

Version
as at 26 November 2024



Citizenship (Western Samoa) Act 1982

Public Act 1982 No 11
Date of assent 14 September 1982
Commencement see section 1(2)

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An Act to implement the Protocol done at Apia on 21 August 1982 to the Treaty of Friendship between the Government of New Zealand and the Government of

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Department of Internal Affairs.

Western Samoa done at Apia on 1 August 1962, and to make provision relating to the New Zealand citizenship of certain persons born in Western Samoa before 1949 and others claiming by descent or marriage through such persons

1 Short Title and commencement

- (1) This Act may be cited as the Citizenship (Western Samoa) Act 1982.
- (2) This Act shall come into force on 15 September 1982.

2 Interpretation

In this Act the term **New Zealand** does not include the Cook Islands, Niue, or Tokelau.

3 Crown bound

This Act binds the Crown.

4 Application

- (1) Subject to subsections (2) and (3) but without limiting section 7(1)(a), this Act applies to—
 - (a) every person—
 - (i) who was born in Western Samoa on or after 13 May 1924 and before 1 January 1949; and
 - (ii) who, immediately before 1 January 1949, was a British subject by virtue only of having been born in that country; and
 - (b) every female who, on 1 January 1949, became a New Zealand citizen by virtue only of having been married to any person to whom paragraph (a) applies; and
 - (c) every person—
 - (i) who is the descendant of a person who was born in Western Samoa on or after 13 May 1924 and before 1 January 1949; and
 - (ii) who was born before 1 January 1949; and
 - (iii) who was a British subject immediately before 1 January 1949; and
 - (d) every female who, on 1 January 1949, became a New Zealand citizen by virtue only of having been married to any person to whom paragraph (c) applies; and
 - (e) every person—
 - (i) who is the descendant of any person to whom any 1 or more of paragraphs (a) to (d) applies; and
 - (ii) who was or is born on or after 1 January 1949.

- (2) This Act does not apply to any person who is a New Zealand citizen otherwise than by virtue only of being a person to whom any 1 or more of paragraphs (a) to (e) of subsection (1) applies.
- (3) This Act, except section 8, does not apply to any person to whom a New Zealand passport has been properly issued before the commencement of this Act in accordance with the Passports Act 1980.

5 Certain person declared to be New Zealand citizen

Falema'i Lesa of Wellington (being the petitioner in the case of *Lesa v The Attorney-General of New Zealand*, argued before the Judicial Committee of the Privy Council in London in July 1982) is hereby declared to be a New Zealand citizen otherwise than by descent.

6 Persons to whom this Act applies not New Zealand citizens

Notwithstanding anything in the Citizenship Act 1977 or in any other enactment but subject to section 5 of this Act, every person to whom this Act applies shall be deemed never to have been a New Zealand citizen, and no such person shall be a New Zealand citizen unless the Minister of Internal Affairs authorises the grant of such citizenship to that person under section 7 or 7A of this Act or any of sections 8 to 10 of the Citizenship Act 1977.

Section 6: amended, on 26 November 2024, by section 4 of the Citizenship (Western Samoa) (Restoration) Amendment Act 2024 (2024 No 48).

7 Grant of citizenship as of right in certain cases

- (1) Notwithstanding anything in section 8 or section 9 of the Citizenship Act 1977, the Minister of Internal Affairs shall, upon application made to him, immediately authorise the grant of New Zealand citizenship to any person who proves to the satisfaction of the Minister—
 - (a) that he is a citizen of Western Samoa or a person to whom this Act applies; and
 - (b) that he—
 - (i) was in New Zealand at any time on the day before the date of the commencement of this Act; or
 - (ii) has lawfully entered New Zealand after the commencement of this Act and is entitled, in terms of the Immigration Act 2009, to be in New Zealand indefinitely.
- (2) Sections 4A, 11, 12, 24, 27, and 28 of the Citizenship Act 1977, and any regulations made under that Act, shall apply with any necessary modifications in respect of an application under subsection (1) of this section as if it were an application under section 10 of that Act.
- (3) A person granted New Zealand citizenship under section 7A—

- (a) may later apply for and be granted citizenship under subsection (1)(b)(i); but
- (b) may not later apply for or be granted citizenship under subsection (1)(b)(ii).

Section 7(1)(b)(ii): amended, at 2 am on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

Section 7(1)(b)(ii): amended, on 1 November 1987, by section 151(1) of the Immigration Act 1987 (1987 No 74).

Section 7(2): amended, on 17 December 1985, by section 2 of the Citizenship (Western Samoa) Amendment Act 1985 (1985 No 170).

Section 7(3): inserted, on 26 November 2024, by section 5 of the Citizenship (Western Samoa) (Restoration) Amendment Act 2024 (2024 No 48).

7A Grant of citizenship of special nature as of right in certain other cases

Who may apply for citizenship under this section

- (1) A person to whom any 1 or more of paragraphs (a) to (d) of section 4(1) apply may apply in the prescribed manner to the Minister of Internal Affairs for New Zealand citizenship under this section.

Special nature of citizenship under this section

- (2) A mother's or father's New Zealand citizenship granted under this section is not a basis for citizenship by descent for a child born outside New Zealand (*see* section 7(1)(a)(ii) of the Citizenship Act 1977).
- (3) A person granted New Zealand citizenship under this section—
 - (a) may later apply for and be granted New Zealand citizenship under—
 - (i) section 7(1)(b)(i) of this Act (*see* section 7(3)(a) of this Act); or
 - (ii) section 8, 9, or 10 of the Citizenship Act 1977; but
 - (b) may not later apply for or be granted New Zealand citizenship under section 7(1)(b)(ii) of this Act (*see* section 7(3)(b) of this Act).

Minister's duty in response to application

- (4) The Minister must grant New Zealand citizenship under this section to a person if the person has—
 - (a) applied in the prescribed manner to the Minister under this section; and
 - (b) proved to the Minister's satisfaction that the person is a person to whom any 1 or more of paragraphs (a) to (d) of section 4(1) apply.

Application is subject to Citizenship Act 1977 sections and regulations

- (5) An application for citizenship under this section is subject to the following sections of the Citizenship Act 1977 and to any regulations made under that Act (which apply, with all necessary modifications, to the application under this section as if it were an application under section 10 of that Act):
 - (a) section 4A (delegation of powers by Secretary):

- (b) section 11 (Minister may require oath or affirmation of allegiance to be taken):
- (c) section 12 (certificate of New Zealand citizenship):
- (d) section 24 (general provisions as to certificates and other documents):
- (e) section 27 (offences and penalties):
- (f) section 28 (regulations).

Section 7A: inserted, on 26 November 2024, by section 6 of the Citizenship (Western Samoa) (Restoration) Amendment Act 2024 (2024 No 48).

8 Certain convictions quashed

- (1) Where any person to whom this Act applies has been convicted, at any time before the commencement of this Act, of an offence against section 5(1)(a) of the Immigration Act 1964 or any of the provisions of Part 2 (except section 19A) of that Act, or any corresponding former enactment, that conviction is hereby quashed.
- (2) No person to whom this Act applies shall be deemed to be a person to whom section 15 of the Immigration Act 2009 applies merely because he has been deported from New Zealand consequent upon his conviction of any offence to which subsection (1) of this section applies.
- (3) Without limiting or affecting any privilege, immunity, defence, or justification conferred by any other enactment or rule of law, no person shall be guilty of an offence or liable to any civil proceeding by reason of anything done in good faith to or in respect of any person to whom this Act applies in relation to or arising out of any matter referred to in subsection (1).

Section 8(2): amended, at 2 am on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

Section 8(2): amended, on 1 November 1987, by section 151(1) of the Immigration Act 1987 (1987 No 74).

9 Special provisions relating to parentage

- (1) For the purposes of determining whether any person is or is not a person to whom this Act applies,—
 - (a) a person shall, in the absence of evidence to the contrary, be presumed to be the father of another person if he is or was married to that other person's mother at the time of that other person's conception or birth:
 - (b) every person whose parents married each other subsequent to his birth but before 1 January 1978 shall be treated as if his parents had been married to each other at the time of his birth.
- (2) Without limiting subsection (1), for the purposes of determining whether any person, other than a person who was born outside Western Samoa before 1 January 1949, is or is not a person to whom this Act applies,—

- (a) a person shall, in the absence of evidence to the contrary, be presumed to be the father of another person if his paternity of that other person has been established by 1 or more of the types of evidence specified by section 8 of the Status of Children Act 1969; and the term father shall be construed accordingly:
- (b) a person shall be deemed to be the child of another person if he has been adopted by that other person, either by an adoption order within the meaning of and made under the Adoption Act 1955 or by an adoption to which section 17 of that Act applies; and—
- (i) the terms father, mother, and parent shall be construed accordingly; and
- (ii) the person shall be deemed to have been born when and where the adoption order was made:
- provided that, on the discharge for any reason of the adoption order in accordance with section 20 of that Act, the person shall cease to be deemed to be the child of that other person.
- (3) References to the status or description of the father or mother of a person at the time of that person's birth shall, in relation to a person born after the death of his father or mother (as the case may require), be construed as referring to the status or description of the father or mother at the time of his or her death.
- (4) Where the relevant parent died before, and the person was born on or after, 1 January 1949, the status or description that would have been applicable to the parent had he or she died on or after 1 January 1949 shall be deemed to be the status or description applicable to him or her at the time of his or her death.
- (5) Where the relevant parent died before, and the birth occurred on or after, 1 January 1978, the status or description that would have been applicable to the parent had he or she died on or after that date shall be deemed to be the status or description applicable to him or her at the time of his or her death.
- (6) Without limiting the foregoing provisions of this section, for the purposes of determining whether any person is or is not a person to whom this Act applies, the status of any person at any material time shall be determined in accordance with the rules of law that applied, or were subsequently deemed to have applied, at that time.

10 Citizenship Act 1977 consequentially amended

Amendment(s) incorporated in the Act(s).

11 Act in force in Tokelau

This Act shall be in force in Tokelau.

Notes

1 *General*

This is a consolidation of the Citizenship (Western Samoa) Act 1982 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Citizenship (Western Samoa) (Restoration) Amendment Act 2024 (2024 No 48): Part 1

Immigration Act 2009 (2010 No 51): section 406(1)

Immigration Act 1987 (1987 No 74): section 151(1)

Citizenship (Western Samoa) Amendment Act 1985 (1985 No 170)