

The Bangladesh Citizenship Act, 1951

Act No. II of 1951

[13th April, 1951]

An Act to provide for Bangladesh Citizenship

Whereas it is expedient to make provisions for Citizenship of Bangladesh:

It is hereby enacted as follows:

1. Short title and commencement: (1) This Act may be called the Bangladesh Citizenship Act, 1951. (2) It shall come into force at once.

2. Definitions - In this Act

“Alien” means a person who is not a citizen of Bangladesh or a commonwealth citizen:

‘Indo-Bangladesh “Sub-continent” means India as defined in the Government of India Act, 1935, as originally enacted;

“Minor” means, notwithstanding anything in the Majority Act. 1875, any person who has not completed the age of twenty-one years;

“Prescribed” means prescribed by rules made under this Act;

“Commonwealth citizen” means a person who has the status of a Commonwealth citizen under the British Nationality Act. 1948;

“British protected person” means a person who has the status of British Protected person for the purposes of the British Nationality Act. 1948;

3. Citizenship at the date of commencement of this Act. At the commencement of this Act every person shall be deemed to be a citizen of Bangladesh.

a) Who or any of whose parents or grandparents was born in the territory now included in Bangladesh and who after the fourteenth day of August. 1947, has not been permanently resident in any country outside Bangladesh; or

b) Who or any of whose parents or grandparents was born in the territories included in India on the thirty first day of March, 1937, and who except in the case of a person who was in the service of Bangladesh or of any Government or Administration in Bangladesh at the commencement of this Act has or had his domicile within the meaning of Part II of the Succession Act, 1925, as in force at the commencement of this Act, in Bangladesh or in the territories now included in Bangladesh; or

c) Who is a person naturalised as a British subject in Bangladesh; and who, if before the date of the commencement of this Act he has acquired the citizenship of any foreign State, has before, that date renounced the same by

depositing a declaration in writing to that effect with an authority appointed or empowered to receive it;

- d) Who before the commencement of this Act migrated to the territories now included in Bangladesh from any territory in the Indo-Bangladesh sub-continent outside those territories with the intention of residing permanently in those territories.

#### Comments on Section 3 (d)

##### Section 3(d)

Migration-word “migration” has the notion of change of allegiance from the country of departure to the country of arrival-it envisages two conceptions : (a) going away from the territory of another and (b) the intention to abandon the domicile of the country of departure and to acquire the domicile of the country of arrival for permanently residing there.

4. Citizenship by birth: Every person born in Bangladesh after the commencement of this Act shall be a citizen of Bangladesh by birth:

Provided that a person shall not be such a citizen by virtue of this section if at the time of this birth-

- a) his father possesses such immunity from suit and legal process as is accorded to an envoy of an external sovereign power accredited in Bangladesh and is not a citizen of Bangladesh; or
- b) his father is an enemy alien and the birth occurs in a place then under occupation by the enemy.

5. Citizenship by descent : Subject to the provisions of section 3 a person born after the commencement of this Act. shall be a citizen of Bangladesh by descent if his father is a citizen of Bangladesh at the time of his birth:

Provided that if the father of such person is a citizen of Bangladesh by descent only, that person shall not be citizen of Bangladesh by virtue of this section unless.

- a) that person's birth having occurred in a country outside Bangladesh the birth is registered at a Bangladesh Consulate or Mission in that country, or where there is no Bangladesh Consulate or Mission in that country at the prescribed Consulate or Mission or at a Bangladesh Consulate or mission in the country nearest to that country; or
- b) that person's father is, at the time of the birth in the service of any Government in Bangladesh.

6. Citizenship by migration - (1) The central Government may, upon his obtaining in certificate of domicile under this Act, register as a citizen of Bangladesh by migration any person who after the commencement of this Act and before the first day of January 1952 has migrated to the territories now included in Bangladesh from any territory in the Indo-Bangladesh sub-continent outside those territories, with the intention of residing permanently in those territories;

Provided that the Central Government may, by general or special order, exempt any person or class of persons from obtaining a certificate of domicile required under this sub-section.

(2) Registration granted under the preceding sub-section shall include, besides the person himself, his wife, if any, unless his marriage with her has been dissolved, and any minor child of his dependent whether wholly or partially upon him.

7. Persons migrating from the territories of Bangladesh - Notwithstanding anything in section 3, 4 and 6, a person who has after the first day of March, 1947, migrated from the territories now included in Bangladesh to the territories now included in India has returned to the territories now included in Bangladesh under a permit for resettlement or permanent return issued by or under the authority of any law for the time being in force.

#### Comments on section 7

Section 7 of the Bangladesh Citizenship Act does not provide circumstances under which an admitted citizen of Bangladesh can lose his Bangladesh citizenship.

Read with Foreigners Act, 1946, Sect. 9

Loss of citizenship-Burden of Proof

The accused persons, who were admittedly citizens of Bangladesh, is alleged to have lost their Bangladesh citizenship by going to India on the basis of a migration certificate. On question of burden of proof it was held.

Their Bangladesh citizenship being admitted, it is for the prosecution to prove that they lost the same after their entry into territory.

Loss of citizenship-Citizens of Bangladesh do not lose their Bangladesh citizenship by their entry into India and temporary stay in that country on the basis of a migration certificate.

The accused persons, after obtaining a migration certificate from the Deputy High Commissioner for India in Bangladesh went to India in November, 1964 when abnormal situation was prevailing in some areas in East Bangladesh. But the accused persons, evidence shows only after about 1.5 months again came back to their village home in Bangladesh and started living there. When in 1937 they were charged under section 14 of the Foreigners Act for staying in Bangladesh without any valid document, question arose if by their entry into India and temporary stay in that country on the basis of the aforesaid migration certificate they had ceased to be citizens of Bangladesh by operation of section 7 of Bangladesh citizenship Act.

Held : in the facts of this case as stated above, the respondents, who were admittedly the citizens of Bangladesh before their departure for India, did not lose their Bangladesh citizenship by their entry into India and their temporary stay in that country in the then abnormal situation obtaining in some areas in East Bangladesh.<sup>4</sup>

8. Rights of Citizenship of certain persons residence abroad. The Central Government may, upon application made to it in this behalf, register as a citizens of Bangladesh any person who, or whose father or whose father's father, was born in the Indo-Bangladesh sub-continent and who is ordinarily resident in a country outside Bangladesh at the commencement of this Act, if he has, unless exempted by the Central Government in this behalf, obtained a certificate of domicile:

Provided that a certificate of domicile shall not be required in the case of any such person who is out of Bangladesh under the Protection of a Bangladesh passport, or in the case of any such person whose father or whose father's father is at the commencement of this Act residing in Bangladesh or becomes, before the aforesaid application is made, a citizen of Bangladesh.

9. Citizenship by naturalization. The Central Government may, upon an application made to it in that behalf by any person who has been granted a certificate of naturalization under the Naturalization Act. 1926, register that person as a citizen of Bangladesh by naturalization:

Provided that the Central Government may register any person as a citizen of Bangladesh without his having obtained a certificate of naturalization as aforesaid.

10. Married Women : (1) Any woman who by reason of her marriage to a British subject before the first day of January, 1949, has acquired the status of a British subject shall, if her husband becomes a citizen of Bangladesh, be a citizen of Bangladesh.

(2) Subject to the provisions of sub-section (1) and sub-section (4) a woman who has been married to the citizen of Bangladesh or to a person who but for his death would have been a citizen of Bangladesh under section 3, 4, or 5 shall be entitled, on making application therefore to the Central Government in the prescribed manner, and, if she is an alien, on obtaining a certificate of domicile and taking the oath of allegiance in the form set out the schedule to this Act, to be registered as a citizen of Bangladesh whether or not she has completed twenty-one years of her age and is of full capacity.

(3) Subject as aforesaid, a woman who has been married to a person who, but for his death, could have been a citizen of Bangladesh under the provisions of sub-section (1) of section 6 (whether he migrated as provided in that sub-section or is deemed under the proviso to section 7 to have so migrated) shall be entitled as provided in sub-section (2) subject further, if she is an alien, to her obtaining the certificate and taking the oath therein mentioned.

(4) A person who has ceased to be a citizen of Bangladesh under section 14 or who has been deprived of citizenship of Bangladesh under this Act shall not be entitled to be registered as a citizen thereof under this section but may be so registered with the previous consent of the Central Government.

11. Registration of minors - (1) The Central Government may, upon application to it in this behalf made in the prescribed manner by a parent or guardian of a minor child of a citizen of Bangladesh, register the child as a citizen of Bangladesh.

(2) The Central Government may, in such circumstance as it thinks fit, register any minor as a citizen of Bangladesh

12. Citizenship by registration to begin on date of registration - Any person registered as a citizen of Bangladesh shall be such a citizen from the date of his registration.

13. Citizenship by incorporation of territory - If any territory becomes a part of Bangladesh the Governor-General may, by order, specify the persons who shall be citizens of Bangladesh by reason of their connection with that territory and those persons shall be citizens of Bangladesh from such date and upon such condition, if any, as may be specified in the order.

14. Dual Citizenship or nationality not permitted - (1) Subject to the provisions of this section if any person is a citizen of Bangladesh under the provisions of this Act, and is at the same time a citizen or national of any other country, he shall unless he makes a declaration according to the laws of that other country renouncing his status as citizen or national thereof, cease to be a citizen of Bangladesh.

(1A) Nothing in this sub-section (1) applies to a person who has not attained twenty-one years of his age.

(2) Nothing in sub-section (1) shall apply to any person who is a subject of an Acceding state so far as concerns his being a subject of that state.

15. Persons becoming citizens to have the status of commonwealth citizens. Every person becoming a citizen of Bangladesh under this Act shall have the status of a commonwealth citizen.

16. Deprivation of citizenship - (1) A citizen of Bangladesh shall cease to be a citizen of Bangladesh if he is deprived of that citizenship by an order under the next following sub-section.

(2) Subject to the provisions of this section the central Government may be order deprive any such citizen of his citizenship if it is satisfied that he obtained his certificate of domicile or certificate of naturalisation under the Naturalisation Act, 1926 by means of fraud, false representation or the concealment of any material fact, or if his certificate of naturalisation is revoked.

(3) Subject to the provisions of this section the Central Government may be order deprive any person who is a citizen of Bangladesh by naturalisation of his citizenship of Bangladesh if it is satisfied that citizen-

- a) has shown himself by any act or speech to be disloyal or disaffected to the constitution of Bangladesh; or
- b) has, during a war in which Bangladesh is or has been engaged, unlawfully traded or communicated with the enemy or engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist the enemy in that war; or
- c) has within five years of being naturalised been sentenced in any country to imprisonment for a term of not less than twelve months.

(4) The Central Government may on an application being made or on its own motion by order deprive any citizen of Bangladesh of his citizenship if it is satisfied that he has been ordinarily resident in a country outside Bangladesh for a continuous period of seven years beginning not earlier than the commencement of this Act and during that period has neither-

- i. been at any time in the service of any Government in Bangladesh or of an international organisation of which Bangladesh has, at any time during that period been a member, or
- ii. registered annually in the prescribed manner at a Bangladesh Consulate or Mission or in a country where there is no Bangladesh Consulate or Mission at the prescribed Consulate or Mission or at a Bangladesh Consulate or Mission in a country nearest to the country of his residence his intention to retain Bangladesh citizenship.

(5) The Central Government shall not make an order depriving a person of citizenship under this section unless it is satisfied that it is in the public interest that person should not continue to be citizen of Bangladesh.

(6) Before making an order under this section Central Government shall give person against whom it is proposed to make the order notice in writing informing him of the grounds on which it is proposed to make the order and calling upon him to show cause why it should not be made.

(7) If it is proposed to make the order on any of the grounds specified in subsection (2) and (3) of this section and the person against whom it is proposed to make the order applies in the prescribed manner for an inquiry, the Central Government shall, and in any other case may, refer the case to a committee of inquiry consisting of a chairman being a person possessing judicial experience,

appointed by the Central Government and of such other members appointed by the Central Government as it thinks proper.

17. Certificate of Domicile - The Central Government may upon an application being made to it in the prescribed manner containing the prescribed particulars grant a certificate of domicile to any person in respect of whom it is satisfied that he has ordinarily resided in Bangladesh for a period of no less than one year immediately before the making of the application, and has acquired a domicile herein.

18. Delegation of Powers - The Central Government may, by order notified in the official Gazette, direct that any power conferred upon it or duty imposed on it by this Act, shall, in such circumstance, and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such authority or officer as may be specified.

19. Cases of doubt as to citizenship - (1) Where a person with respect to whose citizenship a doubt exists, whether on a question of law or fact, makes application in that behalf to the Central Government, the Central Government may grant him a certificate that at the date of the certificate he is a citizen of Bangladesh.

(2) The certificate, unless it is proved to have been obtained by fraud, false representation or concealment of any material fact, shall be conclusive evidence of the fact recorded in it.

20. Acquisition of Bangladesh citizenship by citizens of commonwealth countries - The Central Government may upon such terms and conditions as it may by general or special order specify register of Commonwealth citizen or a British protected person as a citizen of Bangladesh.

21. Penalties - Any person who in order to obtain or prevent the doing of anything under the Act makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, shall be deemed to have committed an offence punishable under section 177 of the Bangladesh Penal Code.

22. Interpretation - (1) For the purpose of this Act, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the Government of any 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.

(2) Any reference in this Act to the status or description of the father of the 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 commencement of this Act, the status or description applicable to him at the time of his death.

23. Rules - (1) The Central Government may frame rules for carrying into effect the provisions of this Act.

(2) No rule framed under this Act shall have effect unless published in the official Gazette.

#### Schedule

(Form of oath or affirmation)

(See section 10)

“I (name) of (address) do hereby swear (or affirm) that I will be faithful and bear true allegiance to the Constitution of Bangladesh.”