

BRUNEI NATIONALITY ACT (CHAPTER 15)

LAWS OF BRUNEI

CHAPTER 15

BRUNEI NATIONALITY ACT

4 of 1961

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S 43/00

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Section

ARRANGEMENT OF SECTIONS

1. Citation.
2. Interpretation.
3. National status.
4. Subject of His Majesty by operation of law.
5. Subject of His Majesty by registration.
6. Registration of minors.
7. Effect of registration as a subject of His Majesty.
8. Subject of His Majesty by naturalisation.
9. Loss of status of subject of His Majesty.
10. Renunciation of status of subject of His Majesty.

11. Deprivation of status of subject of His Majesty.
12. Saving of obligations incurred before loss of national status.
13. Decision of His Majesty not subject to appeal or review.
14. Birth on ship.
15. Language Board.
16. Evidence.
17. Offences.
18. Power of His Majesty in Council to make regulations.

FIRST SCHEDULE — MEMBERS OF GROUPS OF PEOPLE WHO ARE CONSIDERED TO BE INDIGENOUS TO BRUNEI DARUSSALAM WITHIN THE MEANING OF THIS ACT

SECOND SCHEDULE — OATHS OF ALLEGIANCE

BRUNEI NATIONALITY ACT

An act to make provision for the status of a subject of His Majesty the Sultan and Yang Di-Pertuan, for the acquisition and loss of such status and for other purposes connected therewith

Commencement: 1st January 1962

Citation.

1. This Act may be cited as the Brunei Nationality Act.

Interpretation.

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

“child” includes any child whose adoption has been registered in accordance with any written law in force in Brunei Darussalam;

“citizen of the United Kingdom and Colonies” means a person who is a citizen of the United Kingdom and Colonies under the British Nationality Act 1948;

“minor” means a person who has not attained the age of 18 years reckoned according to the Gregorian calendar;

“appointed day” means the 1st day of January 1962.

(2) A person shall for the purposes of this Act be of full capacity if he has attained the age of 18 years reckoned according to the Gregorian calendar and is of sound mind.

(3) For the purposes of this Act, any reference therein to a woman who is, or has been, married shall be deemed to refer only to a woman whose marriage has been registered in accordance with any written law in force in Brunei Darussalam or in accordance with any regulations made under this Act.

(4) Any reference 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 a reference 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 appointed day, the status or description which would have been applicable to the father had he died after the appointed day shall be deemed to be the status or description applicable to him at the time of his death.

National status.

3. A subject of His Majesty the Sultan and Yang Di-Pertuan shall have the status of a national of Brunei Darussalam.

Subject of His Majesty by operation of law.

4. (1) On and after the appointed day the following persons, and no others, shall be subjects of His Majesty by operation of law —

(a) any person born in Brunei Darussalam before, on or after the appointed day who is commonly accepted as belonging to one of the following indigenous groups of the Malay race, namely, Belait, Bisayah, Brunei, Dusun, Kedayan, Murut or Tutong and any person born outside Brunei Darussalam before, on or after the appointed day, whose father was, at the time of birth of such person, a subject of His Majesty by operation of law under this paragraph or paragraph

(c) (i) and was employed outside Brunei Darussalam in the service of the Government, by any company registered in Brunei Darussalam or in such special circumstances as His Majesty thinks fit, if the birth of such person was registered at a Brunei Consulate or in Brunei Darussalam within 6 months of its

occurrence, or such longer period as His Majesty may in any particular case allow;

[S 43/00]

(b) any person born in Brunei Darussalam before, on or after the appointed day whose father and mother were both born in Brunei Darussalam and are members of any of the groups of people specified in the First Schedule to this Act and any person born outside Brunei Darussalam before, on or after the appointed day, whose father was, at the time of birth of such person, a subject of His Majesty by operation of law under this paragraph of paragraph (c) (ii) and was employed outside Brunei Darussalam in the service of the Government, by any company registered in Brunei Darussalam or in such special circumstances as His Majesty thinks fit, if the birth of such person was registered at a Brunei Consulate or in Brunei Darussalam within 6 months of its occurrence, or such longer period as His Majesty may in any particular case allow;

[S 43/00]

(c) any person born outside Brunei Darussalam before, on or after the appointed day —

(i) whose father was, at the time of birth of such person, a person born in Brunei Darussalam before, on or after the appointed day and was a person commonly accepted as belonging to one of the following indigenous groups of the Malay race, namely, Belait, Bisayah, Brunei, Dusun, Kedayan, Murut or Tutong; or

(ii) whose father and mother were both born in Brunei Darussalam and were members of any of the groups specified in the First Schedule to this Act;

(d) any person born in Brunei Darussalam on or after the appointed day whose father was, at the time of the birth of such person, a subject of His Majesty; and any person outside Brunei Darussalam before, on or after the appointed day, whose father was, at the time of birth of such person, a subject of His Majesty and was employed outside Brunei Darussalam in the service of the Government, by any company registered in Brunei Darussalam or in such special circumstances as His Majesty thinks fit, if the birth of such person was registered at a Brunei Consulate or in Brunei Darussalam within 6 months of its occurrence, or such longer period as His Majesty may in any particular case allow; and

[S 43/00]

(e) any person born outside Brunei Darussalam on or after the appointed day whose father was at the time of birth of such person a subject of His Majesty

by registration under section 5 or 6 or by naturalisation under section 8, if the birth was registered at a Brunei Darussalam Consulate or in Brunei Darussalam within 6 months of its occurrence, or such longer period as His Majesty may in any particular case allow.

[S 43/00]

(2) His Majesty may from time to time by notification in the *Gazette* amend, repeal, add to or vary the First Schedule to this Act.

Subject of His Majesty by registration.

5. (1) Subject as hereinafter provided a person, not being a minor, born in Brunei Darussalam before, on or after the appointed day, who is not a subject of His Majesty, shall be eligible on making application in the prescribed manner to be registered as a subject of His Majesty if he satisfies His Majesty that he —

(a) has within the period of 15 years immediately preceding the date of his application for registration resided in Brunei Darussalam for periods amounting in the aggregate to not less than 12 years; and

(b) has resided in Brunei Darussalam throughout the 2 years immediately preceding the date of his application.

(2) In calculating the period of residence in Brunei Darussalam for the purposes of subsection (1) of this section any period of absence from Brunei Darussalam —

(a) for purposes of education of such kinds in such countries and during such periods as may from time to time be either generally or specially approved by His Majesty in Council* for the purposes of such subsection; or

(b) while on duty in the service of His Majesty, where His Majesty is satisfied that such period is consistent with essential continuity of residence; or

(c) between the 1st day of July 1941, and the 31st day of December 1946, in the case of a person who was residing in Brunei Darussalam for a period of 5 years immediately preceding such absence; or

(d) for reasons of health or any other cause prescribed generally or specially by His Majesty in Council*,

shall be treated as residence in Brunei Darussalam.

(3) In calculating the period of residence in Brunei Darussalam for the purposes of subsection (1) of this section any period of residence in Brunei Darussalam —

(a) during which a person was not lawfully resident in Brunei Darussalam; or

* Transferred to His Majesty the Sultan and Yang Di-Pertuan — [S29/95]

(b) spent as an inmate of any prison or as a person detained in lawful custody in any place other than in a mental hospital under the provisions of any written law in Brunei Darussalam; or

(c) during which a person is allowed to remain temporarily in Brunei Darussalam under the authority of any pass or permit issued under the provisions of any written law in Brunei Darussalam,

shall not be treated as residence in Brunei Darussalam:

Provided that the period mentioned in paragraph (c) may be treated as residence with the consent of His Majesty in Council*.

(4) For the purposes of this Act a person shall be deemed to be resident in Brunei Darussalam on a particular day if he had been resident in Brunei Darussalam before that day and that day is included in any such period of absence as is referred to in subsection (2) of this section.

(5) No person shall be eligible to be registered under subsection (1) unless —

(a) His Majesty is satisfied that he has been examined by a Language Board and such Board has advised His Majesty that he —

(i) has a knowledge of the Malay language to such a degree of proficiency as may be prescribed; and

(ii) is able to speak the Malay language with proficiency or is unable to speak such language with proficiency by reason of a physical impediment or an impediment of speech or hearing;

(b) His Majesty is satisfied that he is of good character; and

(c) he has taken the oath in the form set out in the Second Schedule.

(6) Subject as hereinafter provided a woman who —

(a) is not a subject of His Majesty; and

(b) is or has been married to a subject of His Majesty,

* Transferred to His Majesty the Sultan and Yang Di-Pertuan — [S29/95]

shall, on making application therefor to His Majesty in the prescribed manner, be eligible to be registered as a subject of His Majesty, whether or not she is of full capacity:

Provided that no woman shall be eligible to be registered under this subsection —

(A) unless she —

(i) satisfies His Majesty that she is of good character; and

(ii) has taken the oath in the form set out in the Second Schedule to this Act; or

(B) if at the time of her application she has ceased to be married to a subject of His Majesty and has married a man who is not a subject of His Majesty.

(7) A person who has renounced, or has been deprived of, the status of a subject of His Majesty conferred by or under this Act, shall not be eligible to be registered as a subject of His Majesty under this section, but may be so registered with the approval of His Majesty.

Registration of minors.

6. (1) His Majesty may cause the minor child of any subject of His Majesty to be registered as a subject of His Majesty upon application made in the prescribed manner by a parent or guardian of the child.

(2) His Majesty may, in such special circumstances as he thinks fit, cause any minor to be registered as a subject of His Majesty.

(3) For the purposes of this section “parent” in relation to a child whose adoption has been registered means the adopter.

Effect of registration as a subject of His Majesty.

7. A person registered under section 5, 6 or subsection (4) of section 9 shall be a subject of His Majesty as from the date on which he is registered.

Subject of His Majesty by naturalisation.

8. (1) His Majesty may, if application therefor is made to him in the prescribed manner by any person who is not a subject of His Majesty and who is of full capacity, grant to such person a certificate of naturalisation if he satisfies His Majesty that he —

(a) has within the period of 25 years immediately preceding the date of his application resided in Brunei Darussalam for periods amounting in the aggregate to not less than 20 years; and

(b) has resided in Brunei Darussalam throughout the 2 years immediately preceding the date of his application; and

(c) is of good character; and

(d) is not likely to become a charge on Brunei Darussalam; and

(e) has been examined by a Language Board and such Board is satisfied that he —

(i) has a knowledge of the Malay language to such a degree of proficiency as may be prescribed; and

(ii) is able to speak the Malay language with proficiency or is unable to speak such language with proficiency by reason of a physical impediment or an impediment of speech or hearing; and

(f) has made a declaration that he intends, in the event of a certificate being granted to him, to settle permanently in Brunei Darussalam.

(2) In calculating the period of residence in Brunei Darussalam for the purposes of subsection (1) of this section any period of absence from Brunei Darussalam —

(a) for purposes of education of such kinds in such countries and during such periods as may from time to time be either generally or specially approved by His Majesty in Council* for the purposes of such subsection; or

(b) while on duty in the service of His Majesty, where His Majesty is satisfied that such period is consistent with essential continuity of residence; or

(c) between the 1st day of July 1941, and the 31st day of December 1946, in the case of a person who was residing in Brunei Darussalam for a period of 5 years immediately preceding such absence; or

(d) for reasons of health or any other cause prescribed generally or specially by His Majesty in Council*,

* Transferred to His Majesty the Sultan and Yang Di-Pertuan — [S 29/95]

shall be treated as residence in Brunei Darussalam.

(3) In calculating the period of residence in Brunei Darussalam for the purposes of subsection (1) of this section any period of residence in Brunei Darussalam —

(a) during which a person was not lawfully resident in Brunei Darussalam; or

(b) spent as an inmate of any prison or as a person detained in lawful custody in any other place other than in a mental hospital under the provisions of any written law in Brunei Darussalam; or

(c) during which a person is allowed to remain temporarily in Brunei Darussalam under the authority of any pass or permit issued under the provisions of any written law in Brunei Darussalam,

shall not be treated as residence in Brunei Darussalam:

Provided that the period mentioned in paragraph (c) may be treated as residence with the consent of His Majesty in Council*.

(4) For the purposes of this Act a person shall be deemed to be resident in Brunei Darussalam on a particular day if he had been resident in Brunei Darussalam before that day and that day is included in any such period of absence as is referred to in subsection (2) of this section.

(5) The person to whom a certificate of naturalisation is granted under this section shall, on taking the oath in the form set out in the Second Schedule, be a subject of His Majesty by naturalisation as from the date on which that certificate is granted.

Loss of status of subject of His Majesty.

9. (1) Subject as hereinafter provided, where a person who is a subject of His

Majesty has, at any time after the appointed day, absented himself from Brunei Darussalam, for a continuous period of 5 years and is unable to provide proof to the satisfaction of His Majesty that he has maintained substantial connection with Brunei Darussalam during that period, such person shall cease to be a subject of His Majesty.

* Transferred to His Majesty the Sultan and Yang Di-Pertuan — [S 29/95]

(2) A person who has absented himself from Brunei Darussalam for the aforesaid period of 5 years but who, before the expiration thereof, has made application in the prescribed manner to His Majesty for a certificate that such person is maintaining substantial connection with Brunei Darussalam shall not, because of his absence during that period, cease to be a subject of His Majesty unless and until he has been notified that such application has been refused. The grant of any such certificate shall be at the absolute discretion of His Majesty.

(3) A person who is a subject of His Majesty under section 4(1) (a) ,

(b) , (c) , (d) or (e) shall not cease to be a subject of His Majesty under this section if, on such cesser, he would have nonational status.

(4) If any person who has ceased to be a subject of His Majesty under this section, resumes residence within Brunei Darussalam, he may apply to His Majesty, in the prescribed manner and subject to any conditions that may be prescribed, for registration as a subject of His Majesty and His Majesty may, in his discretion, cause him to be registered as such.

(5) A person who has the status of a subject of His Majesty shall cease to have such status if —

(a) he voluntarily acquires the nationality or citizenship of any

State or country outside Brunei Darussalam; or

(b) being a woman who has acquired such status by registration under Proviso (B) to section 5(6), she acquires by reason of her subsequent marriage the nationality or citizenship of her husband being the nationality or citizenship of any State or country outside Brunei Darussalam.

Renunciation of status of subject of His Majesty.

10. If any person of full capacity who is a subject of His Majesty makes a declaration in the prescribed manner of renunciation of the status of a subject of His Majesty, His Majesty shall cause the declaration to be registered; and, upon the registration, that person shall cease to be a

subject of His Majesty: Provided that His Majesty may withhold registration of any such declaration if it is made during a period of emergency declared as such, at or after its commencement, by His Majesty in Council for the purposes of this section.

Deprivation of status of subject of His Majesty.

11. (1) A subject of His Majesty shall cease to have such status if he is deprived of that status by an order of His Majesty in Council made under this section.

(2) Subject to the provisions of this section, His Majesty in Council may by order deprive any person who is a subject of His Majesty —

(a) by registration; or

(b) by naturalisation,

of that status if he is satisfied that the registration of such person or the certificate of naturalisation granted to him under this Act was obtained by means of fraud, false representation or by concealment of any material fact or was made or granted by mistake:

Provided that no person shall be deprived, under the provisions of this section, of the status of a subject of His Majesty on the grounds of mistake unless notice of the intention so to do has been served on him or published in the *Gazette* within 24 months of the date of registration or the grant of a certificate, as the case may be.

(3) Subject to the provisions of this section, His Majesty in Council may by order deprive any person who is a subject of His Majesty —

(a) by registration; or

(b) by naturalisation,

of that status if he is satisfied that, subsequent to registration or subsequent to the grant of a certificate of naturalisation under this Act that person —

(a) has shown himself by act or speech to have the intent to be disloyal or disaffected towards His Majesty; or

(b) has exercised any right, power or privilege to which he may be eligible by

reason of any nationality or citizenship; or

(c) has, during any war in which His Majesty is 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 manner as to assist an enemy in that war; or

(d) has within 5 years after registration or becoming naturalised, been sentenced in any other country to death or to imprisonment, by whatever name called, for a term exceeding 12 months and has not received a free pardon:

Provided that no order shall be made on any of the grounds specified in this subsection in the case of a subject of His Majesty who would, on being deprived of such status, have no national status; unless His Majesty in Council is, in the exercise of his discretion, satisfied that such a person is in a position effectively to enjoy the protection of some other State and to proceed thereto if he so wishes without thereby endangering his personal safety.

(4) Before making an order under this section His Majesty in Council shall cause to be given to the person against whom the order is proposed to be made a notice in writing informing him of the ground on which it is proposed to be made and of his right to an inquiry under this section.

(5) If the person against whom the order is proposed to be made applies in the prescribed manner for an inquiry His Majesty in Council shall refer the case to a Committee of Inquiry consisting of a chairman, being a person possessing judicial experience, appointed by His Majesty, and of such other members appointed by His Majesty as he thinks proper.

(6) His Majesty in Council shall not make an order under this section unless he is satisfied that it is not conducive to the public good that the person against whom the order is proposed to be made should continue to be a subject of His Majesty.

Saving of obligations incurred before loss of national status.

12. Where a subject of His Majesty ceases to be a subject of His Majesty, he shall not thereby be discharged from any obligations, duty or liability in respect of any act done before he ceased to be a subject of His Majesty.

Decision of His Majesty not subject to appeal or review.

13. His Majesty shall not be required to assign any reason for the grant or refusal of any application under this Act, and the decision of His Majesty on

any such application shall not be subject to appeal to or review in any court.

Birth on ship.

14. (1) Birth on board a ship registered or belonging to the Government of Brunei Darussalam shall be deemed to be birth in Brunei Darussalam.

(2) A person born on board a registered ship or on board an unregistered ship of any country shall be deemed to have been born in the place in which the ship was registered or, as the case may be, in that country.

Language Board.

15. (1) There shall be one or more Language Boards each of which shall consist of a Chairman and 2 other members appointed by His Majesty in Council*. Any such Board may act by a majority of the members thereof.

(2) It shall be the duty of a Language Board to advise His Majesty in accordance with such regulations as may be prescribed whether any person applying for registration or naturalisation under the Act has a knowledge of the Malay language to such a degree of proficiency as may be prescribed and is able to speak that language with proficiency or is unable to speak such language with proficiency by reason of a physical impediment or impediment of speech or hearing.

Evidence.

16. (1) Every document purporting to be a notice, certificate, order or declaration, or an entry in a register or a subscription of an oath, given, granted or made under this 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 whom 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.

* Transferred to His Majesty the Sultan and Yang Di-Pertuan — [S29/95]

Offences.

17. 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 any

material particular, or recklessly makes any statement which is false in any material particular, shall be guilty of an offence: Penalty imprisonment for 3 years and a fine of \$10,000.

Power of His Majesty in Council* to make regulations.

18. His Majesty in Council* may by regulations make provision generally for carrying into effect the purposes of this Act, and in particular —

- (a) for prescribing, anything which under this Act may be prescribed;
- (b) for the registration of anything required or authorised under this Act to be registered;
- (c) for prescribing forms of declaration, the administration and taking of oaths, the time within which such oaths shall be taken and the registration of such oaths;
- (d) for the giving of any notice required or authorised to be given to any person under this Act;
- (e) for the procedure to be followed by a Language Board for ascertaining the ability of any person to speak the Malay language with proficiency or by persons applying for registration or for certificates of naturalisation under this Act, the evidence to be required from such person as to their qualifications for the status of a subject of His Majesty, including evidence of ability to speak the Malay language with proficiency, and for imposing penalties for requiring any consideration for supplying any reference that may be required by any prescribed form;
- (f) for the issue of certified copies of documents made, and extracts from registers kept, under this Act, for the cancellation and amendment of entries in a register and of certificates and of certified copies of entries in a register and of certificates prepared under this Act and relating to persons who lose the status of a subject of His Majesty under this Act, and for requiring such documents to be delivered up for those purposes;

* Transferred to The Minister with the approval of His Majesty the Sultan and Yang Di-Pertuan — [S 29/95]

(g) for the imposition and recovery of fees in respect of any application made under this Act or in respect of any registration, or the making of any declaration, or the grant of any certificates, or the taking of any oath, authorised 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 as aforesaid; and for the application of any such fees;

(h) for the issue of certificates that a person has produced *prima facie* proof that he is a subject of His Majesty by operation of law;

(i) for the delegation of any of the powers conferred by this Act;

(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 or privileges of any court and for enabling any powers so conferred to be exercised by one or more members of the committee;

(k) for prescribing penalties for the breach of any of the provisions of such regulations; and

(l) for providing for the publication by persons applying for certificates of naturalisation under section 8 of notice of intention to apply for such certificates, and for the hearing and disposal of any objections lodged in respect of any such notices.

FIRST SCHEDULE

(section 4)

MEMBERS OF GROUPS OF PEOPLE WHO ARE CONSIDERED TO BE INDIGENOUS TO BRUNEI DARUSSALAM WITHIN THE MEANING OF THIS ACT

Bukitans Dayaks (sea) Dayaks (land) Kalabits Kayans

Kenyahs (including Sabups and Sipengs)

Kajangs (including Sekapans, Kejamans, Lahanans, Punans, Tanjongs and Kanowits)

Lugats Lisums Melanaus Penans Sians Tagals Tabuns Ukits

and any admixture of the above with each other, or with a subject under section 4(1) (a) .

SECOND SCHEDULE

(section 5(5) (c) , proviso (A) (ii) of section 5(6) and section 8(5))

OATHS OF ALLEGIANCE

I
of.....

.....
declare on oath that I will not exercise the rights, powers and privileges to which I may be eligible by reason of any nationality or citizenship, and that I absolutely and entirely renounce and abjure all loyalty to any country, state or sovereign, and

I.....
do swear that I will truly give wholehearted affection to Brunei Darussalam and do swear that I will be faithful and bear true allegiance to His Majesty the Sultan and Yang Di- Pertuan of Brunei Darussalam and His Successors according to the law.