

BANTU HOMELANDS CITIZENSHIP ACT, 1970.

Act No. 26, 1970

ACT

To provide for citizenship of certain Bantu homelands and for the issue of certificates of citizenship to Bantu persons; in connection therewith to amend certain laws; and to provide for incidental matters.

*(English text signed by the State President.)
(Assented to 3rd March, 1970.)*

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. In this Act, unless the context otherwise indicates— Definitions

- (i) "Bantu person" means a person who is a Bantu within the meaning of the Population Registration Act, 1950 (Act No. 30 of 1950); (i)
- (ii) "certificate" means a certificate of citizenship referred to in section 5; (xi)
- (iii) "citizen of the Transkei" means any person who is a citizen of the Transkei by virtue of the provisions of section 7 (2) of the Transkei Constitution Act, 1963 (Act No. 48 of 1963); (iii)
- (iv) "Minister" means the Minister of Bantu Administration and Development; (viii)
- (v) "officer" means an officer as defined in section 1 (1) of the Public Service Act, 1957 (Act No. 54 of 1957); (ii)
- (vi) "prescribed" means prescribed by regulation; (xii)
- (vii) "regulation" means any regulation in force under this Act; (ix)
- (viii) "self-governing Bantu territory in the Republic" includes the Transkei; (x)
- (ix) "territorial authority" means a Bantu territorial authority established under section 2 (1) (c) of the Bantu Authorities Act, 1951 (Act No. 68 of 1951), and includes a territorial board established in terms of section 7*bis* of that Act; (v)
- (x) "territorial authority area" means the area in respect of which a territorial authority has been established; (vi)
- (xi) "the Transkei" means the Transkei within the meaning of the Transkei Constitution Act, 1963; (iv)
- (xii) "this Act" includes any regulation in force thereunder. (vii)

2. (1) There shall be citizenship of every territorial authority area. Citizenship of territorial authority areas

(2) Every Bantu person in the Republic shall, if he is not a citizen of any self-governing Bantu territory in the Republic and is not a prohibited immigrant in the Republic, be a citizen of one or other territorial authority area, in accordance with the provisions of section 3.

(3) Every person who is by virtue of the provisions of section 3 a citizen of a territorial authority area shall, subject to the provisions of this Act, exercise such franchise rights in that area

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and enjoy all other rights, privileges and benefits and be subject to all the duties, obligations and responsibilities of citizenship of that territorial authority area as are accorded to or imposed upon him in terms of any law.

(4) A citizen of a territorial authority area shall not be regarded as an alien in the Republic and shall, by virtue of his citizenship of a territory forming part of the Republic, remain for all purposes a citizen of the Republic and shall be accorded full protection according to international law by the Republic.

(5) No person who is a citizen of a territorial authority area shall by reason only of the provisions of this Act be relieved of any duties, obligations or responsibilities or forfeit any existing rights, privileges or benefits which but for the said provisions would have been applicable in his case.

3. Subject to the provisions of section 2 (2), every person falling within any of the undermentioned classes of persons shall be a citizen of a particular territorial authority area, that is to say—

Territorial authority area citizens.

- (a) every Bantu person born in that area, either before or after the commencement of this Act;
- (b) every Bantu person who is domiciled in that area;
- (c) every Bantu person in the Republic speaking any Bantu language used by the Bantu population of that area, including every Bantu person belonging to any associated linguistic group which normally uses any dialect of any such language;
- (d) every other Bantu person in the Republic related to any member of the Bantu population of that area or who has identified himself with any part of such population or who is associated with any part of such population by virtue of his cultural or racial background.

4. A citizen of a territorial authority area who becomes a citizen of any other territorial authority area or of any self-governing Bantu territory in the Republic or a national of another country shall cease to be a citizen of such first-mentioned territorial authority area.

Loss of citizenship.

5. Every Bantu person in the Republic who is a citizen of any self-governing Bantu territory in the Republic or of a territorial authority area shall be entitled to a certificate (to be known as a certificate of citizenship), issued in terms of section 6 or 9, as the case may be, by or on behalf of, as the case may be in terms of the regulations, the government of the Transkei or of the other self-governing Bantu territory in the Republic concerned or by the territorial authority concerned, as the case may be, to the effect that he is a citizen of the Transkei or of any other such self-governing Bantu territory in the Republic or of such territorial authority area, respectively, as the case may be.

Certificates of citizenship.

6. (1) A certificate shall be issued in the prescribed manner to any Bantu person who is a citizen of a territorial authority area or of a self-governing Bantu territory in the Republic.

Issue of certificates.

(2) If for any reason it is found inexpedient, impracticable or impossible to issue a certificate to any such Bantu person, any prescribed officer or person may issue to such Bantu person, in lieu of such certificate, a document in the form prescribed, which shall entitle such Bantu at a future date, made known to him, to the issue to him of a certificate.

(3) The Minister may through the Department of Bantu Administration and Development take such steps as he may deem fit to make the provisions of this Act regarding the issue of certificates known to all Bantu persons in the Republic.

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7. A certificate issued to a Bantu person in terms of section 6 or 9 shall—

Form and contents of certificates.

- (a) be in the prescribed form;
- (b) bear a recent photograph of himself, affixed in the manner prescribed;
- (c) contain such information regarding himself as may be prescribed; and
- (d) indicate—
 - (i) whether he is a citizen of the Transkei, if that is the case; or, if not,
 - (ii) the other self-governing Bantu territory in the Republic or the territorial authority area of which he is a citizen, as the case may be.

8. (1) In respect of any certificate issued to a Bantu person, two copies of a recent photograph of such Bantu person shall be provided in the prescribed manner.

Photograph required for certificate.

(2) One copy of such photograph shall be affixed to such certificate, and the other copy shall be retained by the officer or person issuing such certificate and be dealt with in the prescribed manner.

9. (1) Any Bantu person may in the prescribed manner object, to any officer or person designated by the Minister, against the determination of the territorial authority area or the self-governing Bantu territory in the Republic of which such Bantu person is stated in the certificate issued to him to be a citizen.

Objections and appeals.

(2) Any territorial authority or the government of any self-governing Bantu territory in the Republic may in like manner object, in the case of a certificate issued, not by itself, to any Bantu person, to any officer or person so designated, against the determination of its area as the territorial authority area or, as the case may be, as the self-governing Bantu territory in the Republic, of which such Bantu person is stated in such certificate to be a citizen.

(3) The decision of such officer or person as to the territorial authority area or self-governing Bantu territory in the Republic of which such Bantu person is a citizen shall be binding on that Bantu person and the territorial authority concerned or government of the self-governing Bantu territory in the Republic concerned: Provided that such Bantu person, such territorial authority or the government of such self-governing Bantu territory in the Republic may in the prescribed manner appeal against that decision to the Minister, who may confirm that decision or give such other decision as in the Minister's opinion that officer or person ought to have given, and the Minister's decision on such appeal shall be final.

(4) The decision of such officer or person or, if varied on appeal under subsection (3), the decision as so varied, shall be deemed, for the purposes of the certificate issued to the said Bantu person, to be the determination by the issuer of such certificate of the territorial authority area or of the self-governing Bantu territory in the Republic of which such Bantu person is a citizen.

(5) If by virtue of the provisions of this section the designation of the territorial authority area or of the self-governing Bantu territory in the Republic of which any Bantu person is a citizen, as stated in the certificate issued to him, is altered, such certificate shall be cancelled in the prescribed manner and a new certificate showing such designation as so altered, issued to such Bantu person in the prescribed manner.

10. (1) Any person—

(a) being a Bantu person, who—

- (i) having gained possession of a certificate issued in terms of this Act to any other person, represents

Offences and penalties.

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- it as having been issued to himself in terms of this Act;
- (ii) allows any other person to gain possession of a certificate issued to himself in terms of this Act;
 - (b) who forges or without authority alters, defaces, destroys or mutilates any certificate or any part of, or any document or stamp lawfully affixed to, or any entry or endorsement in or on, any certificate;
 - (c) who without authority receives or has in his possession any certificate or any part of a certificate, in relation to which any offence mentioned in paragraph (b) has been committed;
 - (d) who without authority prints, produces or issues any book or document which purports to be or to serve the purpose of a certificate;
 - (e) who without authority receives, has in his possession, disposes of or causes to be disposed of any certificate issued in terms of this Act to any other person, or any part thereof;
 - (f) who records in any certificate or on any document lawfully affixed thereto, any information other than the particulars required or permitted to be recorded therein or thereon in terms of this Act, or records any such particulars therein or thereon or affixes any stamp thereto otherwise than in the manner prescribed, or without authority records any such particulars therein or thereon; or
 - (g) who, for the purposes of this Act, knowingly makes or causes to be made a statement which is false in any material particular,
- shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding six months.

(2) The court convicting any person of an offence referred to in paragraph (b) or (d) of subsection (1) shall—

- (a) declare the book or document in respect of which the offence was committed to be forfeited; and
 - (b) declare any instrument used for the purpose of or in connection with the commission of the offence, or the convicted person's rights thereto, to be forfeited: Provided that such declaration shall not affect any rights which any person other than the convicted person may have to such instrument, if it is proved that he did not know that it was being used or would be used for the purpose of or in connection with the commission of such offence, or that he could not prevent such use.
- (3) The provisions of section 360 (4) and (5) of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), shall apply *mutatis mutandis* to any confiscation in terms of subsection (2) (b) of this section.

11. (1) The State President may make regulations as to— Regulations.
- (a) any matters which by this Act are required or permitted to be prescribed;
 - (b) the issue of certificates;
 - (c) the taking of fingerprints for the purpose of the issue of certificates;
 - (d) the issue of duplicate certificates, the circumstances under and the conditions subject to which they may be issued and the fees payable therefor;
 - (e) the transmission to the Bantu Reference Bureau established in terms of section 11 of the Bantu (Abolition of Passes and Co-ordination of Documents) Act, 1952 (Act No. 67 of 1952), of particulars recorded in certificates;

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- (f) the conditions subject to which the documents referred to in section 6 (2) may be issued;
- (g) the provision, free of charge or on payment of fixed fees, of a photograph referred to in section 8 (1), the size of such photograph and the requirements with which it shall comply;
- (h) generally any other matter in respect of which he may deem it necessary or expedient to make regulations in order to attain the objects, and ensure the effective operation, of this Act.
- (2) The generality of the powers conferred by paragraph (h) of subsection (1) shall not be limited by the provisions of the other paragraphs of the said subsection.
- (3) Different regulations may be made under subsection (1) in respect of different classes of persons, different areas, different territorial authorities or different self-governing Bantu territories in the Republic.
- (4) Any regulations made under this section may prescribe penalties for any contravention thereof or failure to comply therewith, not exceeding a fine of fifty rand or imprisonment for a period of three months.

12. Section 13 of the Population Registration Act, 1950, is hereby amended by the addition to subsection (1) of the following proviso:

“Provided that no identity card shall be issued to any person to whom a certificate of citizenship has in terms of the Bantu Homelands Citizenship Act, 1970, been issued.”

Amendment of section 13 of Act 30 of 1950, as amended by section 2 of Act 71 of 1956, section 2 of Act 30 of 1960, section 100 of Act 42 of 1964 and section 4 of Act 106 of 1969.

13. Section 14 of the Population Registration Act, 1950, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any—

- (a) peace officer (as defined in section 1 of the Criminal Procedure Act, 1955 (Act No. 56 of 1955)), may, whenever he is under section 22 (3) of the said Act entitled to call upon any person to furnish such peace officer with his full name and address, request that person; and
- (b) person authorized thereto in writing by the Secretary may, whenever it is necessary for him to do so for the purpose of carrying out his duties under this Act and upon production of his written authority, request any person,

Amendment of section 14 of Act 30 of 1950, as amended by section 2 of Act 30 of 1960.

if that person's name is by this Act required to be included in the register and he has attained the age of sixteen years, but is not a person to whom a certificate of citizenship has in terms of the Bantu Homelands Citizenship Act, 1970, been issued, to produce to such peace officer or, as the case may be, to such authorized person, his identity card.”

14. Section 7 of the Bantu Authorities Act, 1951, is hereby amended by the deletion of the word “and” at the end of paragraph (f) of subsection (1), the addition of the word “and” at the end of paragraph (g) of the said subsection, and the addition to that subsection of the following paragraph:

“(h) shall have power to issue or to cause to be issued, in terms of the Bantu Homelands Citizenship Act, 1970, a certificate of citizenship referred to in section 5 of that Act, to any citizen of its area, and under section 9 of that Act to object to any determination referred

Amendment of section 7 of Act 68 of 1951 as substituted by section 12 of Act 46 of 1959 and amended by sections 80 and 100 of Act 42 of 1964.

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to in that section and to appeal against any decision of a designated officer or person referred to therein.”.

15. The following section is hereby substituted for section 11 of the Bantu (Abolition of Passes and Co-ordination of Documents) Act, 1952:

“Establishment of Bantu Reference Bureau.

11. The Minister shall establish a Bantu Reference Bureau under the control of an officer of the Department of Bantu Administration and Development, to be known as the Director, in which all fingerprints taken under this Act or any other law and received therein shall be classified and all such particulars as the Minister may from time to time determine which are contained in reference books, passports, permits, documents of identity or other travel documents referred to in section 3 (1)*bis* or in documents of identification referred to in section 10 or in certificates of citizenship referred to in section 5 of the Bantu Homelands Citizenship Act, 1970, shall be recorded or otherwise dealt with in such manner as may be prescribed.”.

Substitution of section 11 of Act 67 of 1952, as substituted by section 21 of Act 76 of 1963 and amended by section 100 of Act 42 of 1964.

16. The following section is hereby substituted for section 8 of the Transkei Constitution Act, 1963:

“Loss of citizenship.

8. A citizen of the Transkei who becomes a citizen or national of another country or of any other self-governing Bantu territory or of a territorial authority area as defined in section 1 of the Bantu Homelands Citizenship Act, 1970, shall cease to be a citizen of the Transkei.”.

Substitution of section 8 of Act 48 of 1963.

17. This Act shall be called the Bantu Homelands Citizenship Act, 1970, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

Short title and commencement.