

Serial Number 1950/158

**THE WESTERN SAMOA NEW ZEALAND PROTECTED
PERSONS ORDER 1950**

B. C. FREYBERG, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington, this 20th day of
September, 1950

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the British Nationality and New Zealand Citizenship Act, 1948, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following Order.

O R D E R

1. (1) This Order may be cited as the Western Samoa New Zealand Protected Persons Order 1950.

(2) This Order shall come into force on the 1st day of November, 1950.

2. (1) In this Order, unless the context otherwise requires,—

“ The Act ” means the British Nationality and New Zealand Citizenship Act, 1948 :

“ Foreign country ” means a foreign country as defined in section 2 (1) of the Act :

“ High Commissioner ” means the High Commissioner of Western Samoa appointed under the Samoa Amendment Act, 1947.

(2) A person shall, for the purposes of this Order, be of full age if he has attained the age of twenty-one years, or if, being a woman under that age, she has been married, and shall be of full capacity if he or she is not of unsound mind.

3. Nothing in this Order shall be construed to confer the status of New Zealand protected person on any New Zealand citizen, or on any citizen of any of the countries mentioned in section 3 (3) of the Act, or on any Irish citizen.

4. Subject to the provisions of this Order, the following classes of persons shall for the purposes of the Act be New Zealand protected persons by virtue of their connection with the New Zealand trust territory of Western Samoa, namely :—

(a) Every person born in Western Samoa before the date of the commencement of this Order who did not before that date (whether at the time of his birth or later) acquire under the law of any foreign country the nationality of that country :

(b) Every person born in Western Samoa after the commencement of this Order who does not at the time of his birth acquire under the law of any foreign country the nationality of that country :

- (c) Every person born outside Western Samoa before the date of the commencement of this Order whose father was born in Western Samoa, and who did not before that date (whether at the time of his birth or later) acquire under the law of any foreign country the nationality of that country :
- (d) Every person born outside Western Samoa after the commencement of this Order whose father was a New Zealand protected person at the time of that person's birth, and who does not at the time of his birth acquire under the law of any foreign country the nationality of that country :
- (e) Every person who is registered under this Order as a New Zealand protected person.

5. (1) Subject to the provisions of clause 3 of this Order, the High Commissioner may at his discretion, upon or subject to such conditions as he thinks fit, cause to be registered as a New Zealand protected person—

- (a) Any person of full age and capacity who but for his acquisition under the law of a foreign country of the nationality of that country would have become a New Zealand protected person under the provisions of clause 4 of this Order otherwise than by registration :
- (b) Any woman who has been married to a New Zealand protected person :
- (c) Any person of full age and capacity who has associations by way of residence or otherwise with Western Samoa :
- (d) Any minor.

(2) Such fee as the High Commissioner may direct shall be payable by any person who applies for registration as a New Zealand protected person under this clause.

6. If any New Zealand protected person of full age and capacity who is also a national of a foreign country makes a declaration in writing that he desires to renounce his status as a New Zealand protected person, the High Commissioner may cause the declaration to be registered ; and, upon registration, that person shall cease to be a New Zealand protected person.

7. Any person who, while a New Zealand protected person and of full age and capacity, acquires the nationality of a foreign country by any voluntary act other than marriage shall thereupon cease to be a New Zealand protected person.

8. Any New Zealand protected person who becomes a New Zealand citizen, or a citizen of any of the countries mentioned in section 3 (3) of the Act, or an Irish citizen, shall thereupon cease to be a New Zealand protected person.

9. (1) The High Commissioner may, by order, deprive any person who is registered as a New Zealand protected person under clause 5 of this Order of his status as a New Zealand protected person, upon breach of any condition upon or subject to which he was so registered.

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

(3) Before making an order under this clause, the High Commissioner unless he considers it impracticable to do so, shall, in such manner as he thinks fit, 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 permitting him to show cause in writing to the High Commissioner by a date to be specified in the notice why the High Commissioner should not make the order.

10. (1) The High Commissioner shall cause to be kept a register of the persons who are registered as New Zealand protected persons under this Order, and also of the persons who cease to be New Zealand protected persons by renunciation or by deprivation or (so far as they are known to the High Commissioner) in any other manner.

(2) The said register shall be open to public inspection, subject to the payment of such fee (if any) as the High Commissioner may direct.

11. (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 Order, whichever is the later, be treated, for the purpose of determining whether he is a New Zealand protected person, as if he had been born legitimate.

(2) A person shall be deemed for the purposes of this clause 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.

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

13. Where for any reason it is uncertain whether a person whose New Zealand protected status under this Order is in question possesses under the law of any foreign country the nationality of that country, the High Commissioner shall determine whether and foreign nationality, and (if the case requires it) what foreign nationality, shall be ascribed to that person for the purposes of this Order.

14. (1) Any person claiming to be aggrieved by any order or determination of the High Commissioner under clause 9 or clause 13 of this Order may, within one month after becoming aware of the order or determination, appeal therefrom to the High Court of Western Samoa.

(2) On any such appeal the High Court may, in its discretion and upon or subject to such conditions as it thinks fit, confirm, reverse, or modify the order or determination appealed from.

T. J. SHERRARD,
Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette*: 21st day of September, 1950.

These regulations are administered in the Department of Island Territories.