The Minister may make rules relating to:
  - (a) the procedures of the Commission; and
  - (b) the assessment of applications made under this Act.
- (2) Subject to the rules made by the Minister, the Commission may determine its own procedures.

## **12            Remuneration**

Commission members are entitled to the remuneration prescribed by the Minister by *Gazette* notice.

## **PART 3            ACQUIRING CITIZENSHIP**

### **13            Application for citizenship**

- (1) A person may apply to the Commission to become a citizen.
- (2) The application must be:
  - (a) in the form approved by the Commission; and
  - (b) accompanied by the prescribed fee.
- (3) The Commission may request additional information from the applicant to enable it to assess the application.

### **14            Eligibility for citizenship**

- (1) A person is eligible to be a citizen if the person meets the criteria specified in subsection (2), (3), (4), (5), (6) or (7).
- (2) A person is eligible to be a citizen if the Commission is satisfied that the person:
  - (a) is aged 18 years or over at the time the person applies for citizenship; and
  - (b) is ordinarily resident in Solomon Islands at the time of the application; and
  - (c) meets the residence requirement; and
  - (d) is likely to continue to reside in Solomon Islands or to maintain a close and continuing relationship with Solomon Islands; and
  - (e) understands the nature of the application; and
  - (f) is of good character; and
  - (g) possesses a knowledge of English, Pidgin or a vernacular of Solomon Islands that is sufficient for normal conversational

purposes; and

- (h) respects the culture and way of life of Solomon Islands; and
- (i) understands the rights, privileges, responsibilities and duties of citizenship.

(3) A person is eligible to be a citizen if the Commission is satisfied that the person:

- (a) is aged 18 years or over at the time the person applies for citizenship; and
- (b) is ordinarily resident in Solomon Islands at the time of the application; and
- (c) meets the residence requirement; and
- (d) is likely to continue to reside in Solomon Islands or to maintain a close and continuing relationship with Solomon Islands; and
- (e) is of good character; and
- (f) has a permanent or enduring physical or mental incapacity that means the person:
  - (i) is not capable of understanding the nature of the application; or
  - (ii) is not capable of demonstrating that the person meets the requirements mentioned in subsection (1)(g), (h) or (i).

(4) A person who has lost or renounced their birth citizenship is eligible to resume their birth citizenship.

(5) A person is eligible to be a citizen if the Commission is satisfied that:

- (a) at least one of the person's parents, grandparents or great grandparents is or was a birth citizen; and
- (b) the person is aged 18 years or over at the time the person applies for citizenship; and
- (c) the person is likely to reside in Solomon Islands or to maintain a close and continuing relationship with Solomon Islands; and



- (d) the person is of good character.
- (6) A person is eligible to be a citizen if the Commission is satisfied that:
  - (a) on the day the person applies for citizenship, the person is married to a birth citizen, and has been for a continuous period of at least 5 years; and
  - (b) the person is aged 18 years or over at the time the person applies for citizenship; and
  - (c) the person is likely to reside in Solomon Islands or to maintain a close and continuing relationship with Solomon Islands; and
  - (d) the person is of good character.
- (7) A person is eligible to be a citizen if:
  - (a) the person is included in an application for citizenship under section 15; and
  - (b) the primary applicant's application for citizenship is approved.

## **15 Inclusion of child in application**

- (1) A person who applies for citizenship under section 13 (the “**primary applicant**”) may include in the application a child of the person who is under the age of 18 years at the time of the application.
- (2) In this section:  
  
“**child**”, of a person, means a child of the person by birth or by adoption under the *Adoption Act 2004* or a law of another country.

## **16 Residence requirement**

- (1) A person meets the residence requirement if the person was:
  - (a) ordinarily resident in Solomon Islands for a total period of 5 years within the 10 year period immediately before the day the person applies for citizenship; and
  - (b) the person was not present in Solomon Islands as an unlawful non-citizen (within the meaning of the *Immigration Act 2012*) at any time during the 10 year period.

- (2) For this section, a person is ordinarily resident in Solomon Islands if the person:
  - (a) has made Solomon Islands the person's home, whether or not the person also lives somewhere else; and
  - (b) has a degree of continuity of residence in Solomon Islands except for temporary absences.

## **17 Decision on application for citizenship**

- (1) The Commission must decide an application for citizenship within 120 days after:
  - (a) the date the Commission receives the application; or
  - (b) if the Commission requests additional information under section 13 – the date the Commission receives the information.
- (2) The Commission may only approve the application if the person is eligible to be a citizen under section 14.
- (3) The Commission may refuse the application despite the person being eligible to be a citizen under section 14 on the grounds of public policy or the national interest.
- (4) If the Commission does not decide the application within the time specified in subsection (1):
  - (a) the application is taken to have been refused; and
  - (b) the applicant may apply for review of the refusal under section 28.

## **18 Notice of decision on application for citizenship**

- (1) The Commission must give an applicant for citizenship written notice of its decision on the application within 30 days after making the decision.
- (2) If the Commission approves the application and the applicant is required under section 19 to take the oath or affirmation of allegiance and the citizenship pledge, the notice must include instructions for doing so.

- (3) If the Commission refuses the application, the notice must include:
  - (a) the reasons for the refusal; and
  - (b) information about the applicant's right to review of the decision under section 28.

## **19 Requirement to take oath or affirmation and pledge**

- (1) A person whose application for citizenship is approved is required to take the oath or affirmation of allegiance and the citizenship pledge in accordance with the prescribed requirements.
- (2) Subsection (1) does not apply if:
  - (a) the person has a permanent or enduring physical or mental incapacity that means the person:
    - (i) is not capable of understanding the nature, content or effect of the oath or affirmation or the pledge; or
    - (ii) is not capable of taking the oath or affirmation or the pledge; or
  - (b) the person was included on the application under section 15 and is under the age of 18 years at the time the application is decided.

## **20 When citizenship begins**

A person whose application for citizenship is approved becomes a citizen:

- (a) if the person is required under section 19 to take the oath or affirmation of allegiance and the citizenship pledge – on the day the person does so; or
- (b) if the person is not required to take the oath or affirmation of allegiance and the citizenship pledge because of section 19(2)(a) – on the day the Commission approves the person's application for citizenship; or
- (c) if the person is not required to take the oath or affirmation of allegiance and the citizenship pledge because of

section 19(2)(b) – on the day the primary applicant for citizenship takes the oath or affirmation of allegiance and the citizenship pledge.

## **PART 4                    CESSATION OF CITIZENSHIP**

### **21                    How a person ceases to be a citizen**

A person ceases to be a citizen if:

- (a) the Commission decides under section 23 to approve the person's application to renounce their citizenship; or
- (b) the person's citizenship is revoked under section 26.

### **22                    Application to renounce citizenship**

- (1) A person may apply to the Commission to renounce the person's citizenship.
- (2) The application must be:
  - (a) in the form approved by the Commission; and
  - (b) accompanied by the prescribed fee.

### **23                    Decision on application for renunciation**

- (1) The Commission must, by writing, approve or refuse to approve the person renouncing his or her citizenship.
- (2) Subject to subsection (3), the Commission must approve the application if the Commission is satisfied that:
  - (a) the person is aged 18 years or over at the time the person applies for renunciation; and
  - (b) the person:
    - (i) is a national or citizen of another country; or
    - (ii) needs to renounce his or her citizenship of Solomon Islands in order to become a national or citizen of another country, and will become a national or citizen of the other country immediately after the approval.

- (3) The Commission must not approve the application during a time in which Solomon Islands is engaged in a war unless the Minister consents to the renunciation.

#### **24 Notice of decision on application for renunciation**

- (1) The Commission must give an applicant for renunciation of citizenship written notice of its decision on the application within 30 days after making the decision.
- (2) If the Commission refuses the application, the notice must include:
  - (a) the reasons for the refusal; and
  - (b) information about the applicant's right to review of the decision under section 28.

#### **25 Grounds for revocation of citizenship**

- (1) It is a ground for revoking a person's citizenship if:
  - (a) the person became a citizen on application under Part 3; and
  - (b) the person is convicted of an offence of giving false or misleading information to the Commission under section 29; and
  - (c) the Commission is satisfied that, had the person not given the false or misleading information, the Commission would have refused the person's application for citizenship.
- (2) It is a ground for revoking a person's citizenship if the person enters or serves in the armed forces of another country, unless:
  - (a) the person does so with the prior consent of the Minister; or
  - (b) the person is compelled to do so under the law of the other country.
- (3) It is a ground for revoking a person's citizenship if the person is serving in the armed forces of a country at war with Solomon Islands.
- (4) It is a ground for revoking a person's citizenship if the person is convicted of an offence under:

- (a) sections 48 to 58 of the *Penal Code* (Cap. 26); or
  - (b) the *Counter-Terrorism Act 2009*.
- (5) To avoid doubt, subsections (2), (3) and (4) apply to all citizens, including citizens by birth.

## **26 Decision to revoke citizenship**

- (1) If the Commission believes a ground exists to revoke a person's citizenship, the Commission must give the person a notice that:
- (a) informs the person of the proposed revocation; and
  - (b) states the ground for the proposed revocation; and
  - (c) states the facts and circumstances that form the basis for the Commission's belief that the ground exists; and
  - (d) invites the person to make written representations to the Commission, within a specified time of at least 7 days and not more than 28 days, as to why the person's citizenship should not be revoked.
- (2) After considering any written representations made by the person, the Commission may revoke the person's citizenship if the Commission is satisfied that:
- (a) a ground exists to revoke the person's citizenship; and
  - (b) if the Commission revokes the person's citizenship, the person will not become a person who is not a national or citizen of any country; and
  - (c) the person is aged 18 years or over.

## **27 Notice of revocation**

- (1) The Commission must give a person whose citizenship is revoked written notice of the revocation within 30 days after making the decision.
- (2) The notice must include:
- (a) the reasons for the revocation; and

- (b) information about the person's right to review of the decision under section 28.

## **PART 5                      REVIEWS, ENFORCEMENT AND ADMINISTRATIVE MATTERS**

### **28                      Review of decisions**

- (1) A Review Board consisting of the following persons is established:
  - (a) the Permanent Secretary of the Ministry responsible for home affairs;
  - (b) the Permanent Secretary of the Ministry responsible for justice;
  - (c) the Permanent Secretary of the Ministry responsible for immigration;
  - (d) the Attorney-General;
  - (e) the Director of Civil Affairs within the of the Ministry responsible for home affairs.
- (2) Subject to this section, the Review Board may decide its own procedures.
- (3) A person may apply to the Review Board for a review of a decision by the Commission to:
  - (a) refuse the person's application for citizenship under section 17;  
or
  - (b) refuse the person's application for renunciation of citizenship under section 23; or
  - (c) revoke the person's citizenship under section 26.
- (4) An application for review must be made within 30 days the person receives notice of the decision.
- (5) The Review Board must consider any relevant information submitted by the applicant for review.
- (6) The Review Board may, on a review of a decision:

- (a) affirm the decision; or
  - (b) rescind the decision; or
  - (c) substitute the decision with a decision that the Review Board considers appropriate.
- (7) The Review Board must give the applicant written notice of the decision on the review and the reasons for the decision.

## **29 False or misleading information**

- (1) A person commits an offence if:
- (a) the person gives information to the Commission under this Act; and
  - (b) the person knows the information is false or misleading.

Maximum penalty: 100,000 penalty units or imprisonment for 10 years, or both.

- (2) A person commits an offence if:
- (a) the person gives a document to the Commission under this Act; and
  - (b) the person knows the document contains false or misleading information.

Maximum penalty: 100,000 penalty units or imprisonment for 10 years, or both.

- (3) Subsection (2) does not apply if the person, when giving the document:
- (a) draws the false or misleading aspect of the document to the attention of the Commission; and
  - (b) to the extent to which the person can reasonably do so – gives the Commission the information necessary to remedy the false or misleading aspect of the document.
- (4) In this section:



***“false or misleading information”*** means information that is false or misleading in a material particular or because of the omission of a material particular.

### **30 Failing to comply with Act**

A person commits an offence if:

- (a) in exercising a power or performing a function conferred on the person by this Act, the person fails to comply with this Act; or
- (b) the person fails to exercise a power or perform a function when required to do so by this Act.

Maximum penalty: 100,000 penalty units or imprisonment for 10 years, or both.

### **31 Citizenship certificates**

- (1) The Commission must issue a citizenship certificate to a person who becomes a citizen on application under Part 3 for no fee.
- (2) The Commission must issue a citizenship certificate to any citizen who applies for one on payment of the prescribed fee.
- (3) A citizenship certificate:
  - (a) must be in the form approved by the Commission; and
  - (b) is evidence of the matters stated in it in the absence of proof to the contrary.
- (4) A citizenship certificate issued to a person is automatically revoked if the person ceases to be a citizen under section 21.

### **32 Citizenship register**

The Commission must keep a register of each person who becomes or ceases to be a citizen under this Act.

### **33 Regulations**

The Minister may make regulations under this Act.

## **PART 6                    TRANSITIONAL MATTERS AND CONSEQUENTIAL AMENDMENTS**

### **Division 1            Transitional matters**

#### **34                    Definitions**

In this Division:

**“repealed Act”** means the *Citizenship Act* (Cap. 57) as in force immediately before the repeal date;

**“repeal date”** means the date section 35 commences.

#### **35                    Repeals**

- (1) The *Citizenship Act* (Cap. 57) is repealed.
- (2) The *Citizenship (Appeal Procedures) Regulations 1998* (LN 118 of 1998) are repealed.

#### **36                    Continuation of subsidiary legislation**

- (1) Subject to section 35(2), subsidiary legislation made under the repealed Act that is in force immediately before the repeal date continues in force until it is repealed or revoked.
- (2) A reference in subsidiary legislation continued in force under this section to a provision of the repealed Act must be read as a reference to the corresponding provision of this Act.

#### **37                    Applications for citizenship**

If, on the repeal date, an application for citizenship under the repealed Act has not been decided, it must be decided under the repealed Act as if the repealed Act remained in force.

#### **38                    Members of Citizenship Commission**

A person who was a member of the Citizenship Commission immediately before the repeal date continues to be a member of the Commission.

### **39 Transitional regulations**

The Minister may make regulations providing for a matter of a transitional nature:

- (a) because of the enactment of this Act; or
- (b) to allow or facilitate the transition from the operation of the repealed Act to the operation of this Act.

## **Division 2 Consequential amendments**

### **40 Amendment of Passports Act 2012**

Section 11(2)(c) of the *Passports Act 2012* is repealed.

### **41 Amendment of Provincial Government Act 1997**

Section 15(1)(a) of the *Provincial Government Act 1997* is repealed and replaced with the following:

- “(a) is disqualified for election as a member of Parliament under section 49(a) of the *Constitution*.”.

## **Schedule      Citizenship pledge**

Section 3, definition of “*citizenship pledge*”

I pledge my loyalty to Solomon Islands and respects its rights and freedoms. I will uphold its democratic values. I will respect, uphold and obey its laws and fulfil my duties as a Solomon Islands citizen.

## ENDNOTES

1

### KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
lt = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

2

### LIST OF LEGISLATION

#### *Citizenship Act 2018 (No. 17 of 2018)*

Assent date	24 December 2018
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Commenced	31 January 2019

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### LIST OF AMENDMENTS