

(1 January 2013 – to date)

## **SOUTH AFRICAN CITIZENSHIP ACT 88 of 1995**

*(Gazette no. 16751, Notice No.1547. Commencement date: 6 October 1995)*

### **As amended by**

*South African Citizenship Amendment Act 69 of 1997 – Gazette No. 18479, No. 1603. Commencement date: 28 November 1997*

*Immigration Act 13 of 2002 – Gazette No. 23478, No. 766 dated 31 May 2002. Commencement date: 12 March 2003 [Proc. No. 13, Gazette No. 24951]*

*South African Citizenship Amendment Act 17 of 2004 – Gazette No. 26792, No. 1087. Commencement date: 15 September 2004*

*South Africa Citizenship Amendment Act 17 of 2010 – Gazette No. 33850, No. 1173 dated 7 December 2010. Commencement date: 1 January 2013 [Proc. No. 70, Gazette No. 36054]*

*[Note: The words “alien” and “Supreme Court” substituted for the words “foreigner” and “High Court” wherever they occur in this Act, by section 11 of Act 17 of 2010]*

### **ACT**

**To provide for the acquisition, loss and resumption of South African citizenship; and for matters incidental thereto.**

*(Afrikaans text signed by the President.)*

*(Assented to 28 September 1995)*

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

### **ARRANGEMENT OF ACT**

#### **Section**

#### **CHAPTER 1**

#### **DEFINITIONS AND INTERPRETATION OF ACT**

1. Definitions
- 1A. Interpretation of Act

**CHAPTER 2**  
**ACQUISITION OF SOUTH AFRICAN CITIZENSHIP**

2. Citizenship by birth
3. Citizenship by descent
4. Citizenship by naturalisation
5. Certificate of naturalisation

**CHAPTER 3**  
**LOSS OF SOUTH AFRICAN CITIZENSHIP**

6. Loss of citizenship
7. Renunciation of citizenship
8. Deprivation of citizenship
9. ....
10. Deprivation of citizenship in case of children

**CHAPTER 4**  
**CONSEQUENCES OF LOSS OF SOUTH AFRICAN CITIZENSHIP**

11. Status of persons who cease to be South African citizens
12. Saving of obligations incurred before loss of citizenship

**CHAPTER 5**  
**Resumption of South African Citizenship**

13. Resumption of South African citizenship

**CHAPTER 6**  
**MISCELLANEOUS PROVISIONS IN RESPECT OF CITIZENSHIP**

14. Marriage does not affect citizenship
15. Issue of certificate of citizenship in case of doubt
16. Certificate of South African citizenship
17. Evidence
18. Penalty for false representations or statements
19. Amendment of certificates of citizenship
20. Determination of questions of residence
21. Instruction in responsibilities and privileges of South African citizenship

**CHAPTER 7**  
**GENERAL PROVISIONS**

22. Delegation of powers
23. Regulations
24. Application of Act
25. Review of Minister's decision by court of law
26. Repeal of laws
- 26A. Construction of references to citizens and citizenship of former states in existing laws and in certain documents
- 26B. Use of foreign citizenship
27. Short title

## **SCHEDULE 1**

## **SCHEDULE 2**

### **CHAPTER 1**

### **DEFINITIONS AND INTERPRETATION OF ACT**

#### **1. Definitions**

- (1) In this Act, unless the context otherwise indicates-

**"Children's Act"** means the Children's Act, 2005 (Act No. 38 of 2005);

**"Constitution"** means the Constitution of the Republic of South Africa, 1996;

**"Department"** means the Department of Home Affairs;

**"foreigner"** means a person who is not a South African citizen;

**"former states"** means-

- (a) the former Republic of Transkei as referred to in the Status of Transkei Act, 1976 (Act No. 100 of 1976);
- (b) the former Republic of Bophuthatswana as referred to in the Status of Bophuthatswana Act, 1977 (Act No. 89 of 1977);
- (c) the former Republic of Venda as referred to in the Status of Venda Act, 1979 (Act No. 107 of 1979); and
- (d) the former Republic of Ciskei as referred to in the Status of Ciskei Act, 1981 (Act No. 110 of 1981);

**"Immigration Act"** means the Immigration Act, 2002 (Act No. 13 of 2002);

**"major"** means any person who has attained the age of 18;

**"marriage"** means –

- (a) a marriage concluded in terms of-
  - (i) the Marriage Act, 1961 (Act No. 25 of 1961); or
  - (ii) the Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998);
- (b) a civil union concluded in terms of the Civil Union Act, 2006 (Act No. 17 of 2006); or
- (c) a marriage concluded in terms of the laws of a foreign country;

**"Minister"** means the Minister of Home Affairs;

**"minor"** means any person who is not a major;

**"permanent residence"** means permanent residence in terms of the Immigration Act;

**"permanent resident"** means a person having permanent residence status in terms of the Immigration Act;

**"prescribed"** means prescribed by regulation;

**"prior law"** means any law repealed by section 26;

**"regulation"** means a regulation made under section 23;

**"Republic"** means the Republic of South Africa as referred to in section 1 of the Constitution;

**"responsible parent"** means a parent contemplated in Chapter 3 of the Children's Act;

**"spouse"** means a person who is a party to a marriage recognised in terms of this Act;

**"this Act"** includes the Schedules to the Act and the regulations;

## **1A. Interpretation of Act**

- (1) For the purposes of this Act, unless clearly inconsistent with the provisions of this Act-
- (a) any reference in this Act to entrance into the Republic, to permanent residence in the Republic, to any period of residence or ordinary residence in the Republic or to any period of absence from the Republic, shall be construed to include any entrance into, residence in or absence from the Republic of South Africa or any of the former states as they had existed immediately prior to the commencement of the Constitution;
  - (b) the expressions "in the Republic" and "outside the Republic" shall be construed as if the former states were part of the former Republic of South Africa, whenever it has to be determined whether any event or action which occurred or took place prior to the commencement of the Constitution, occurred or took place in or outside the Republic;
  - (c) the expression "Government of the Republic" shall be construed to include the governments of the former states whenever it has to be determined if a person was in the service of the Government of the Republic prior to the commencement of the Constitution.
- (2) For the purposes of this Act-
- (a) a person born aboard a registered ship or aircraft shall be deemed to have been born at the place where the ship or aircraft is registered, and a person born aboard an unregistered ship or aircraft belonging to the Government of any country shall be deemed to have been born in that country;
  - (b) a person-
    - (i) to whom an exemption from compliance with visa requirements in terms of section 10A of the Immigration Act, has been granted unconditionally and for an unspecified period in terms of section 10A(4)(a) of that Act, whether as an individual or as a member of a category of persons; or
    - (ii) to whom an exemption has been granted in terms of section 31(3)(a) or (c) of the Immigration Act,and who entered the Republic or is in the Republic for purposes of permanent residence, shall be deemed to be or have been lawfully admitted to the Republic for permanent residence therein, or permanently and lawfully residing in the Republic.

- (3) For the purposes of this Act -

- (a) a customary marriage and marriage concluded in terms of the laws of a foreign country shall be recognised by the Minister, if the Minister is satisfied, upon information submitted to him or her in the prescribed form by the applicant and such other person alleged to be the applicant's spouse in the marriage concerned, that the applicant is in fact a spouse in the said marriage; and
- (b) the Minister may, in addition to any information submitted in terms of paragraph (a) or to clarify any information so submitted, call for further information to be submitted to him or her, or may call upon any person to appear before him or her and require or allow such person to give such oral information or produce such other information as in the opinion of the Minister may assist him or her in deciding the matter in question.

*(Chapter 1 amended by Schedule 3 of Act 13 of 2002)*

*(Chapter 1 substituted by section 1 of Act 17 of 2010)*

## **CHAPTER 2**

### **ACQUISITION OF SOUTH AFRICAN CITIZENSHIP**

#### **2. Citizenship by birth**

- (1) Any person-
  - (a) who immediately prior to the date of commencement of the South African Citizenship Amendment Act, 2010, was a South African citizen by birth; or
  - (b) who is born in or outside the Republic, one of his or her parents, at the time of his or her birth, being a South African citizen,shall be a South African citizen by birth.
- (2) Any person born in the Republic and who is not a South African citizen by virtue of the provisions of subsection (1) shall be a South African citizen by birth, if-
  - (a) he or she does not have the citizenship or nationality of any other country, or has no right to such citizenship or nationality; and
  - (b) his or her birth is registered in the Republic in accordance with the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992).
- (3) Any person born in the Republic of parents who have been admitted into the Republic for permanent residence and who is not a South African citizen, qualifies to be a South African citizen by birth, if-

- (a) he or she has lived in the Republic from the date of his or her birth to the date of becoming a major; and
- (b) his or her birth is registered in the Republic in accordance with the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992).

*(Section 2 substituted by section 2 of Act 17 of 2010)*

### **3. Citizenship by descent**

Any person who is adopted in terms of the provisions of the Children's Act by a South African citizen and whose birth is registered in accordance with the provisions of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992), shall be a South African citizen by descent.

*(Section 3 amended by section 2 of Act 69 of 1997)*

*(Section 3 substituted by section 3 of Act 17 of 2010)*

### **4. Citizenship by naturalisation**

(1) Any person who-

- (a) immediately prior to the date of the commencement of the South African Citizenship Amendment Act, 2010, was a South African citizen by naturalisation; or
- (b) in terms of this Act is granted a certificate of naturalisation as a South African citizen in terms of section 5,

shall be a South African citizen by naturalisation.

(2) Any person referred to in subsection (1)(b) shall, with effect from the date of the issue of the certificate, be a South African citizen by naturalisation.

(3) A child born in the Republic of parents who are not South African citizens or who have not been admitted into the Republic for permanent residence, qualifies to apply for South African citizenship upon becoming a major if-

- (a) he or she has lived in the Republic from the date of his or her birth to the date of becoming a major; and
- (b) his or her birth has been registered in accordance with the provisions of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992).

*(Section 4 amended by section 3 of Act 69 of 1997)*

*(Section 4 substituted by section 4 of Act 17 of 2010)*

## 5. Certificate of naturalisation

- (1) The Minister may, upon application in the prescribed manner, grant a certificate of naturalisation as a South African citizen to any foreigner who satisfies the Minister that-

*(Words preceding paragraph (a) substituted by section 5 of Act 17 of 2010)*

- (a) he or she is not a minor; and
- (b) he or she has been admitted to the Republic for permanent residence therein; and  
*(Section 5(1)(b) substituted by section 5 of Act 17 of 2010)*
- (c) he or she is ordinarily resident in the Republic and that he or she has been so resident for a continuous period of not less than five years immediately preceding the date of his or her application; and  
*(Section 5(1)(c) substituted by section 5 of Act 17 of 2010)*
- (d) he or she is of good character; and
- (e) he or she intends to continue to reside in the Republic or to enter or continue in the service of the Government of the Republic or of an international organisation of which the Government of the Republic is a member or of a person or association of persons resident or established in the Republic; and
- (f) he or she is able to communicate in any one of the official languages of the Republic to the satisfaction of the Minister; and
- (g) he or she has adequate knowledge of the responsibilities and privileges of South African citizenship; and  
*(Section 5(1)(g) substituted by section 5 of Act 17 of 2010)*
- (h) he or she is a citizen of a country that allows dual citizenship: Provided that in the case where dual citizenship is not allowed by his or her country, such person renounces the citizenship of that country and furnishes the Minister with the prescribed proof of such renunciation.  
*(Section 5(1)(h) added by section 5 of Act 17 of 2010)*

(2)

- (a) Any period during which an applicant for naturalisation has been employed outside the Republic in the service of the Government of the Republic (otherwise than as a person engaged locally) or on a ship or aircraft or a public means of transport registered or licensed in and operating from the Republic, and any period during which an applicant for naturalisation has been resident outside the Republic with his or her spouse while the latter was so employed, shall, for the

purposes of subsection (1), be regarded as a period of residence or ordinary residence in the Republic.

- (b) For the purposes of subsection (1) the Minister may, in his or her discretion, regard as a period of residence or ordinary residence in the Republic any period during which an applicant for naturalisation has been employed outside the Republic on a ship, aircraft or public means of transport operating from the Republic, and any period during which an applicant for naturalisation has been resident outside the Republic with his or her spouse 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 Republic.

(3) Any period during which an applicant for naturalisation-

- (a) is or was confined in a prison or other place of detention in the Republic after being convicted; or
- (b) has sojourned in the Republic, either conditionally, temporarily or in contravention of any law in force in the Republic,

shall for the purposes of subsection (1), not be regarded as a period of residence or ordinary residence in the Republic.

(4)

- (a) The Minister may, notwithstanding the provisions of subsection (1), upon application in the prescribed form for a certificate of naturalisation in respect of a minor who is permanently and lawfully resident in the Republic, grant to that minor a certificate of naturalisation as a South African citizen.
- (b) An application in terms of paragraph (a) must be made by the responsible parent of the legal guardian of the minor concerned.

*(Section 5(4) substituted by section 5 of Act 17 of 2010)*

(5) The Minister may, notwithstanding the provisions of subsection (1), upon application in the prescribed manner, grant a certificate of naturalisation as a South African citizen to a foreigner who satisfies the Minister that he or she is the spouse or surviving spouse of a South African citizen and that he or she has been –

- (a) admitted to the Republic for permanent residence;
- (b) ordinarily resident in the Republic for a prescribed period; and
- (c) married to such citizen during the period contemplated in paragraph (b).

*(Section 5(5) substituted by section 5 of Act 17 of 2010)*

- (6) A certificate of naturalisation shall not be issued to any person over the age of 18 years before that person has made the declaration of allegiance set forth in Schedule 1.
- (7) The Minister may in respect of any person who has applied for a certificate of naturalisation make such enquiries as the Minister may deem fit, and require such person to appear personally before him or her or a person designated by him or her.
- (8) If the Minister has refused an application for a certificate of naturalisation 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 naturalisation 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: Provided that the Minister shall at any time reconsider an application if he or she receives any new information regarding the applicant which may influence his or her original decision.
- (9)
  - (a) Notwithstanding anything to the contrary contained in subsection (1)(c), the Minister may under exceptional circumstances grant a certificate of naturalisation as a South African citizen to an applicant who does not comply with the requirements of subsection (1)(c) relating to residence or ordinary residence in the Republic.

*(Section 5(9)(a) substituted by section 5 of Act 17 of 2010)*

- (b) The Minister shall within 14 days after the commencement of the sittings of Parliament in each year table in Parliament the names of any person whom certificates of naturalisation were granted under paragraph (a) in the immediately preceding year, include the reasons for the granting of any such certificates.

*(Section 5(9) inserted by section 4 of Act 69 of 1997)*

### **CHAPTER 3**

#### **LOSS OF SOUTH AFRICAN CITIZENSHIP**

##### **6. Loss of citizenship**

- (1) Subject to the provisions of subsection (2), a South African citizen shall cease to be a South African citizen if-
  - (a) he or she, whilst not being a minor, by some voluntary and formal act other than marriage, acquires the citizenship or nationality of a country other than the Republic; or

- (b) he or she 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 that country is at war with the Republic.
- (2) Any person referred to in subsection (1) may, prior to his or her loss of South African citizenship in terms of this section, apply to the Minister to retain his or her South African citizenship, and the Minister may, if he or she deems it fit, order such retention.
- (3) Any person who obtained South African citizenship by naturalisation in terms of this Act shall cease to be a South African citizen if he or she engages, under the flag of another country, in a war that the Republic does not support.

*(Section 6(3) added by section 6 of Act 17 of 2010)*

## **7. Renunciation of citizenship**

- (1) A South African citizen who intends to accept the citizenship or nationality of another country, or who also has the citizenship or nationality of a country other than the Republic, may make a declaration in the prescribed form renouncing his or her South African citizenship.
- (2) The Minister shall upon receipt of a declaration made under this section cause such declaration to be registered in the manner prescribed, and thereupon the person who made the declaration shall cease to be a South African citizen.
- (3) Whenever a person ceases under subsection (2) to be a South African citizen, his or her minor children who are under the age of 18 years shall also cease to be South African citizens if the other parent of such children is not, or does not remain, a South African citizen.

## **8. Deprivation of citizenship**

- (1) The Minister may by order deprive any South African citizen by naturalisation of his or her South African citizenship if he or she is satisfied that-
  - (a) the certificate of naturalisation was obtained by means of fraud, false representation or the concealment of a material fact; or
  - (b) such certificate was granted in conflict with the provisions of this Act or any prior law.
- (2) The Minister may by order deprive a South African citizen who also has the citizenship or nationality of any other country of his or her South African citizenship if-

- (a) such citizen has at any time been sentenced in any country to a period of imprisonment of not less than 12 months for any offence which, if it was committed outside the Republic, would also have constituted an offence in the Republic; or
  - (b) the Minister is satisfied that it is in the public interest that such citizen shall cease to be a South African citizen.
- (3) Whenever the Minister deprives a person of his or her South African citizenship under this section or section 10, that person shall cease to be a South African citizen with effect from such date as the Minister may direct and thereupon the certificate of naturalisation or any other certificate issued under this Act in relation to the status of the person concerned, shall be surrendered to the Minister and cancelled, and any person who refuses or fails on demand to surrender any such certificate which he or she has in his or her possession, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years, or to both such fine and imprisonment.

*(Section 8(3) substituted by section 7 of Act 17 of 2010)*

**9.** .....

*(Section 9 amended by section 5(1) of Act 69 of 1997)*

*(Section 9 repealed by section 1 of Act 17 of 2004)*

**10. Deprivation of citizenship in case of children**

Whenever the responsible parent of a minor has in terms of the provisions of section 6 or 8 ceased to be a South African citizen, the Minister may, with due regard to the provisions of the Children's Act, order that such minor, if he or she was born outside the Republic and is under the age of 18 years, shall cease to be a South African citizen.

*(Section 10 substituted by section 8 of Act 17 of 2010)*

**CHAPTER 4**

**CONSEQUENCES OF LOSS OF SOUTH AFRICAN CITIZENSHIP**

**11. Status of persons who cease to be South African citizens**

- (1) Whenever a person, under the provisions of section 8, ceases to be a South African citizen, he or she shall be regarded as having the citizenship or nationality which he or she had before he or she became a South African citizen.
- (2) Whenever a person, under the provisions of section 10, ceases to be a South African citizen, he or she shall be regarded as having the citizenship or nationality which he or she had before he or she became a South African citizen, and, if he or she had no other citizenship or nationality, he or she shall be regarded as having the citizenship or nationality of his or her responsible parent.

(3) Whenever –

- (a) a South African citizen by naturalisation or registration ceased to be a South African citizen by virtue of the provisions of any prior law; or
- (b) a South African citizen by naturalisation ceases to be a South African citizen by virtue of provisions of section 6, 7, 8 or 10,

he or she shall, for the purposes of the Immigration Act, but subject to the provisions of subsection (4), be deemed to be a foreigner who is not-

- (i) in possession or deemed to be in possession of a permit referred to in section 10(2) or 25(2) of that Act; or
- (ii) in terms of section 31(2)(a) of the said Act, exempted or deemed to be exempted from the provisions of section 10(1) of that Act.

*(Section 11(3) amended by section 6 of Act 69 of 1997)*

*(Section 11(3) substituted by section 9 of Act 17 of 2010)*

- (4) The Minister may at any time, unconditionally or subject to such conditions as he or she may deem fit, exempt any person for a definite or an indefinite period from the provisions of subsection (3).

## **12. Saving of obligations incurred before loss of citizenship**

Whenever a person ceases to be a South African citizen he or she shall not thereby be discharged from any obligation, duty or liability in respect of any act done or committed before he or she ceased to be a South African citizen.

## **CHAPTER 5**

### **RESUMPTION OF SOUTH AFRICAN CITIZENSHIP**

## **13. Resumption of South African citizenship**

(1) .....

*(Section 13(1) deleted by section 10(a) of Act 17 of 2010)*

- (2) A minor who has in terms of section 10 or a provision in any of the laws referred to in Schedule 2 ceased to be a South African citizen and who is resident in the Republic or has returned to the Republic for permanent residence therein, may at any time after attaining the age of 18 years make a declaration in the prescribed form stating that he or she wishes to resume South African citizenship, and if the Minister deems it fit, he or she may order that such a declaration be registered, and upon registration thereof, such person shall resume his or her former South African citizenship.

(3)

(a) Any person who ceased to be a South African citizen by virtue of the provisions of any prior law or by virtue of the provisions of section 9 as it existed immediately before its repeal by section 1 of the South African Citizenship Amendment Act, 2004 (Act No. 17 of 2004), or who ceases to be a South African citizen by virtue of the provisions of section 6, 7, 8 or 10, may-

(i) if he or she is not a person referred to in section 11(3) and who is residing in the Republic permanently or returns to the Republic for permanent residence therein, as the case may be; or

(ii) if he or she is a person as referred to in section 11(3) and a permit for permanent residence referred to in section 25 of the Immigration Act, is issued to him or her,

apply to the Minister in the prescribed manner for the resumption of his or her former South African citizenship.

*(Section 13(3)(a) amended by section 7 of Act 69 of 1997)*

*(Section 13(3)(a) substituted by section 10(b) of Act 17 of 2010)*

(b) The Minister may upon receipt of such an application allow such person to resume his or her former South African citizenship if the Minister is satisfied that the grounds for the loss or deprivation of his or her South African citizenship no longer exist or are of any consequence, and issue to him or her a certificate to that effect in the prescribed form.

(4) The provisions of section 5(7) shall apply with the changes required by the context in respect of a certificate referred to in subsection (3)(b).

*(Section 13(4) substituted by section 10(c) of Act 17 of 2010)*

## CHAPTER 6

### MISCELLANEOUS PROVISIONS IN RESPECT OF CITIZENSHIP

#### 14. Marriage does not affect citizenship

A married person shall, subject to the provisions of this Act, be capable of acquiring and losing South African citizenship in all respects as if he or she were an unmarried person, and no person shall acquire or lose South African citizenship by reason merely of a marriage contracted by him or her.

#### 15. Issue of certificate of citizenship in case of doubt

(1) The Minister may in such cases as he or she deems fit, issue to any person in respect of whose South African citizenship there is any doubt, a certificate that he or she is a South African citizen.

- (2) Before issuing any certificate under subsection (1), the Minister may require the person concerned to comply with such provisions of this Act as the Minister may direct.
- (3) The Minister may in any certificate issued under subsection (1) describe the person to whom it relates as a South African citizen by birth, descent or naturalisation, as the Minister may deem fit.
- (4) A certificate issued under this section shall, unless it is proved that it was obtained by means of fraud, false representation or the concealment of some material fact, be conclusive evidence that the person to whom it relates was a South African citizen by birth, descent or naturalisation, as the case may be, at the date of the issue of the certificate, but shall not be deemed to imply any admission that the person to whom it has been issued was not a South African citizen previously.

#### **16. Certificate of South African citizenship**

- (1) The Minister may on the application of any person cause to be issued to that person a certificate in respect of the status of any person who to his or her satisfaction is, or was, a South African citizen.
- (2) A certificate issued under subsection (1) shall indicate in addition to such other particulars as the Minister may deem fit whether the person in respect of whom it has been issued, is or was at the date or for the period mentioned therein, a South African citizen by birth, descent or naturalisation without prejudice to any evidence that he or she was at any other date or during any other period a South African citizen as mentioned therein.
- (3) The Minister may require the production of such evidence of citizenship as he or she deems fit before authorising the issue of any certificate in terms of this section.

#### **17. Evidence**

Any certificate issued under this Act or any prior law, or any certified extract of an entry made in any register in pursuance of this Act or any prior law, shall in all courts of law be prima facie evidence of the particulars set forth therein.

#### **18. Penalty for false representations or statements**

Any person who makes for any of the purposes of this Act, any false representation or any statement which is false in any material particulars, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding eight years.

#### **19. Amendment of certificates of citizenship**

- (1) Whenever the Minister is satisfied that any error has occurred in any certificate issued under this Act or any prior law, or any change has occurred in respect of the particulars recorded therein, he or she may rectify the error or alter the particulars by amending the certificate.
- (2) Any certificate amended in pursuance of the provisions of subsection (1) shall, as from the date of the amendment thereof, have effect as so amended.
- (3) The Minister may call upon any person to produce to him or her any certificate which requires to be amended in terms of subsection (1), and any person who refuses or fails on demand so to produce such a certificate which he or she has in his or her possession, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

## **20. Determination of questions of residence**

Whenever a question arises under this Act as to whether or not a person was resident or ordinarily resident in the Republic the question may be determined by the Minister.

## **21. Instruction in responsibilities and privileges of South African citizenship**

The Minister may in respect of-

- (a) South African citizens, make such arrangements as he or she deems fit; or
- (b) applicants for certificates of naturalisation, establish such facilities as may appear necessary or desirable,

to enable such citizens or applicants to receive instruction in the responsibilities and privileges of South African citizenship.

## **CHAPTER 7 GENERAL PROVISIONS**

## **22. Delegation of powers**

The Minister may, subject to such conditions as he or she may deem necessary, delegate any power conferred on him or her by this Act, excluding a power referred to in section 5(9) or 25, to an officer in the service of the Department, but shall not be divested of any power so delegated and may set aside or amend any decision of the delegate made in the exercise of such a power.

*(Section 22 substituted by section 8 of Act 69 of 1997)*

## **23. Regulations**

The Minister may make regulations not inconsistent with this Act, with regard to-

- (a) the form of an application, declaration, certificate or other document under this Act;  
*(Section 23(a) amended by section 9(a) of Act 69 of 1997)*
- (b) .....  
*(Section 23(b) deleted by section 9(b) of Act 69 of 1977);*
- (c) the persons before whom declarations of renunciation or resumption of South African citizenship may be made;
- (d) the issuing of certificates of acknowledgment of South African citizenship to persons born elsewhere than in the Republic;
- (e) the fees to be charged for the issuing of any certificate or approval under this Act in consultation with the Minister of Finance; and
- (f) generally, all matters which in terms of this Act are required or permitted to be prescribed or which he or she considers necessary or expedient to prescribe in order that the purposes of this Act may be achieved or that this Act may be effectively administered.

#### **24. Application of Act**

This Act and any amendment thereof shall also apply in the Prince Edward Islands.

#### **25. Review of Minister's decision by court of law.**

- (1) Any provincial or local division of the High Court of South Africa shall have jurisdiction to review any decision made by the Minister under this Act.
- (2) A court hearing a review in terms of subsection (1) may call upon the Minister to furnish reasons and to submit such information as the court deems fit, and the court shall have jurisdiction to-
  - (a) consider the merits of the matter under review; and
  - (b) confirm, vary or set aside the decision of the Minister.

#### **26. Repeal of laws**

- (1) Subject to the provisions of subsection (2), the laws mentioned in the second column of Schedule 2 are hereby repealed to the extent set out in the third column thereof.

- (2) Anything done under a provision repealed by subsection (1) and which is capable of being done in terms of a provision of this Act shall be deemed to have been done in terms of the latter provision.
- (3) Any person who, due to passage of time after attaining majority, was disqualified by a provision repealed by subsection (1) from making a declaration with a view to obtaining South African citizenship, shall be deemed not to have been so disqualified at any time.
- (4) Notwithstanding the repeal of section 15(1)(a) of the South African Citizenship Act, 1949, by subsection (1), the Minister may at any time exempt any person who ceased to be a South African citizen by virtue of the provisions of the said section 15(1)(a), on application on the prescribed form, from the provisions of the said section 15(1)(a), either unconditionally or on such conditions as the Minister may determine, and any person so exempted, shall be deemed to have remained a South African citizen.

*(Section 26(4) inserted by section 10 of Act 69 of 1997)*

- (5) In case of an inconsistency between this Act and the Immigration Act of 2002, the latter shall prevail.

*(Section 26(5) inserted by Schedule 3 of Act 13 of 2002)*

**26A. Construction of references to citizens and citizenship of former states in existing laws and in certain documents**

A reference in any law in force immediately prior to the commencement of this Act, or in any certificate or other document under any such law, to a citizen of any former state or citizenship of any former state shall, unless inconsistent with the context or otherwise clearly inappropriate, be construed as a reference to a South African citizen or South African citizenship, respectively.

*(Section 26A inserted by section 11 of Act 69 of 1997 and deemed to have come into operation on 6 October 1995)*

**26B. Use of foreign citizenship**

A major citizen who –

- (a) enters the Republic or departs from the Republic making use of the passport of another country;  
or
- (b) while in the Republic, makes use of his or her citizenship or nationality of another country in order to gain an advantage or avoid a responsibility or duty,

is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months.

*(Section 26B inserted by section 2 of Act 17 of 2004)*

**27. Short title**

This Act shall be called the South African Citizenship Act, 1995.

**SCHEDULE 1  
(Section 5(6))**

**DECLARATION OF ALLEGIANCE**

I ..... (AB), do hereby solemnly declare that I will be loyal to the Republic of South Africa, promote all that will advance it and oppose all that may harm it, uphold and respect its Constitution and commit myself to the furtherance of the ideals and principles contained therein.

Signed at .....on this.....day of  
..... (month), 19....

.....  
SIGNATURE

In the presence of the following two witnesses who are South African citizens.

1..... (WITNESS)

2..... (WITNESS)

**SCHEDULE 2  
(Section 26)**

**LAWS REPEALED**

<b>No. and year of law</b>	<b>Short title</b>	<b>Extent of repeal</b>
Act No. 44 of 1949	South African Citizenship Act, 1949	The whole
Act No. 64 of 1961	South African Citizenship Amendment Act, 1961	The whole
Act No. 69 of 1962	Commonwealth Relations Act, 1962	Section 13 and sections 18 to 28 inclusive
Act No. 23 of 1964	Residence in the Republic Regulation Act, 1964	The whole
Act No. 41 of 1973	South African Citizenship Amendment Act, 1973	The whole
Act No. 53 of 1978	South African Citizenship Amendment Act, 1978	The whole

Act No. 30 of 1980	South African Citizenship Amendment Act, 1980	The whole
Act No. 95 of 1981	South African Citizenship Amendment Act, 1981	The whole
Act No. 43 of 1984	South African Citizenship Amendment Act, 1984	The whole
Act No. 53 of 1986	Matters concerning Admission to and Residence in the Republic Amendment Act, 1986	The whole
Act No. 74 of 1990	South African Citizenship at Attainment of Independence by Namibia Regulation Act, 1990	The whole
Act No. 70 of 1991	South African Citizenship Amendment Act, 1991	The whole
Act No. 132 of 1993	General Law Fourth Amendment Act, 1993	Sections 5, 6, 7, 8 and 9
Act No. 196 of 1993	Restoration and Extension of South African Citizenship Act, 1993	The whole
Act No. 15 of 1976 (Transkei)	Republic of Transkei Constitution Act, 1976	Sections 57 and 58
Act No. 26 of 1976 (Transkei)	Citizenship of Transkei Act, 1976	The whole
Act No. 18 of 1977 (Bophuthatswana)	Republic of Bophuthatswana Constitution Act, 1977	Section 80
Act No. 19 of 1978 (Bophuthatswana)	Bophuthatswana Citizenship Act, 1978	The whole
Act No. 15 of 1986 (Bophuthatswana)	Bophuthatswana Citizenship Amendment Act, 1986	The whole
Act No. 9 of 1979 (Venda)	Republic of Venda Constitution Act, 1979	Sections 59 and 60
Act No. 8 of 1980 (Venda)	Citizenship of Venda Act, 1980	The whole
Act No. 20 of 1981 (Ciskei)	Republic of Ciskei Constitution Act, 1981	Section 67
Act No. 38 of 1984 (Ciskei)	Ciskeian Citizenship Act, 1984	The whole
Act No. 7 of 1987	Ciskeian Citizenship Amendment Act, 1987	The whole
Act No. 16 of 1988 (Ciskei)	Ciskeian Citizenship Amendment Act, 1988	The whole