

**CONSTITUTION (AMENDMENT)
DECREE 1974**



Decree No. 33

[8th October 1974]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) The Constitution of the Federation is hereby amended by the substitution for the provisions of Chapter II thereof, of the provisions set out in the Schedule to this Decree.

Amendment
of provisions
of the Con-
stitution
of the
Federation
relating to
citizenship,
etc.

(2) The Nigerian Citizenship Act 1960 and the Nigerian Citizenship Act 1961 are hereby, consequentially, repealed.

(3) Any application for Nigerian citizenship pending at the commencement of this Decree shall be treated as if made under such of the provisions set out in the Schedule to this Decree as may be appropriate and those provisions (and no other) shall apply accordingly.

1963 No. 20
1960 No. 43
1961 No. 9.

2. This Decree may be cited as the Constitution (Amendment) Decree 1974.

Citation.

SCHEDULE

Section 1

“CHAPTER II

CITIZENSHIP

Part 1.—Citizenship by Birth, Registration and Naturalisation

7.—(1) Subject to subsection (4) of this section, any person born in Nigeria before or on the 30th day of September 1960 is a citizen of Nigeria by birth if either of his parents or any of his grandparents was born in Nigeria.

Acquisition
of Nigerian
citizenship
by birth.

(2) Subject to subsection (4) of this section, any person born outside Nigeria before or on the 30th day of September 1960 is a citizen of Nigeria by birth if his father was born in Nigeria.

(3) Subject to subsection (4) of this section, any person born in Nigeria after the 30th day of September 1960 is a citizen of Nigeria by birth—

(a) if either of his parents was born in Nigeria ; or

(b) where neither of his parents was born in Nigeria, at least one of his grandparents was born in Nigeria.

(4) A person shall not become a citizen of Nigeria by virtue of subsections (1) to (3) of this section if at the time of his birth—

(a) none of his parents was a citizen of Nigeria; and

(b) any of his parents or grandparents had by any means lost his citizenship of Nigeria.

(5) Any person born after the 30th day of September 1960 is a citizen of Nigeria by birth if—

(a) he was born in Nigeria and at the time of his birth either of his parents was a citizen of Nigeria by registration or naturalisation; or

(b) he was born outside Nigeria and at the time of his birth both of his parents were citizens of Nigeria by registration or naturalisation or by birth.

(6) Any minor, whether or not he was born in Nigeria—

(a) whose mother was a citizen of Nigeria at the time of his birth, and

(b) born out of wedlock to a father who is not a citizen of Nigeria, shall be deemed to be a citizen of Nigeria by birth.

Acquisition
of citizen-
ship by
registration.

8.—(1) Any person born outside Nigeria whose father was at the time of his birth a citizen of Nigeria by registration may on making application therefor to the Commissioner in the prescribed manner be registered as a citizen of Nigeria.

(2) Any woman—

(a) who is or has been married to a citizen of Nigeria; or

(b) who is or has been married to a person who would but for his death have become a citizen of Nigeria,

may, if the Commissioner is satisfied that she has been continuously resident in Nigeria during the period of twelve months immediately preceding her application and has in all been resident in Nigeria for an aggregate period of not less than five years and on making application therefor to the Commissioner in the prescribed manner, be registered as a citizen of Nigeria whether or not she is of full age.

(3) A person shall not be registered as a citizen of Nigeria under this section unless and until—

(a) the Commissioner is satisfied that he has effectively renounced any other citizenship or nationality he may possess and has made a declaration in writing therefor;

(b) the Commissioner is satisfied that he is of good character;

(c) the Commissioner is satisfied that he has shown a clear intention of his desire, if registered, to be domiciled in Nigeria; and

(d) he has taken an oath of allegiance in the form specified in the Oaths Act 1963.

1963 No. 23.

Naturalisa-
tion.

9.—(1) The Commissioner may, if application therefor is made to him in the prescribed manner by any person to whom this section applies being a person of full age and capacity who satisfies him that he is qualified under the provisions set forth in subsection (2) of this section for naturalisation, grant to him a certificate of naturalisation, and the person to whom the certificate is granted shall—

(a) on taking an oath of allegiance in the form specified in the Oaths Act 1963 ; and 1963 No. 23.

(b) on making a declaration in writing that he has effectively renounced any other citizenship or nationality he may possess and any claim to the protection of any other country,

be a citizen of Nigeria by naturalisation from the date on which that certificate is granted.

(2) Subject to the provisions of this section, the qualifications for naturalisation of any person who applies in accordance with subsection (1) above are as follows :—

(a) that immediately preceding the date of the application he has either —

(i) resided in Nigeria for a continuous period of 15 years, or

(ii) resided in Nigeria continuously for a period of 12 months and during the 20 years immediately preceding the period of 12 months he has resided in Nigeria for periods amounting in the aggregate to not less than 15 years :

Provided that the Commissioner may in any particular case and with the prior approval of the Federal Executive Council waive the qualification prescribed in this paragraph ;

(b) that he has shown a clear intention of his desire, if naturalised, to be domiciled in Nigeria ;

(c) that, if according to the law of the country of which he is a national he is capable of renouncing the citizenship or nationality of that country he has renounced the citizenship or nationality ;

(d) that he is of good character ;

(e) that he has a reasonable knowledge of an indigenous language in use in Nigeria ;

(f) that the government of the State where he is or proposes to be resident in Nigeria is satisfied that he is acceptable to the local community in which he lives or is to live permanently and that he is a person who has been assimilated into the way of life of Nigerians in that part of the Federation ; and

(g) that he is a person who has made or who is capable of making useful and substantial contribution to the advancement, progress and well-being of Nigeria.

(3) Any woman whether or not she is of full age, who is or has been married to a citizen of Nigeria by naturalisation, may apply to be registered as a citizen of Nigeria in the prescribed manner, and may be so registered—

(a) if she is resident in Nigeria and has been so resident throughout the period of five years immediately preceding her application ; and

(b) if the Commissioner is satisfied that she is of good character ; and

(c) if she has taken an oath of allegiance in the form specified in the Oaths Act 1963.

(4) Any minor—

(a) whose father or mother was a citizen of Nigeria by naturalisation ;

(b) born outside Nigeria on or after the date on which the father or mother became a citizen as aforesaid,

may if he desires to acquire citizenship of Nigeria, make an application therefor for naturalisation under the foregoing provisions of this section.

Part 2.—Renunciation and Deprivation of Citizenship

Dual citizenship or nationality.

10. Where any person of full age who is a citizen or is entitled to citizenship of Nigeria and to citizenship or nationality of any other country and by any enactment or rule of law is required to elect whether to retain his Nigerian citizenship, or the citizenship or nationality of that other country, he shall not become a citizen of Nigeria unless—

(a) before he attains the age of 22 years, he has effectively renounced any other citizenship or nationality he may possess ; and

(b) the Commissioner is satisfied that he has made a declaration in the prescribed form and has taken the oath of allegiance as prescribed by the Oaths Act 1963.

1963 No. 23.

Renunciation of citizenship.

11.—(1) If any citizen of Nigeria of full age, who is also, or on ceasing to be a citizen of Nigeria will become, a citizen or national of a country other than Nigeria, makes a declaration in the prescribed manner of the renunciation of citizenship of Nigeria, the Commissioner shall cause the declaration to be registered ; and, upon the registration, that person shall cease to be a citizen of Nigeria :

Provided that the Commissioner may withhold registration of any such declaration, if it is made during any war in which Nigeria may be engaged or if in his opinion it is otherwise contrary to public policy.

(2) The Commissioner may with the approval of the Federal Executive Council require any such citizen of Nigeria as is referred to as in subsection (1) of this section to renounce his citizenship or nationality of any other country within such period as the Commissioner may with such approval specify and in the event of any such person failing to renounce such citizenship or nationality within the time specified the Commissioner may with the approval of the Federal Executive Council deprive that person of his citizenship.

(3) For the purposes of this section any woman who has been married shall be deemed to be of full age.

Effect of renunciation of citizenship.

12. The renunciation by any person of his Nigerian citizenship under the provisions of this Part shall not affect the liability of that person for any offence committed by him before the renunciation of his citizenship.

Deprivation of citizenship acquired by registration and naturalisation.

13.—(1) A citizen of Nigeria who is such by registration or naturalisation shall cease to be a citizen of Nigeria if he is deprived of that citizenship by an order made by the Commissioner with the approval of the Federal Executive Council under this section.

(2) Subject to the provisions of this section, the Commissioner may with the approval of the Federal Executive Council by order deprive any such citizen of his citizenship if the registration or certificate of naturalisation was obtained by means of fraud, false representation or the concealment of any material fact.

(3) Subject to the provisions of this section, the Commissioner may with the approval of the Federal Executive Council by order deprive any citizen of Nigeria who is such by naturalisation of his citizenship if that citizen—

(a) has shown himself by act or speech to be disloyal or disaffected towards the Federal Republic of Nigeria ; or

(b) has, during any war in which Nigeria was engaged, unlawfully traded or communicated with any enemy or been engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist any enemy in that war ; or

(c) has within 7 years after becoming naturalised been sentenced in any country to imprisonment for a term of not less than 12 months.

(4) The Commissioner may with the approval of the Federal Executive Council deprive a person of his citizenship under this section if it is not conducive to public good that that person should continue to be a citizen of Nigeria.

14.—(1) The Commissioner may with the approval of the Federal Executive Council by order deprive any person who is a citizen of Nigeria of his Nigerian citizenship if that person has at any time while a citizen of Nigeria and of full age and capacity—

(a) acquired the citizenship or nationality of a country other than Nigeria by any voluntary or formal act other than marriage ; or

(b) voluntarily claimed and exercised in a country other than Nigeria under the law of which provision is in force for conferring on its own citizens or nationals rights not available to citizens of Nigeria, generally, any right available to him under the law of that country, being a right accorded exclusively to its own citizens or nationals,

and that it is not conducive to the public good that he should continue to be a citizen of Nigeria.

(2) Upon an order being made under this section in respect of any person who is a citizen of Nigeria he shall cease to be a citizen of Nigeria as from the date of the order.

(3) Any person deprived of his Nigerian citizenship by the Commissioner under section 13 or under this section may appeal to the Head of the Federal Military Government who may, before arriving at a decision on the appeal, take the advice of such person or authority as the Head of the Federal Military Government may deem appropriate ; and the decision of the Head of the Federal Military Government on such appeal shall be final.

Part 3.—Supplemental

15.—(1) The Commissioner shall not be required to assign any reason for the grant or refusal of any application under this Chapter and the decision of the Commissioner on any such application shall not be subject to appeal to or review by any court of law.

(2) The Commissioner may in such cases as he thinks fit, on the application of any person with respect to whose citizenship of Nigeria a doubt exists, whether on a question of fact or law, certify that that person is a citizen of Nigeria ; and a certificate issued under this section shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be prima facie evidence that that person was such a citizen on the date thereof, but without prejudice to any evidence that he was such a citizen at an earlier date.

16.—The Commissioner with the approval of the Federal Executive Council may by regulations make provisions generally for carrying into effect the purposes of the provisions of this Chapter, and in particular—

(a) for prescribing anything which under this Chapter is to be prescribed ;

Deprivation of citizenship, etc.

Commissioner's powers.

Regulations.

(b) for the registration of anything required or authorised under this Chapter to be registered ;

(c) for the registration of oaths of allegiance ;

(d) for the giving of any notice required or authorised to be given to any person under this Chapter ;

(e) for the cancellation of the registration of, and the cancellation and amendment of certificates of naturalisation relating to, persons deprived of citizenship under this Chapter, and for requiring such certificates to be delivered up for those purposes ;

(f) for the registration by officers in the service of the Government of the Federation of the births and deaths of persons of any class or description born or dying elsewhere than in Nigeria ;

(g) for enabling the births and deaths of citizens of Nigeria born or dying in any country in which the Government of the Federation has for the time being no diplomatic or consular representatives to be registered by persons serving in the diplomatic, consular or other foreign service of any country which, by arrangement with the Government of the Federation, has undertaken to represent that Government's interest in that country, or by a person authorised in that behalf by the Head of the Federal Military Government ;

(h) for the imposition and recovery of fees in respect of any application made to the Commissioner under this Chapter or in respect of any registration, or the making of any declaration, or the grant of any certificate, order, declaration or entry, given, granted or made as aforesaid and for the application of any such fees ; and

(i) prescribing offences and penalties in relation to anything to be done or not to be done under this Chapter or the contravention of any of the provisions thereof.

17.—(1) Without prejudice to the generality of section 165 of this Constitution, in this Chapter—

“certificate of naturalisation” means certificate of naturalisation granted under this Chapter ;

“Commissioner” means the person for the time being charged with responsibility for matters relating to Internal Affairs ;

“minor” means a person who has not attained the age of 21 years.

(2) For the purposes of this Chapter, a person born in a ship or aircraft registered in Nigeria or belonging to the Government of the Federation shall be deemed to have been born in Nigeria.

(3) A person shall for the purposes of this Chapter be of full age if he has attained the age of 21 years and of full capacity if he is not of unsound mind.

(4) For the purposes of this Chapter, a person shall be deemed not to have attained a given age until the commencement of the relevant anniversary of the date of his birth.

(5) Any reference in this Chapter 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 1st October 1960, and the birth occurred after 30th September, 1960, the national status that the father would have had if he had died on 1st October 1960, shall be deemed to be his national status at the time of his death.

(6) Every document purporting to be a notice, certificate, order or declaration, or any entry in a register, or a subscription of an oath of allegiance, given, granted or made pursuant to provisions of this Chapter 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.

(7) 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.

(8) Any entry in a register made under this Chapter shall be received as evidence of the matters stated in the entry.

(9) The onus of proof that any person has effectively renounced his other citizenship or nationality as provided herein shall lie upon him."

MADE at Lagos this 8th day of October 1974.

GENERAL Y. GOWON,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

*(This note does not form part of the above Decree
but is intended to explain its purport)*

The Decree replaces Chapter II of the Constitution (which deals with citizenship). The amendments reproduce the salient features of the provisions under that Chapter and the provisions of the Nigerian Citizenship Act 1960 as amended by the Nigerian Citizenship Act 1961, all of which have now been repealed.

2. Under the new provisions a person may acquire citizenship of Nigeria by birth, registration or by naturalisation, and some special provisions have been made for registration of women married to citizens of Nigeria. Other new provisions concern citizenship of minors. Fresh provisions have been made in relation to the qualifications for acquisition of Nigerian citizenship by naturalisation. Persons other than those qualified to be citizens by birth or by registration are to be treated alike, should they desire to acquire citizenship of Nigeria by naturalisation.