



FIJI GAZETTE

PUBLISHED BY AUTHORITY OF THE FIJI MILITARY GOVERNMENT

Vol. 1

FRIDAY, 30th OCTOBER 1987

No. 13

FIJI MILITARY GOVERNMENT DECREE NO. 14

FIJI CITIZENSHIP DECREE 1987

In exercise of the powers vested in me as Commander and Head of the Fiji Military Government, I hereby make the following decree:

This Decree may be cited as the Fiji Citizenship Decree 1987.

2.—(1) Every person who having been born in Fiji on 6th October 1987 shall become a citizen of the Republic of Fiji on 7th October 1987.

(2) Every person who having been born outside Fiji, is on 6th October 1987, if his father becomes or would but for his death have become a citizen of the Republic of Fiji by virtue of sub-section (1).

(3) Every person who, having been born outside Fiji, is on 6th October 1987 a citizen of a Commonwealth country, shall if his father becomes, or would but for his death have become a citizen of Fiji is entitled to be a citizen of the Republic of Fiji.

3. Any woman who on 7th October 1987, is or has been married to a person—

(a) who becomes a citizen of Fiji by virtue of the preceding section; or

(b) who, having died before 7th October 1970 would, but for his death, have become a citizen of Fiji by virtue of that section, shall be entitled, upon making application, to be registered as a citizen of the Republic of Fiji. Provided that, the right to be registered as a citizen of Fiji under this subsection shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy.

4. Every person born in Fiji after 7th October 1987 shall become a citizen of Fiji at the date of his birth:

Provided that a person shall not become a citizen of Fiji by virtue of this section if at the date of his birth—

(a) his father possesses such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Fiji and neither of his parents is a citizen of Fiji; or

(b) his father is an enemy alien and the birth occurs in a place then under occupation by the enemy.

5. A person born outside Fiji after 6th October 1987 shall become a citizen of Fiji at the date of his birth if at that date his father is a citizen of Fiji otherwise than by virtue of this section or section 2(3) of this Decree.

6. Any woman who after 9th October 1970 marries a person who is or becomes a citizen of Fiji shall be entitled, upon making application in such manner as may be prescribed and, if she is an alien, upon taking the oath of allegiance, to be registered as a citizen of Fiji.

Provided that the right to be registered as a citizen of Fiji under this section shall be subject to such exceptions or qualifications as may be prescribed in the interest of national security or public policy.

7.—(1) Every person who under this Decree or any other existing law is a citizen of Fiji or under any enactment for the time being in force in any country to which this section applies is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

(2) Save as may be otherwise provided by Decree, the countries to which this section applies are the United Kingdom and Colonies, Canada, Australia, New Zealand, India, Pakistan, Ceylon, Ghana, Malaysia, Nigeria, Cyprus, Sierra Leone, Tanzania, Jamaica, Trinidad and Tobago, Uganda, Kenya, Malawi, Malta, Zambia, The Gambia, Singapore, Guyana, Lesotho, Botswana, Barbados, Mauritius, Swaziland, Tonga and Zimbabwe.

(3) The Head and Commander acting in consultation with the Executive Council may, subject to the provisions of this Decree, make provision prescribing the rights, privileges, duties and liabilities of persons having the status of Commonwealth citizen.

8. The Head and Commander acting in consultation with the Executive Council may make provision—

- (a) for the acquisition of citizenship of Fiji by persons who are not eligible or who are no longer eligible to become citizens of Fiji by virtue of the provisions of this Decree;
- (b) for depriving of his citizenship of Fiji any person who is a citizen of Fiji;
- (c) for the renunciation by any person of his citizenship of Fiji;
- (d) for the maintenance of a register of citizens of Fiji who are also citizens of other countries; or
- (e) for depriving of his citizenship of Fiji any citizen of Fiji who has attained the age of 21 years and who, being a citizen of some other country, has not, within such period as may be prescribed, renounced his citizenship of that other country or, if the law of that other country does not permit him to renounce his citizenship of that other country, made such declaration as may be prescribed.

9.—(1) There shall on and from 7th October 1987 be a status known as citizen of the Republic of Fiji.

(2) The status of a citizen of the Republic of Fiji may be acquired—

- (a) by birth;
- (b) by descent;
- (c) by registration or, before the 7th October 1987, by enrolment.

10. A person born outside Fiji after the commencement of this Decree shall be a citizen of Fiji by descent if at the time of the birth his father is a citizen of Fiji, by birth or registration:

Provided that such person shall not be a citizen of Fiji by descent unless his birth is registered in the prescribed manner at the Registry of Births, Deaths and Marriages or at a diplomatic or consular mission of Fiji within one year of its occurrence or, with the permission of the Fiji Military Government, later:

And provided further that where such person is born of a father who is a citizen of Fiji by registration at the time of birth, he would not acquire the citizenship of the country in which he was born by reason of his birth in that country.

11. A person who being a minor, becomes a citizen of Fiji by descent shall cease to be a citizen of Fiji on attaining the age of twenty-two years unless within twelve months after he attains the age of twenty-one years he takes the Oath of Renunciation, Allegiance and Loyalty in the form set out in the First Schedule and where the Head and Commander of the Fiji Military Government so requires diverts himself of any foreign citizenship or nationality.

12.—(1) Any person resident in Fiji of or over the age of twenty-one years may, on application being made therefore in the prescribed form, be registered as a citizen of Fiji if he satisfies the Fiji Military Government that he—

- (a) is of good character;
- (b) has resided in Fiji throughout the twelve months immediately preceding the date of his application;
- (c) has during the 5 years immediately preceding the date of his application resided in Fiji for periods amounting in the aggregate to not less than 3 years;
- (d) intends to reside permanently in Fiji.

(2) Any woman who is married to a citizen of Fiji may, on making application therefore in the prescribed manner, be registered as a citizen of Fiji if she satisfies the Government—

- (a) that she has resided continuously in Fiji for a period of not less than 7 years immediately preceding the application;
- (b) that she intends to reside permanently in Fiji; and
- (c) that she is of good character.

(3) A person to whom a certificate of naturalisation is granted shall be a citizen of Fiji by naturalisation from the date on which the certificate is granted.

(4) No certificate of naturalisation shall be granted to any person until he has taken the Oath of Allegiance in the form set out in the First Schedule.

13.—(1) Any citizen of Fiji of or over the age of twenty-one years and of sound mind who is also or is about to become a citizen of another country may renounce his citizenship of Fiji by declaration registered by the Government, and shall upon such registration cease to be a citizen of Fiji.

(2) The Government may withhold the registration of a declaration under this Section—
(a) if the declaration is made during any war in which Fiji is engaged.

(3) This Section applies to a woman under the age of twenty-one years who has been married as it applies to a person of or over that age.

14.—(1) A citizen of Fiji who is a citizen by registration or by naturalisation shall cease to be such a citizen if he is deprived of his citizenship by an order of the Government made in accordance with the provisions of this Section.

(2) The Government may, by order, deprive any such citizen of his citizenship if the Government is satisfied that the registration or the certificate of naturalisation—

- (a) was obtained by means of fraud, false representation or the concealment of any material fact; or
- (b) was effected or granted by mistake.

(3) The Government may, by order, deprive of his citizenship—

- (a) any person who is a citizen of Fiji by naturalisation if the Government is satisfied—
 - (i) that he has shown himself by act or speech to be disloyal or disaffected towards Fiji; or
 - (ii) that he has, during any war in which Fiji is or was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business which to his knowledge was carried on in such manner as to assist an enemy in that war, or

(b) any citizen of Fiji by registration or by naturalisation if the Government is satisfied—

- (i) that he has, within the period of five years after registration or naturalisation, been sentenced in any country to imprisonment for a term of not less than twelve months or to a fine of not less than five thousand dollars or the equivalent in the currency of that country, and has not received a free pardon in respect of the offence for which he was so sentenced; or
- (ii) that he has, at any time after registration or naturalisation, being engaged in any activities which are prejudicial to the security of Fiji, or the maintenance of public order therein, or the maintenance therein of essential services, or in any criminal activities which are prejudicial to the interests of public safety, peace or good order.

(4) The Government may, by order, deprive of his citizenship any person who is a citizen of Fiji by naturalisation if the Government is satisfied that without the Government's approval, he has accepted, served in, or performed the duties of any office, post or employment under the government of any foreign country or any political subdivision thereof, or under any agency of such a government, in any case where an oath, affirmation or declaration of allegiance is required in respect of the office, post or employment:

Provided that a person shall not be deprived of his citizenship under this clause by reason of anything done before the 7th day of October 1987, notwithstanding that he was at the time a citizen of Fiji.

(5) The Government may, by order, deprive of his citizenship any person who is a citizen of Fiji by naturalisation if the Government is satisfied that he has been ordinarily resident in foreign countries for a continuous period of five years and during that period has neither—

- (a) been at any time in the service of Fiji or of an international organisation of which the Government was a member; nor
- (b) registered annually at a consulate of Fiji his intention to retain his citizenship.

(6) The Government may, by order, deprive of her citizenship any woman who is a citizen of Fiji by registration under sub-section (2) of Section 12 if the Government is satisfied that the marriage by virtue of which she was registered has been dissolved, otherwise than by death, within the period of two years beginning with the date of the marriage.

(7) No person shall be deprived of his citizenship under this Section or under Section 23 unless the Government is satisfied that it is not conducive to the public good that that person should continue to be a citizen of Fiji, and no person shall be deprived of his citizenship under paragraph (b) of sub-section (2) or under paragraph (a) or (b) (i) or sub-section (3) or under sub-section (4) or (5) or under Section 14 if the Government is satisfied that as a result of the deprivation he would not be a citizen of any country.

15. Where a person has—

- (a) renounced his citizenship;
- (b) been deprived thereof under paragraph (a) of subsection (2) of section 14 or under subsection (1) of section 14; or
- (c) been declared to have ceased to be a citizen of Fiji under sub-section (1) of Section 14 the Government may, by order, deprive of his citizenship any child of that person under the age of twenty-one years who has been registered as a citizen of Fiji pursuant to this Decree and was so registered as being the child of that person or of that person's wife or husband.

16. Renunciation or deprivation of citizenship of Fiji shall not discharge a person from liability in respect of anything done or omitted to be done before he ceased to be a citizen of Fiji.

17.—(1) Where a person has become a citizen of Fiji before the 7th day of October 1987, and the Government is satisfied that the enrolment—

- (a) was obtained by means of fraud, false representation or the concealment of any material fact; or
- (b) was effected by mistake,

the Government may, by order, cancel the enrolment.

(2) Where under this Article, a person's enrolment as a citizen of Fiji is cancelled that shall not discharge him from liability in respect of anything done or omitted to be done before the cancellation.

18.—(1) Before making an order under Section 14, 15 and 20 the Government shall give the person, against whom the order is proposed to be made, notice in writing informing him of the ground on which the order is proposed to be made and of his right to have the case referred to a committee of inquiry under this Section.

(2) If any person to whom such notice is given applies within such time as may be prescribed to have the case referred to a committee of inquiry, the Government shall and in any other case may, refer the case to a committee of inquiry consisting of a Chairman, who shall be a person qualified to be appointed as a Judge of the Supreme Court, and two other members chosen from a panel to be appointed by the Government in that behalf.

(3) The committee of inquiry shall, on such reference, hold an inquiry in such manner as may be prescribed and submit a report to the Government and the Government shall have regard to such report in making the order.

19.—(1) If the Government is satisfied that any citizen of Fiji by birth, descent, registration or naturalisation has at any time after the 7th October 1987, acquired by registration, naturalisation or other voluntary and formal act (other than marriage) the citizenship of a foreign country the Government may declare such person to have ceased to be a citizen of Fiji.

(2) Any citizen specified in subsection (1) who has at any time after the 7th day of October 1987, voluntarily claimed and exercised any rights available to him under the law of any foreign country, being rights accorded exclusively to the citizens or nationals of the foreign country, shall cease to be a citizen of Fiji. If any question arises as to whether any such person has ceased to be a citizen of Fiji under this clause, the same shall be determined by the Government whose declaration thereon shall be final and shall not be called in question in any court.

(3) If the Government is satisfied that any citizen of Fiji specified in sub-section (1) has, at any time after the 7th day of October 1987, voluntarily claimed and exercised any rights available to him under the law of the United Kingdom or of the Republic of Ireland or of any other country, other than Fiji, for the time being included in subsection (3) of section 1 of the British Nationality Act, 1948, being rights not available to other Commonwealth citizens, the Government may declare such person to have ceased to be a citizen of Fiji.

20.—(1) If the Government is satisfied that any citizen of Fiji has acquired by registration, naturalisation or other voluntary and formal act (other than marriage) the citizenship of any country outside Fiji, the Government may, by order, deprive that person of his citizenship.

(2) If the Government is satisfied that any citizen of Fiji has voluntarily claimed and exercised in a foreign country any rights available to him under the law of that country, being rights accorded exclusively to its citizens, the Government may, by order, deprive that person of his citizenship.

(3) Where provision is in force under the law of any part of the Commonwealth for conferring on citizens of that part of the Commonwealth rights not available to other Commonwealth citizens, sub-section (2) shall apply, in relation to those rights, as if that part of the Commonwealth were a foreign country.

(4) Without prejudice to the generality of sub-section (2) and that sub-section as applied by sub-section (3), the exercise of a vote in any political election in a place outside Fiji shall be deemed to be the voluntary claim and exercise of a right available under the law of that place; and for the purposes of sub-section (2), and that clause as applied as aforesaid, a person who, after the 7th day of October, 1987—

(a) applies to the authorities of a place outside Fiji for the issue or renewal of a passport;
or

(b) uses a passport issued by such authorities as a travel document,

shall be deemed voluntarily to claim and exercise a right available under the law of that place, being a right accorded exclusively to the citizens of that place.

(5) If the Government is satisfied that any woman who is a citizen of Fiji by registration under sub-section (2) of Section 12 has acquired the citizenship of any country outside Fiji by virtue of her marriage to a person who is not a citizen of Fiji, the Government may, by order, deprive her of her citizenship.

21.—(1) Where a person has been deprived of his citizenship or his enrolment as a citizen has been cancelled under the provisions of this Part, the Government may, by order, deprive of his citizenship or, as the case may be, cancel the enrolment of any child of that person under the age of twenty-one years who has been registered or enrolled as a citizen under the provisions of this Decree, and was so registered or enrolled as being the child of that person or of that person's wife or husband.

(2) No person shall be deprived of his citizenship under clause (1) unless the Government is satisfied that it is not conducive to the public good that he should continue to be a citizen; and no person shall be deprived of his citizenship under clause (1) if the Government is satisfied that as a result of such deprivation he would not be a citizen of any country.

22. Upon application made in that behalf in the prescribed manner, the Government may grant in the form prescribed a certificate of citizenship to a person with respect to whose citizenship a doubt exists, whether of facts or of law:

Provided that where the Government is satisfied that such a certificate was obtained in circumstances set out in paragraph (a) or (b) of sub-section (1) of Section 17 of the Government may, by order, cancel such certificate.

23.—(1) Without prejudice to the rights conferred on the Government in Section 18 of this Decree where citizens of Fiji:

(a) hold dual citizenship; or

(b) hold permanent residency rights or have obtained work permits;

they shall be called upon in writing to make a written election as to whether they intend to remain citizens of Fiji or renounce their Fijian citizenship. For the purposes of this section the period of time in which such an election shall be made is in respect of section 23(a) eighteen months and in respect of section 23(b) twelve months from the date of receipt of the notification calling upon them to make the election in writing.

(2) Failure to renounce citizenship and/or make an election shall enable the Government to declare such person to have ceased to be a citizen of Fiji.

24.—(1) "Government" means the Fiji Military Government of the Republic of Fiji.

In this Decree—

(2) Any reference in this Decree to the father of a person shall, in relation to a person born out of wedlock, be construed as a reference to the mother of that person.

(3) For the purposes of this Decree, 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.

(4) Any reference in this Decree to the national status 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 national status of the father at the time of the father's death; and where that death occurred before 7th October 1987 and the birth occurred before 6th October 1987 the national status that the father would have had if he had died on 7th October 1987 shall be deemed to be his national status at the time of his death.

25. This Decree shall be deemed to have been made on 7th October 1987 together with the regulations set out in Schedule 2 to this Decree.

Dated this 27th day of October 1987.

COLONEL SITIVENI LIGAMAMADA RABUKA O.B.E. (Mil.)
Commander and Head of the Fiji Military Government

FIRST SCHEDULE

OATH OF RENUNCIATION, ALLEGIANCE AND LOYALTY

I, do solemnly swear (or affirm) that I will not exercise the rights, powers and privileges to which I may be entitled by reason of any foreign nationality or citizenship, and that I absolutely and entirely renounce all loyalty to any foreign Sovereign or State or Country and I, do further solemnly swear (or affirm) that I will be faithful and bear true allegiance to the Republic of Fiji, and that I will observe the laws and be a true, loyal and faithful citizen of Fiji.

SECOND SCHEDULE

FJI CITIZENSHIP DECREE REGULATIONS 1987

1. The functions of the Government under the Fiji Citizenship Decree 1987 shall be exercised by such Executive Councillor and Minister as the President of the Executive Council may, from time to time, direct and references in this Schedule to the Executive Councillor shall be construed accordingly.
2. A decision of the Government under sections 16, 17, 18, 19, 21 and 22 shall not be subject to appeal or review in any court.
3. The Executive Councillor and Minister may delegate to any public officer of the Government any of his functions under the Fiji Citizenship Decree 1987 or under this Schedule relating to citizenship by registration and enrolment and the keeping of registers and, in relation to orders under sub-sections (1), (2), (3)(b), (6) and (7) of section 13 or section 16, any of his functions under section 17 prior to determining whether to make such an order, but any person aggrieved by the decision of a public officer to whom the Executive Councillor and Minister are so delegated may appeal to the Executive Councillor and Minister.
4. The Executive Councillor and Minister may make rules and prescribe forms for the purposes of the exercise of his functions under the Fiji Citizenship Decree 1987 and of this Schedule.
5. The power of the Government where referred to in the Fiji Citizenship Decree to allow a longer period for the registration of a birth may be exercised either before or after the registration has been effected.
6. Any notice to be given by the Executive Councillor and Minister to any person under sections 17 and 22 may be sent to that person at his last known address or, in the case of a person under the age of twenty-one years (not being a married woman) to his parent or guardian at the last known address of the parent or guardian; and if an address at which the notice may be sent to any person under this paragraph is not known and cannot after reasonable inquiry be ascertained, the notice may be given by publication in the *Fiji Gazette*.