

BRITISH NATIONALITY AND NEW ZEALAND CITIZENSHIP BILL

EXPLANATORY MEMORANDUM

1. The purpose of this Bill is to consolidate and amend the law relating to British nationality. The Bill provides for New Zealand citizenship as well as for British nationality, the latter to be shared by New Zealand citizens with the citizens of the other countries of the British Commonwealth of Nations.

2. The present law is largely contained in the British Nationality and Status of Aliens Acts, 1914 to 1943, of the United Kingdom Parliament, as adopted by the British Nationality and Status of Aliens (in New Zealand) Act, 1928, and its amendments (see Reprint of Statutes, Vol. I, p. 159, and the New Zealand Acts of 1943 (No. 13) and 1946 (No. 20)).

3. The United Kingdom legislation was similarly adopted by other Commonwealth countries, thus providing a common code for the whole Commonwealth, to which uniform amendments were made by agreement among the several countries concerned.

4. It has not been possible to keep the common code completely uniform, and local variations (in New Zealand and other countries) have resulted in various classes of persons having the status of British subjects in some parts of the British Commonwealth and not in others. Since 1946 Canada has had its own nationality law—the Canadian Citizenship Act, 1946—which provides for Canadian citizenship and is quite distinct from the common code, although it provides for Canadian citizens being British subjects and for the recognition of British nationality as conferred under the laws of other parts of the Commonwealth.

5. In order to combine a uniform definition of British nationality with the maximum freedom for each country to determine who shall be its own citizens, it is proposed, not only in New Zealand but also in the other Commonwealth countries, to replace the common code system by legislation on the general lines of this Bill, to come into force in all the countries on the same date. In the United Kingdom the British Nationality Act, 1948, has already been passed, and will come into force on 1st January, 1949. This Bill follows that Act very closely.

6. The essential elements of the proposed scheme are :—

- (a) Each of the Commonwealth countries will have its own citizenship law defining its own citizens, and providing for the acquisition and loss of citizenship in appropriate cases :
- (b) The citizens of each country will also be British subjects :
- (c) Each country will provide for the *naturalization* of aliens (and of British protected persons) as its citizens, and naturalization as a citizen will automatically confer British nationality also :
- (d) Each country will provide for conferring its citizenship by *registration* on British subjects who are citizens of any of the other countries, and on alien women marrying its own citizens :

- (e) As already provided in New Zealand, married women will not automatically have the nationality of their husbands, but special facilities will be provided for the acquisition of citizenship by women who marry citizens :
- (f) The countries to which the scheme relates are—
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|------------------------------|--------------------|
| New Zealand, | Newfoundland, |
| United Kingdom and Colonies, | India, |
| Canada, | Pakistan, |
| Australia, | Southern Rhodesia, |
| Union of South Africa, | Ceylon : |
- (g) Irish citizens will not as such be British subjects unless they already have that status, but they will not be regarded as aliens, and will as nearly as possible be given the same privileges as British subjects.

British Nationality

7. British nationality is dealt with in Part I of the Bill. The provisions of this Part are in the same terms as the corresponding provisions of the United Kingdom Act, and it is intended that each of the above-named countries should have substantially the same provisions on this topic.

8. New Zealand citizens and the citizens of each of the other Commonwealth countries will have British nationality, and may be described either as British subjects or as Commonwealth citizens. The New Zealand Bill uses the former term, but some of the other countries may prefer the latter (*clause 3*).

9. *Clause 4* recognizes the British nationality of any Irish citizens who are declared by the citizenship law of any of the other Commonwealth countries to remain British subjects, notwithstanding that they may not be citizens of that country. The corresponding clause of the United Kingdom Act also provides for certain Irish citizens who have associations with the United Kingdom to remain British subjects. That provision is omitted from this Bill in view of *clause 8 (4)*, under which any British subject or Irish citizen who has associations with New Zealand may be registered as a New Zealand citizen.

10. *Clause 5*, by *subclause (1)*, provides that a British subject or Irish citizen who is not a New Zealand citizen shall not be criminally liable for an offence against New Zealand law by reason of any act done outside New Zealand unless that act would be an offence if done by an alien in a foreign country. In other words, any New Zealand law binding New Zealand citizens as such outside New Zealand is not to bind other British subjects or Irish citizens. *Subclause (2)* provides that in all other respects every New Zealand law relating to British subjects is to apply equally to Irish citizens unless the contrary is expressly provided.

New Zealand Citizenship

11. New Zealand citizenship is dealt with in Part II of the Bill. Upon the commencement of the Act New Zealand citizenship will (under *clause 16*) be automatically conferred on the following classes of British subjects :—

- (a) Those born in New Zealand :
- (b) Those naturalized in New Zealand :
- (c) Those ordinarily resident in New Zealand for at least one year—that is, throughout 1948 :
- (d) Those whose fathers were British subjects born or naturalized in New Zealand :
- (e) Women (being British subjects) married before the commencement of the Act to men who become citizens under the foregoing paragraphs or would have so become citizens but for their death.

12. After the commencement of the Act New Zealand citizenship may be acquired in the following ways:—

- (a) By birth in New Zealand or in a New Zealand ship or aircraft, except where the father is a foreign diplomat or a representative of another Commonwealth country (*clause 6*):
- (b) By descent—that is, where birth occurs outside New Zealand but the father is a New Zealand citizen—with restrictions where the father is himself a citizen by descent only (*clause 7*):
- (c) By registration (*clauses 8–11*):
- (d) By naturalization (*clauses 12–14*):
- (e) By incorporation of territory as part of New Zealand (*clause 15*).

Citizenship by Registration

13. Any adult British subject—that is, a citizen of any of the other Commonwealth countries—or any Irish citizen will be entitled to registration as a New Zealand citizen if he has been ordinarily resident in New Zealand for one year (or a shorter period in special circumstances) or is employed in the New Zealand Government service (*clause 8 (1)*).

14. A woman of any age married to a New Zealand citizen may be registered as of right if she is a British subject or an Irish citizen or a British protected person, and at the discretion of the Minister of Internal Affairs if she is an alien, without any residential qualification in either case (*clauses 8 (2) and 9 (1) (a)*).

15. The Minister may in his discretion register any British subject or Irish citizen who has associations by way of descent, residence, or otherwise with New Zealand (*clause 8 (4)*), and any child under twenty-one years of age of a New Zealand citizen (*clause 9 (1) (b)*), and in special circumstances any child whatever under twenty-one years of age (*clause 9 (2)*).

16. The Minister may authorize New Zealand overseas representatives to exercise the power of registration outside New Zealand (*clause 10*).

Citizenship by Naturalization

17. The Minister may grant naturalization as New Zealand citizens to aliens possessing the existing qualifications for naturalization as British subjects—that is, five years' residence or Government service in British countries, the last year to be in New Zealand, good character, knowledge of English, and intention to reside in New Zealand or serve the New Zealand Government—with the addition of two further requirements: the giving of a year's notice before applying, and a sufficient knowledge of the responsibilities and privileges of New Zealand citizenship. The Minister may in special cases waive the prior year's notice and grant concessions in respect of the residential qualifications in cases of persons who have resided or served under any Commonwealth Government or served in a military or other capacity in aid of the Allies in the Second World War (*clause 12*).

18. The qualifications for the naturalization of British protected persons (*clause 13*) are generally the same as for aliens, but are less onerous in the following respects:—

- (a) No prior notice of application is required:
- (b) Only one year's residence or Government service in New Zealand is required, and this may be waived in special cases.

Renunciation of Citizenship

19. A person may be a citizen of any of the other Commonwealth countries or an Irish citizen at the same time as he is a New Zealand citizen. In any such case he may renounce his New Zealand citizenship, but if he is ordinarily resident in New Zealand the consent of the Minister is required (*clause 21 (1)*).

20. A New Zealand citizen who is also a national of a foreign country may renounce his New Zealand citizenship, but in time of war the consent of the Minister is required (*clause 21 (2)*).

Deprivation of Citizenship

21. Where the Minister is satisfied that it is not conducive to the public good that any person should continue to be a New Zealand citizen, the Minister may deprive him of his New Zealand citizenship in any of the following cases:—

- (a) If he becomes naturalized in a foreign country, or voluntarily exercises any of the privileges or performs any of the duties of a foreign nationality or citizenship possessed by him (*clause 22*):
- (b) If he has become registered or naturalized as a New Zealand citizen by fraud, false representation, or the concealment of any material fact (*clause 23 (2)*):
- (c) If, being a naturalized person, he has shown himself by act or speech to be disloyal or disaffected towards His Majesty; or has during any war unlawfully traded with an enemy or communicated with an enemy or engaged in business in assistance of an enemy; or has within five years after naturalization been sentenced to imprisonment for a term of not less than twelve months (*clause 23 (3)*):
- (d) If, being a naturalized person, he has been ordinarily resident in foreign countries for a continuous period of six years (*clause 23 (4)*):
- (e) If, being a naturalized person and a citizen of any other Commonwealth country or an Irish citizen, he has been deprived of that other citizenship on grounds similar to any of those referred to above (*clause 24*).

Application to Dependencies

22. The Act is applied with the necessary adaptations to the Cook Islands, the Tokelau Islands, Western Samoa, and any other trust territories that may in the future be administered by New Zealand (*clause 33*).

23. There is no provision for local naturalization, effective only within New Zealand. Any Samoans who possess local naturalization will be deemed to be fully naturalized as New Zealand citizens (*clause 2 (7)*).

Hon. Mr. Parry

BRITISH NATIONALITY AND NEW ZEALAND
CITIZENSHIP

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A BILL INTITULED

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| Title. | <p>AN ACT to make Provision as to British Nationality and as to New Zealand Citizenship.</p> <p>BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—</p> |
| Short Title and commencement. | <p>1. (1) This Act may be cited as the British Nationality and New Zealand Citizenship Act, 1948.</p> <p>(2) This Act shall come into force on the first day of January, nineteen hundred and forty-nine.</p> |
| Interpretation. | <p>2. (1) In this Act, unless the context otherwise requires,—</p> <p>“ Alien ” means a person who is not a British subject, a British protected person, or an Irish citizen:</p> <p>“ Australia ” includes the territories of Papua and the territory of Norfolk Island:</p> <p>“ British protected person ” means a New Zealand protected person; and includes a person who is a member of a class of persons declared by the Governor-General, by Order in Council made in relation to any protectorate, protected State, mandated territory, or trust territory, to be for the purposes of this Act British protected persons by virtue of their connection with that protectorate, State, or territory:</p> |

- 5 “ Crown service under the New Zealand Govern-
ment ” means the service of the Crown under
the New Zealand Government or under the
Government of any New Zealand mandated
territory or New Zealand trust territory,
whether that service is in any part of His
Majesty’s dominions or elsewhere:
- 10 “ Foreign country ” means a country other than
New Zealand, a country mentioned in sub-
section *three* of section *three* of this Act,
Ireland, a protectorate, a protected State, a
mandated territory, and a trust territory:
- 15 “ Ireland ” means the country formerly known as
the Irish Free State, and known in the Irish
language as Eire; and “ Irish citizen ” has a
corresponding meaning:
- 20 “ Mandated territory ” means a territory adminis-
tered by the Government of any part of His
Majesty’s dominions in accordance with a
mandate from the League of Nations:
- “ Minister ” means the Minister of Internal
Affairs:
- 25 “ Naturalized person ” means a person who has
(whether before or after the commencement
of this Act) become a British subject or
an Irish citizen by virtue of a certificate
of naturalization or letters of naturalization
granted to him or in which his name was
included; and includes a person naturalized
30 in New Zealand, as hereinafter defined:
- “ New Zealand ” includes the Cook Islands and
the Tokelau Islands:
- 35 “ New Zealand consulate ” means the office of a
New Zealand overseas representative where a
register of births is kept; or, where there is
no such office, means a United Kingdom
consulate within the meaning of the British
Nationality Act, 1948, of the Parliament of
the United Kingdom:
- 40 “ New Zealand mandated territory ” and “ New
Zealand trust territory ” mean respectively a
mandated territory and a trust territory
administered by the Government of New
Zealand:

1943, No. 5

- “ New Zealand overseas representative ” means an overseas representative within the meaning of the External Affairs Act, 1943:
- “ New Zealand protected person ” means a person who is a member of a class of persons declared by the Governor-General, by Order in Council made in relation to any New Zealand trust territory or New Zealand mandated territory, to be for the purposes of this Act New Zealand protected persons by virtue of their connection with that territory:
- “ Person naturalized in New Zealand ” means,—
- (a) In relation to a person naturalized after the commencement of this Act, a person to whom a certificate of naturalization has been granted under this Act:
- (b) In relation to a person naturalized before the commencement of this Act,—
- (i) A person to whom a certificate of naturalization or letters of naturalization were granted in New Zealand; or
- (ii) A person whose name was included in a certificate of naturalization granted in New Zealand to his father or mother; or
- (iii) A person who by virtue of any enactment in force as part of the law of New Zealand at any time before the commencement of this Act was deemed to be a naturalized British subject by reason of his residence with his father or mother:
- “ Prescribed ” means prescribed by regulations made under this Act:
- “ Protected State ” means a State or territory which is declared by His Majesty by Order in Council to be a protected State for the purposes of the British Nationality Act, 1948; and includes any State or territory to which the provisions of that Act are applied by His Majesty by Order in Council as if it were a protected State:

“Protectorate” means a State or territory which is declared by His Majesty by Order in Council to be a protectorate for the purposes of the British Nationality Act, 1948:

5 “Trust territory” means a territory administered by the Government of any part of His Majesty’s dominions under the trusteeship system of the United Nations.

10 (2) Subject to the provisions of section *twenty-six* of this Act, any reference in this Act to a child shall be construed as a reference to a legitimate child; and the expression “father” shall be construed accordingly.

(3) References in this Act to any country mentioned in subsection *three* of section *three* of this Act shall

15 include references to the dependencies of that country.
(4) Any reference in this Act to India, being a reference to a state of affairs existing before the fifteenth day of August, nineteen hundred and forty-seven, shall be construed as a reference to

20 British India as defined by section three hundred and eleven of the Government of India Act, 1935.

26 Geo. V,
c. 2 (U.K.)

(5) For the purposes of this Act, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the Government of any

25 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.
(6) For the purposes of this Act, a person required by any Act to obtain a permit to enter New Zealand

30 shall not be deemed to be or to have been at any time ordinarily resident in New Zealand if he is not or was not at that time in possession of a permit to enter New Zealand under that Act (not being a temporary permit).
(7) For the purposes of this Act, any person who, by the law in force immediately before the commencement of this Act, enjoyed the privileges of naturalization within New Zealand only shall be deemed to have become immediately before the commencement of this

35 Act a person naturalized in New Zealand.
(8) A person shall for the purposes of this Act be of full age if he has attained the age of twenty-one years, and of full capacity if he is not of unsound mind.

(9) 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.

(10) Any reference in this Act to any other Act shall, unless the context otherwise requires, be construed as a reference to that Act as amended by or under any other enactment. 5

PART I

BRITISH NATIONALITY

10

British
nationality by
virtue of
citizenship.

3. (1) Every person who under this Act is a New Zealand citizen or who under any enactment for the time being in force in any country mentioned in subsection *three* of this section is a citizen of that country shall, by virtue of that citizenship, have the status of a British subject. 15

(2) Any person having the status aforesaid may be known either as a British subject or as a Commonwealth citizen; and accordingly in this Act and in any other enactment or instrument whatsoever, whether passed or made before or after the commencement of this Act, the expression "British subject" and the expression "Commonwealth citizen" shall have the same meaning. 20

(3) The following are the countries hereinbefore referred to—that is to say, the United Kingdom and Colonies, Canada, Australia, the Union of South Africa, Newfoundland, India, Pakistan, Southern Rhodesia, and Ceylon. 25

Continuance of
certain Irish
citizens as
British
subjects.

4. If by any enactment for the time being in force in any country mentioned in subsection *three* of section *three* of this Act provision is made for enabling Irish citizens to claim to remain British subjects, any person who by virtue of that enactment is a British subject shall be deemed also to be a British subject by virtue of this section. 30 35

Status of
Irish citizens
and certain
British subjects.

5. (1) A British subject or Irish citizen who is not a New Zealand citizen shall not be guilty of an offence against the laws of any part of New Zealand or

of any New Zealand trust territory by reason of anything done or omitted in any country mentioned in subsection *three* of section *three* of this Act or in Ireland or in any foreign country unless—

- 5 (a) The act or omission would be an offence if he were an alien; and
(b) In the case of an act or omission in any country mentioned in subsection *three* of section *three* of this Act or in Ireland, it would be an
10 offence if the country in which the act is done or the omission made were a foreign country:

Provided that nothing in this subsection shall apply to the contravention of any provision of the Shipping
15 and Seamen Act, 1908.

See Reprint
of Statutes,
Vol. VIII, p. 249

- (2) Subject to the provisions of this section, any law in force in New Zealand or Western Samoa at the date of the commencement of this Act, whether by virtue of a rule of law or of an Act of Parliament or
20 any other enactment or instrument whatsoever, and any law which by virtue of any Act of Parliament passed before that date comes into force in New Zealand or Western Samoa on or after that date, shall, until
25 provision to the contrary is made by the authority having power to alter that law, continue to have effect in relation to Irish citizens who are not British subjects in like manner as it has effect in relation to British subjects.

PART II

30 NEW ZEALAND CITIZENSHIP

Citizenship by Birth or Descent

6. Subject to the provisions of this section, every
person born in New Zealand after the commencement
of this Act shall be a New Zealand citizen by birth: Citizenship
by birth.

- 35 Provided that a person shall not be a New Zealand citizen by virtue of this section if at the time of his birth—

- 40 (a) His father possessed such immunity from suit and legal process as is accorded in New Zealand to an envoy of a foreign sovereign Power accredited to His Majesty, and was not a New Zealand citizen; or

(b) His father was an enemy alien and the birth occurred in a place then under occupation by the enemy.

Citizenship
by descent.

7. (1) Subject to the provisions of this section, a person born after the commencement of this Act shall be a New Zealand citizen by descent if his father was a New Zealand citizen at the time of his birth: 5

Provided that if the father of such a person was a New Zealand citizen by descent only, that person shall not be a New Zealand citizen by virtue of this section unless— 10

(a) That person or his father was born in a protectorate, protected State, mandated territory, or trust territory, or any place in a foreign country where by treaty, capitulation, grant, usage, sufferance, or other lawful means, His Majesty then had jurisdiction over British subjects; or 15

(b) That person's birth having occurred in a place in a foreign country other than a place such as is mentioned in the *last preceding* paragraph, the birth is registered at a New Zealand consulate within one year of its occurrence, or, with the permission of the Minister, later; or 20 25

(c) That person's father was, at the time of his birth, in Crown service under the New Zealand Government.

(2) If the Minister so directs, a birth shall be deemed for the purposes of this section to have been registered with his permission, notwithstanding that his permission was not obtained before the registration. 30

Citizenship by Registration

Registration
of citizens
of countries
mentioned in
section 3 (3) or
of Ireland, and
female British
protected
persons
married to
New Zealand
citizens.

8. (1) Subject to the provisions of subsection *three* of this section, a citizen of any country mentioned in subsection *three* of section *three* of this Act or an Irish citizen, being a person of full age and capacity, shall be entitled, on making application therefor to the 35

Minister in the prescribed manner, to be registered as a New Zealand citizen if he satisfies the Minister either—

- 5 (a) That he is ordinarily resident in New Zealand and has been so resident throughout the period of twelve months, or such shorter period as the Minister may in the special circumstances of any particular case accept, immediately preceding the date of his application; or
- 10 (b) That he is in Crown service under the New Zealand Government.

(2) Subject to the provisions of subsection *three* of this section, a woman who is a citizen of any country mentioned in subsection *three* of section *three* of this Act or an Irish citizen or a British protected person and who has been married to a New Zealand citizen shall be entitled, on making application as aforesaid, to be registered as a New Zealand citizen, whether or not she is of full age and capacity.

20 (3) A person who has renounced, or has been deprived of, New Zealand citizenship under this Act shall not be entitled to be registered as a New Zealand citizen under the foregoing provisions of this section, but may be so registered with the approval of the

25 Minister.

(4) The Minister may, in such special circumstances as he thinks fit, cause to be registered as a New Zealand citizen any British subject or Irish citizen of full age and capacity who makes application therefor in the prescribed manner and satisfies the Minister that he has associations by way of descent, residence, or otherwise with New Zealand.

9. (1) The Minister may cause to be registered as a New Zealand citizen—

- 35 (a) An alien woman who has been married to a New Zealand citizen or to a person who would but for his death have become a New Zealand citizen by virtue of any of the provisions of section *sixteen* of this Act:

Registration
of alien
women married
to New Zealand
citizens, and
of minors.

(b) The minor child of a New Zealand citizen,— upon application made in the prescribed manner by the woman or, as the case may be, by a parent or guardian of the child.

(2) The Minister may, in such special circumstances as he thinks fit, cause any minor to be registered as a New Zealand citizen. 5

Registration
by overseas
representatives.

10. (1) The Minister may from time to time, by writing under his hand, authorize a New Zealand overseas representative in any country to exercise in that country any of the Minister's functions under the *last two preceding* sections. 10

(2) In the exercise of any such functions any New Zealand overseas representative shall act in accordance with all directions, general or special, given to him by the Minister. 15

(3) Any authority or directions under this section may be given to a specified person or to the holder for the time being of a specified office.

Effect of
registration
as a citizen.

11. A person registered under any of the *last three preceding* sections shall be a New Zealand citizen by registration as from the date on which he is registered. 20

Citizenship by Naturalization

Naturalization
of aliens.

12. (1) The Minister may grant a certificate of naturalization to any alien of full age and capacity who makes application therefor in the prescribed manner and satisfies the Minister— 25

(a) That, after attaining the age of twenty years, he has given notice in the prescribed manner, not less than one year nor more than five years before the date of his application, of his intention to apply for naturalization as a New Zealand citizen; 30

(b) That he has either resided in New Zealand or been in Crown service under the New Zealand Government, or partly the one and partly the other, throughout the period of twelve months immediately preceding the date of his application; 35

- 5 (c) That during the seven years immediately preceding the said period of twelve months he has either resided in New Zealand or Western Samoa or any other New Zealand trust territory or been in Crown service under the New Zealand Government, or partly the one and partly the other, for periods amounting in the aggregate to not less than four years;
- 10 (d) That he is of good character;
- (e) That he has sufficient knowledge of the English language;
- (f) That he has sufficient knowledge of the responsibilities and privileges of New Zealand citizenship; and
- 15 (g) That he intends in the event of a certificate being granted to him—
- (i) To reside in New Zealand or in Western Samoa or any other New Zealand trust territory; or
- 20 (ii) To enter into or continue in Crown service under the New Zealand Government, or service under an international organization of which the New Zealand Government is a member, or service in the employment of a
- 25 society, company, or body of persons established in New Zealand or established in Western Samoa or any other New Zealand trust territory.
- (2) The Minister, if in the special circumstances of
- 30 any particular case he thinks fit, may—
- (a) 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 paragraph (b) of subsection *one* of this section, as if it had immediately
- 35 preceded that date:
- (b) Allow residence in any country mentioned in subsection *three* of section *three* of this Act or in Ireland or in any protectorate, mandated territory, or trust territory, or residence in
- 40 Burma before the fourth day of January, nineteen hundred and forty-eight, to be reckoned for the purposes of paragraph (c) of subsection *one* of this section:

- (c) Allow service under the Government of any country mentioned in subsection *three* of section *three* of this Act, or of any state, province, or territory thereof, or under the Government of the Anglo-Egyptian Sudan, or service before the fourth day of January, nineteen hundred and forty-eight, under the Government of Burma, to be reckoned for the purposes of the said paragraph (c) as if it had been Crown service under the New Zealand Government: 5 10
- (d) Allow service as a member of any of His Majesty's Forces, or service as a member of any of the Armed Forces of any of His Majesty's Allies, or any service (whether military or official or otherwise) in aid of His Majesty or any of his Allies during the Second World War, to be reckoned for the purposes of the said paragraph (c) as if it had been Crown service under the New Zealand Government: 15 20
- (e) Allow periods of residence or service earlier than eight years before the date of the application to be reckoned in computing the aggregate mentioned in the said paragraph (c). 25
- (3) The Minister, if in the special circumstances of any particular case he thinks fit, may grant a certificate of naturalization to any alien of full age and capacity who makes application therefor in the prescribed manner and satisfies the Minister that he possesses the qualifications prescribed by paragraphs (b) to (g) of subsection *one* of this section. 30
- 13.** (1) The Minister may grant a certificate of naturalization to any British protected person of full age and capacity who makes application therefor in the prescribed manner and satisfies the Minister— 35
- (a) That either—
- (i) He is ordinarily resident in New Zealand and has been so resident throughout the period of twelve months immediately preceding the date of his application; or 40
- (ii) That he is in Crown service under the New Zealand Government; and

Naturalization
of British
protected
persons.

(b) That he possesses the qualifications prescribed by paragraphs (d) to (g) of subsection one of the *last preceding* section.

(2) The Minister, if in the special circumstances of any particular case he thinks fit, may grant a certificate of naturalization to any British protected person of full age and capacity who makes application therefor in the prescribed manner and satisfies the Minister that he possesses the qualifications prescribed by paragraphs (d) to (g) of subsection one of the *last preceding* section.

14. (1) No certificate of naturalization granted to any person shall have effect until he has taken an oath of allegiance in the form specified in the *First Schedule* to this Act. Oath of allegiance.

(2) The person to whom a certificate of naturalization is granted under this Act shall, on taking the oath of allegiance as aforesaid, be a New Zealand citizen by naturalization as from the date on which the certificate is granted.

Citizenship by Incorporation of Territory

15. If any territory becomes a part of New Zealand, the Governor-General may, by Order in Council, specify the persons who shall be New Zealand citizens by reason of their connection with that territory; and those persons shall be New Zealand citizens as from a date to be specified in the Order. Power to specify citizens by Order in Council on incorporation of territory.

Transitional Provisions

16. (1) A person who was a British subject immediately before the date of the commencement of this Act shall on that date become a New Zealand citizen if he possesses any of the following qualifications, that is to say— British subjects before commencement of Act becoming New Zealand citizens.

(a) That he was born within the territories comprised at the commencement of this Act in New Zealand and would have been a New Zealand citizen if section *six* of this Act had been in force at the time of his birth:

(b) That he is a person naturalized in New Zealand:

(c) That he is ordinarily resident in New Zealand, and has been so resident throughout the period of twelve months immediately preceding the commencement of this Act.

(2) A person who was a British subject immediately before the date of the commencement of this Act shall on that date become a New Zealand citizen if at the time of his birth his father was a British subject and possessed either of the qualifications specified in paragraphs (a) and (b) of the *last preceding* subsection. 10

(3) A person who was a British subject immediately before the date of the commencement of this Act shall on that date become a New Zealand citizen if he was born in Western Samoa.

(4) A woman who was a British subject immediately before the date of the commencement of this Act and has before that date been married to a person who becomes, or would but for his death have become, a New Zealand citizen by virtue of any of the foregoing provisions of this section shall on that date herself become a New Zealand citizen. 20

(5) A male person who becomes a New Zealand citizen by virtue only of subsection *two* of this section shall for the purposes of the proviso to subsection *one* of section *seven* of this Act be a New Zealand citizen by descent only. 25

Persons who have ceased to be British subjects by failure to make declaration of retention.

17. (1) Where any person whose British nationality depended upon his birth having been registered at a consulate of His Majesty has, under any enactment in force at any time before the commencement of this Act, ceased to be a British subject by reason of his failure to make a declaration of retention of British nationality after becoming of full age, that person shall, if he would but for that failure have been a British subject immediately before the commencement of this Act, be deemed for the purposes of this Act then to have been a British subject. 30

(2) A woman shall be treated for the purposes of this section as if she would have been a British subject but for her failure to make a declaration of retention of British nationality, notwithstanding that after she ceased to be a British subject she married an alien. 40

18. (1) If any person who ceased to be a British subject under the provisions of subsection one of section twelve of the British Nationality and Status of Aliens Act, 1914 (as set out in the Second Schedule to the British Nationality and Status of Aliens (in New Zealand) Act, 1928), by reason that he was a minor child of a person ceasing to be a British subject, makes a declaration within one year after the commencement of this Act or after his becoming of full age, which ever is the later, or within such longer period as the Minister may allow, of his intention to become a New Zealand citizen, and if at the date of the declaration he would, but for the provisions of the said subsection one, be a New Zealand citizen, the Minister shall cause the declaration to be registered; and thereupon that person shall become a New Zealand citizen.

Persons who have ceased to be British subjects on loss of nationality by parent. See Reprint of Statutes, Vol. I, p. 170

(2) A woman shall be treated for the purposes of this section as if she would have been a New Zealand citizen but for the provisions of subsection one of section twelve of the British Nationality and Status of Aliens Act, 1914, notwithstanding that after she ceased to be a British subject she married an alien.

19. Notwithstanding the repeal by this Act of the provisions of the British Nationality and Status of Aliens Act, 1943, as set out in the Second Schedule to the British Nationality and Status of Aliens (in New Zealand) Amendment Act, 1943, the birth of a person born before the date of the commencement of this Act may be registered after that date at a consulate of His Majesty as defined in the first-mentioned Act; and if the birth is registered in the circumstances specified in subsection two of section one of that Act, that person shall be deemed for the purposes of this Act to have been a British subject immediately before the commencement of this Act.

Registration of births occurring before commencement of Act. 1943, No. 13

20. (1) Any application for a certificate of naturalization, or for the inclusion of the name of a child in a certificate of naturalization, made before the commencement of this Act may be treated as if it were an application for a certificate of naturalization or for registration as a New Zealand citizen under this Act if the Minister is satisfied that the person to whom the application relates is qualified therefor.

Applications for naturalization pending at commencement of Act.

(2) Where a certificate of naturalization has been granted before, and the applicant takes the oath of allegiance after, the commencement of this Act the certificate shall be deemed for the purposes of this Act to have taken effect immediately before the commencement of this Act. 5

Renunciation and Deprivation of Citizenship

Renunciation of citizenship for reasons of dual citizenship or nationality.

21. (1) If any New Zealand citizen of full age and capacity who is also a citizen of any country mentioned in subsection *three* of section *three* of this Act or an Irish citizen makes a declaration in the prescribed manner of his renunciation of New Zealand citizenship the Minister shall cause the declaration to be registered; and, upon the registration, that person shall cease to be a New Zealand citizen: 10 15

Provided that the Minister may withhold registration of any such declaration if it is made by a person who is ordinarily resident in New Zealand or in Western Samoa or any other New Zealand trust territory.

(2) If any New Zealand citizen of full age and capacity who is also a national of a foreign country makes a declaration in the prescribed manner of his renunciation of New Zealand citizenship, the Minister shall cause the declaration to be registered; and, upon the registration, that person shall cease to be a New Zealand citizen: 20 25

Provided that the Minister may withhold registration of any such declaration if it is made during any war in which New Zealand may be engaged.

Deprivation of citizenship on naturalization in a foreign country, &c.

22. (1) The Minister may by order deprive any person of his New Zealand citizenship if the Minister is satisfied that that person has at any time, while a New Zealand citizen and of full age and capacity,— 30

(a) Acquired the nationality or citizenship of a foreign country by any voluntary and formal act other than marriage; or 35

(b) Voluntarily exercised any of the privileges or performed any of the duties of a foreign nationality or citizenship possessed by him,—

and that it is not conducive to the public good that he should continue to be a New Zealand citizen. 40

(2) Upon an order being made under this section in respect of any person, he shall cease to be a New Zealand citizen.

5 23. (1) A New Zealand citizen who is such by registration or is a naturalized person shall cease to be a New Zealand citizen if he is deprived of that citizenship by an order of the Minister made under this or the *next succeeding* section.

Deprivation
of citizenship
of registered
and naturalized
persons in
certain events.

10 (2) Subject to the provisions of this section, the Minister may by order deprive any such citizen of his New Zealand citizenship if he is satisfied that the registration or certificate of naturalization was obtained by means of fraud, false representation, or the concealment of any material fact.

15 (3) Subject to the provisions of this section, the Minister may by order deprive any New Zealand citizen who is a naturalized person of his New Zealand citizenship if he is satisfied that that citizen—

20 (a) Has shown himself by act or speech to be disloyal or disaffected towards His Majesty;
or

25 (b) Has, during any war in which New Zealand was engaged, unlawfully traded or communicated with an 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

30 (c) Has within five years after becoming naturalized been sentenced in any country to imprisonment for a term of not less than twelve months.

35 (4) Subject to the provisions of this section, the Minister may by order deprive any person naturalized in New Zealand of his New Zealand citizenship if he is satisfied that that person has been ordinarily resident in foreign countries for a continuous period of six years.

40 (5) The Minister shall not deprive a person of citizenship under this section unless he is satisfied that it is not conducive to the public good that that person should continue to be a New Zealand citizen.

(6) 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, if the order is proposed to be made on any of the grounds specified in subsections *two* and *three* of this section, of his right, upon making application therefor in the prescribed manner, to have his case referred for inquiry under this section. 5

(7) If the order is proposed to be made on any of the grounds specified in subsections *two* and *three* of this section and that person so applies in the prescribed manner, the Minister shall, and in any other case the Minister may, refer the case for inquiry and report either, in accordance with rules of Court, to the Supreme Court of New Zealand or, in the prescribed manner, to a committee of inquiry constituted for the purpose by the Minister or in such other manner as may be prescribed. 10 15

Deprivation of
New Zealand
citizenship of
persons
deprived
elsewhere.

24. (1) Where a naturalized person who was a citizen of any country mentioned in subsection *three* of section *three* of this Act or an Irish citizen has been deprived of that citizenship on a ground which, in the opinion of the Minister, is substantially similar to any of the grounds specified in subsections *two*, *three*, and *four* of the *last preceding* section, then, if that person is a New Zealand citizen, the Minister may, by an order made under this section, deprive him of that citizenship, if the Minister is satisfied that it is not conducive to the public good that that person should continue to be a New Zealand citizen. 20 25 30

(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 for inquiry and report in the manner provided by the *last preceding* section. 35

Saving of
obligations
incurred
before loss
of citizenship.

25. Where any person ceases to be a New Zealand citizen or a British subject he shall not thereby be discharged from any obligation, duty, or liability in respect of any act or thing done or omitted before he ceased to be a New Zealand citizen or a British subject. 40

PART III

SUPPLEMENTAL

26. (1) 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 the later, be treated, for the purpose of determining whether he is a New Zealand citizen, or was a British subject immediately before the commencement of this Act, as if he had been born legitimate.

Legitimated children.

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

27. Any references in this Act to the status or description of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as referring to the status or description of the father at the time of the father's death; and where that death occurred before, and the birth occurs after, the commencement of this Act, the status or description which would have been applicable to the father had he died after the commencement of this Act shall be deemed to be the status or description applicable to him at the time of his death.

Posthumous children.

28. The Minister may in such cases as he thinks fit certify that a person with respect to whose New Zealand citizenship a doubt exists, whether on a question of fact or of law, is a New Zealand citizen; and a certificate issued under this section shall be conclusive evidence that that person was a New Zealand citizen on the date thereof, but without prejudice to any evidence that he was a New Zealand citizen at an earlier date.

Certificate of citizenship in case of doubt.

29. The Minister or the New Zealand overseas representative, as the case may be, 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

Discretion of Minister or overseas representative.

his discretion; and the decision of the Minister or overseas representative on any such application shall not be subject to appeal or review in any Court.

Evidence.

See Reprint
of Statutes,
Vol. I, p. 159
1923, No. 46

30. (1) Every document purporting to be a notice, certificate, or declaration, or an entry in a register, or a subscription of an oath of allegiance given, granted, or made under this Act, the British Nationality and Status of Aliens (in New Zealand) Act, 1928, the British Nationality and Status of Aliens (in New Zealand) Act, 1923, or any Act repealed by the last-mentioned Act, 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 or on whose behalf it purports to have been given, granted, or made.

(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 any other Act referred to in subsection *one* of this section shall be received as evidence of the matters stated in the entry.

(4) For the purposes of this Act, a certificate given by or on behalf of the Minister that a person was at any time in Crown service under the New Zealand Government shall be conclusive evidence of that fact.

Regulations.

31. The Governor-General may from time to time, by Order in Council, make regulations generally for carrying into effect the purposes of this Act, and in particular—

- (a) For prescribing anything which under this Act is to be prescribed:
- (b) For the registration of anything required or authorized under this Act to be registered:
- (c) For the administration and taking of oaths of allegiance under this Act, for prescribing the time within which oaths of allegiance shall be taken, and for the registration of oaths of allegiance:
- (d) For the giving of any notice required or authorized to be given to any person under this Act:

- 5 (e) For the cancellation of the registration of, and the cancellation and amendment of certificates of naturalization relating to, persons deprived of citizenship under this Act, and for requiring such certificates to be delivered up for those purposes:
- 10 (f) For the registration by officers in the service of **the New Zealand Government of the births and deaths of persons of any class or description born or dying in a protected State or foreign country:**
- 15 (g) For enabling the births and deaths of New Zealand citizens and British protected persons born and dying in any country in which the New Zealand Government has for the time being no overseas representatives to be registered by persons serving in the diplomatic, consular, or other foreign service of any country which, by arrangement with the New Zealand Government, has undertaken to represent that Government's interests in that country, or by a person authorized in that behalf by the Governor-General:
- 20 (h) For the keeping of records, registers, and indexes for the purposes of this Act and for enabling persons to inspect and make copies of the same:
- 25 (i) For the imposition and recovery of fees in respect of any application made to the Minister under this Act or in respect of any registration, or the making of any declaration, or the grant of any certificate, or the taking of any oath of allegiance, authorized to be made, granted, or taken by or under this Act, and in respect of supplying a certified or other copy of any notice, certificate, order, declaration, or entry, given, granted, or made, or of the subscription of any oath taken, as aforesaid, and in respect of permitting inspections of any records, registers, and indexes kept under this Act, and in respect of any other matter arising under this Act; and for the application of any such fees:
- 30
- 35
- 40

See Reprint
of Statutes,
Vol. I, p. 1036

Ibid.,
Vol. VIII, p. 36

Offences.

Application
of Act to
Cook Islands
and Western
Samoa and
other
territories.

(j) For the practice and procedure to be followed in connection with references under this Act to a committee of inquiry; and in particular for conferring on any such committee any powers, rights, and privileges of a Commission under the Commissions of Inquiry Act, 1908, and for applying all or any of the provisions of that Act accordingly: 5

(k) For the application of the Births and Deaths Registration Act, 1924, with such adaptations and modifications as may be necessary, and in addition to or in substitution for the provisions of section *thirty* of this Act, to births and deaths registered in accordance with the regulations, or registered at a consulate of His Majesty in accordance with regulations made under the British Nationality and Status of Aliens Acts, 1914 to 1943, or in accordance with instructions of the Secretary of State of the United Kingdom, or in accordance with the instructions of the Minister. 10 15 20

32. (1) Any person who, for the purpose of procuring anything to be done or not to be done under this Act, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, shall be liable on summary conviction to imprisonment for a term not exceeding *three* months or to a fine not exceeding *fifty* pounds. 25

(2) Any person who fails to comply with any requirement imposed on him by regulations made under this Act with respect to the delivering up of certificates of naturalization shall be liable on summary conviction to a fine not exceeding *fifty* pounds. 30

33. (1) Subject to the provisions of this section, this Act shall be in force in the following territories:— 35

- (a) The Cook Islands:
- (b) The Tokelau Islands:
- (c) Western Samoa:
- (d) Every other New Zealand trust territory. 40

(2) In the application of this Act to any of the territories mentioned in subsection *one* of this section—

5 (a) References to the Minister shall be deemed to be references to the Governor-General acting on the recommendation of the Minister of Island Territories:

(b) References to the Supreme Court of New Zealand shall be deemed to be references to such Court or person as may be prescribed:

10 (c) References to the English language shall be deemed to be references to the English language or any other officially recognized language in current use in that territory.

(3) In the application of paragraph (a) of subsection *one* of section *eight*, paragraph (b) of subsection *one* of section *twelve*, and paragraph (a) of subsection *one* of section *thirteen* of this Act to any of the said territories that is not included within the definition of the term “New Zealand” in this Act, references to residence or ordinary residence in New Zealand shall be deemed to be references to residence or ordinary residence in that territory.

(4) This Act is hereby declared to be a reserved enactment for the purposes of section nine of the Samoa 1947, No. 48
25 Amendment Act, 1947.

34. (1) The enactments specified in the *Second* Schedule to this Act are hereby repealed. Repeals and savings.

(2) The provisions of the Acts of Parliament of the United Kingdom cited together as the British
30 Nationality and Status of Aliens Acts, 1914 to 1943, that immediately before the commencement of this Act were in force in New Zealand by reason of their having been adopted or declared to be part of the law of New Zealand by any of the enactments repealed by the
35 *last preceding* subsection (except sections seventeen and eighteen of the British Nationality and Status of Aliens Act, 1914) shall at the commencement of this Act cease to have effect in New Zealand. See Reprint of Statutes, Vol. I, p. 171

(3) All acts of authority that originated under any
40 of the enactments hereby repealed, and are subsisting or in force at the commencement of this Act, shall enure for the purposes of this Act as fully and effect-

ually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

(4) All matters and proceedings commenced under any of the said enactments, and pending or in progress at the commencement of this Act, may be continued and completed under this Act. 5

Consequential amendments.

35. The enactments specified in the *Third Schedule* to this Act are hereby amended in the manner indicated in that Schedule. 10

British subjects whose citizenship has not been ascertained at the commencement of this Act.

36. (1) A person who was a British subject immediately before the date of the commencement of this Act, and is not at that date a New Zealand citizen or a citizen of any country mentioned in subsection *three* of section *three* of this Act or an Irish citizen, shall remain a British subject without citizenship until he becomes a New Zealand citizen, a citizen of a country mentioned in subsection *three* of section *three* of this Act, an Irish citizen, or an alien. 15

(2) The law relating to British nationality in force in New Zealand immediately before the commencement of this Act shall continue to apply to a person while he remains a British subject without citizenship as if this Act had not been passed. 20

(3) So long as a person remains a British subject without citizenship he shall be treated for the purposes of any application made by him for registration as a New Zealand citizen under this Act as if he were a citizen of one of the countries mentioned in subsection *three* of section *three* of this Act. 25 30

SCHEDULES

Schedules.

FIRST SCHEDULE

Section 14

OATH OF ALLEGIANCE

I, A.B., swear by Almighty God that I will be faithful and bear true allegiance to His Majesty King George the Sixth his heirs and successors according to law.

SECOND SCHEDULE

Section 34

ENACTMENTS REPEALED

- 1928, No. 58.—The British Nationality and Status of Aliens (in New Zealand) Act, 1928 (except section 13). (Reprint of Statutes, Vol. I, p. 159).
 1943, No. 13.—The British Nationality and Status of Aliens (in New Zealand) Amendment Act, 1943.
 1946, No. 20.—The British Nationality and Status of Aliens (in New Zealand) Amendment Act, 1946.

THIRD SCHEDULE

Section 35

CONSEQUENTIAL AMENDMENTS

| Title of Act. | Number of Section affected. | Nature of Amendment. |
|--|-----------------------------|--|
| 1908, No. 90— The Juries Act, 1908 .. (Reprint of Statutes, Vol. IV, p. 400) | Section 5 (a) | By omitting the words “natural-born or a naturalized subject of His Majesty”, and substituting the words “British subject”. |
| 1908, No. 101— The Legislature Act, 1908 .. (Reprint of Statutes, Vol. VI, p. 447) | Section 2 (1) | By omitting from paragraph (a) of the proviso the words “either a natural-born subject of His Majesty, or a subject of His Majesty naturalized by or under any Act of the Imperial Parliament or by or under an Act of the General Assembly of New Zealand”, and substituting the words “a British subject”. |
| 1908, No. 178— The Shipping and Seamen Act, 1908 .. (Reprint of Statutes, Vol. VIII, p. 405) | Section 310 (2) | By omitting the words “natural-born or naturalized”; and by repealing the proviso. |
| 1912, No. 23— The Public Service Act, 1912 .. (Reprint of Statutes, Vol. VII, p. 535) | Section 36 (1) | By omitting the words “natural-born or naturalized subject of His Majesty”, and substituting the words “British subject”. |
| 1927, No. 44— The Electoral Act, 1927 .. (Reprint of Statutes, Vol. VI, p. 484) | Section 28 (2) | By omitting the words “either by birth or by naturalization in New Zealand”. |

By Authority: E. V. PAUL, Government Printer, Wellington.—1948.