

**Reprint
as at 29 November 2010**



**Citizenship (Western Samoa) Act
1982**

Public Act 1982 No 11
Date of assent 14 September 1982
Commencement see section 1(2)

Contents

	Page
Title	2
1 Short Title and commencement	2
2 Interpretation	2
3 Crown bound	2
4 Application	2
5 Certain person declared to be New Zealand citizen	3
6 Persons to whom this Act applies not New Zealand citizens	3
7 Grant of citizenship as of right in certain cases	3
8 Certain convictions quashed	4
9 Special provisions relating to parentage	5
10 Citizenship Act 1977 consequentially amended	6
11 Act in force in Tokelau	6

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Department of Internal Affairs.

An Act to implement the Protocol done at Apia on 21 August 1982 to the Treaty of Friendship between the Government of New Zealand and the Government of Western Samoa done at Apia on 1 August 1962, and to make provision relating to the New Zealand citizenship of certain persons born in Western Samoa before 1949 and others claiming by descent or marriage through such persons

1 Short Title and commencement

- (1) This Act may be cited as the Citizenship (Western Samoa) Act 1982.
- (2) This Act shall come into force on 15 September 1982.

2 Interpretation

In this Act the term **New Zealand** does not include the Cook Islands, Niue, or Tokelau.

3 Crown bound

This Act binds the Crown.

4 Application

- (1) Subject to subsections (2) and (3) but without limiting section 7(1)(a), this Act applies to—
 - (a) every person—
 - (i) who was born in Western Samoa on or after 13 May 1924 and before 1 January 1949; and
 - (ii) who, immediately before 1 January 1949, was a British subject by virtue only of having been born in that country; and
 - (b) every female who, on 1 January 1949, became a New Zealand citizen by virtue only of having been married to any person to whom paragraph (a) applies; and
 - (c) every person—
 - (i) who is the descendant of a person who was born in Western Samoa on or after 13 May 1924 and before 1 January 1949; and
 - (ii) who was born before 1 January 1949; and

- (iii) who was a British subject immediately before 1 January 1949; and
 - (d) every female who, on 1 January 1949, became a New Zealand citizen by virtue only of having been married to any person to whom paragraph (c) applies; and
 - (e) every person—
 - (i) who is the descendant of any person to whom any 1 or more of paragraphs (a) to (d) applies; and
 - (ii) who was or is born on or after 1 January 1949.
- (2) This Act does not apply to any person who is a New Zealand citizen otherwise than by virtue only of being a person to whom any 1 or more of paragraphs (a) to (e) of subsection (1) applies.
- (3) This Act, except section 8, does not apply to any person to whom a New Zealand passport has been properly issued before the commencement of this Act in accordance with the Passports Act 1980.

5 Certain person declared to be New Zealand citizen

Falema'i Lesa of Wellington (being the petitioner in the case of *Lesa v The Attorney-General of New Zealand*, argued before the Judicial Committee of the Privy Council in London in July 1982) is hereby declared to be a New Zealand citizen otherwise than by descent.

6 Persons to whom this Act applies not New Zealand citizens

Notwithstanding anything in the Citizenship Act 1977 or in any other enactment but subject to section 5 of this Act, every person to whom this Act applies shall be deemed never to have been a New Zealand citizen, and no such person shall be a New Zealand citizen unless the Minister of Internal Affairs authorises the grant of such citizenship to that person under section 7 of this Act or any of sections 8 to 10 of the Citizenship Act 1977.

7 Grant of citizenship as of right in certain cases

- (1) Notwithstanding anything in section 8 or section 9 of the Citizenship Act 1977, the Minister of Internal Affairs shall, upon

application made to him, immediately authorise the grant of New Zealand citizenship to any person who proves to the satisfaction of the Minister—

- (a) that he is a citizen of Western Samoa or a person to whom this Act applies; and
- (b) that he—
 - (i) was in New Zealand at any time on the day before the date of the commencement of this Act; or
 - (ii) has lawfully entered New Zealand after the commencement of this Act and is entitled, in terms of the Immigration Act 2009, to be in New Zealand indefinitely.

- (2) Sections 4A, 11, 12, 24, 27, and 28 of the Citizenship Act 1977, and any regulations made under that Act, shall apply with any necessary modifications in respect of an application under subsection (1) of this section as if it were an application under section 10 of that Act.

Section 7(1)(b)(ii): amended, at 2 am on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

Section 7(1)(b)(ii): amended, on 1 November 1987, by section 151(1) of the Immigration Act 1987 (1987 No 74).

Section 7(2): amended, on 17 December 1985, by section 2 of the Citizenship (Western Samoa) Amendment Act 1985 (1985 No 170).

8 Certain convictions quashed

- (1) Where any person to whom this Act applies has been convicted, at any time before the commencement of this Act, of an offence against section 5(1)(a) of the Immigration Act 1964 or any of the provisions of Part 2 (except section 19A) of that Act, or any corresponding former enactment, that conviction is hereby quashed.
- (2) No person to whom this Act applies shall be deemed to be a person to whom section 15 of the Immigration Act 2009 applies merely because he has been deported from New Zealand consequent upon his conviction of any offence to which subsection (1) of this section applies.
- (3) Without limiting or affecting any privilege, immunity, defence, or justification conferred by any other enactment or rule of law, no person shall be guilty of an offence or liable to any

civil proceeding by reason of anything done in good faith to or in respect of any person to whom this Act applies in relation to or arising out of any matter referred to in subsection (1).

Section 8(2): amended, at 2 am on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

Section 8(2): amended, on 1 November 1987, by section 151(1) of the Immigration Act 1987 (1987 No 74).

9 Special provisions relating to parentage

- (1) For the purposes of determining whether any person is or is not a person to whom this Act applies,—
 - (a) a person shall, in the absence of evidence to the contrary, be presumed to be the father of another person if he is or was married to that other person's mother at the time of that other person's conception or birth:
 - (b) every person whose parents married each other subsequent to his birth but before 1 January 1978 shall be treated as if his parents had been married to each other at the time of his birth.
- (2) Without limiting subsection (1), for the purposes of determining whether any person, other than a person who was born outside Western Samoa before 1 January 1949, is or is not a person to whom this Act applies,—
 - (a) a person shall, in the absence of evidence to the contrary, be presumed to be the father of another person if his paternity of that other person has been established by 1 or more of the types of evidence specified by section 8 of the Status of Children Act 1969; and the term father shall be construed accordingly:
 - (b) a person shall be deemed to be the child of another person if he has been adopted by that other person, either by an adoption order within the meaning of and made under the Adoption Act 1955 or by an adoption to which section 17 of that Act applies; and—
 - (i) the terms father, mother, and parent shall be construed accordingly; and

- (ii) the person shall be deemed to have been born when and where the adoption order was made: provided that, on the discharge for any reason of the adoption order in accordance with section 20 of that Act, the person shall cease to be deemed to be the child of that other person.
- (3) References to the status or description of the father or mother of a person at the time of that person's birth shall, in relation to a person born after the death of his father or mother (as the case may require), be construed as referring to the status or description of the father or mother at the time of his or her death.
- (4) Where the relevant parent died before, and the person was born on or after, 1 January 1949, the status or description that would have been applicable to the parent had he or she died on or after 1 January 1949 shall be deemed to be the status or description applicable to him or her at the time of his or her death.
- (5) Where the relevant parent died before, and the birth occurred on or after, 1 January 1978, the status or description that would have been applicable to the parent had he or she died on or after that date shall be deemed to be the status or description applicable to him or her at the time of his or her death.
- (6) Without limiting the foregoing provisions of this section, for the purposes of determining whether any person is or is not a person to whom this Act applies, the status of any person at any material time shall be determined in accordance with the rules of law that applied, or were subsequently deemed to have applied, at that time.

10 Citizenship Act 1977 consequentially amended
Amendment(s) incorporated in the Act(s).

11 Act in force in Tokelau
This Act shall be in force in Tokelau.

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes

1 *General*

This is a reprint of the Citizenship (Western Samoa) Act 1982. The reprint incorporates all the amendments to the Act as at 29 November 2010, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Immigration Act 2009 (2010 No 51): section 406(1)

Immigration Act 1987 (1987 No 74): section 151(1)

Citizenship (Western Samoa) Amendment Act 1985 (1985 No 170)
