

Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 546 Cape Town, 7 December 2010 No. 33850
Kaapstad, 7 Desember 2010

THE PRESIDENCY

No. 1173 7 December 2010

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 17 of 2010: South African Citizenship Amendment Act, 2010

DIE PRESIDENSIE

Nr. 1173 7 Desember 2010

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Nr. 17 van 2010: Wysigingswet op Suid-Afrikaanse Burgerskap, 2010

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 3 December 2010.)

ACT

To amend the South African Citizenship Act, 1995, so as to substitute, insert or delete certain definitions; to revise the provisions relating to acquisition of citizenship by birth, descent and naturalisation; to repeal or to substitute certain obsolete references; and to effect certain technical corrections; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Substitution of Chapter 1 of Act 88 of 1995

1. The following Chapter is hereby substituted for Chapter 1 of the South African Citizenship Act, 1995 (hereinafter referred to as the principal Act):

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“Chapter 1**Definitions and Interpretation [and Application] of Act****Definitions**

1. [(1)] In this Act, unless the context otherwise indicates—
- [(i)] ‘alien’ means a person who is not a South African citizen; (xviii) 10
- [(ii)] ‘customary union’ means the association of a man and a woman in a conjugal relationship according to indigenous law and custom, where neither the man nor the woman is party to a subsisting marriage, which is recognised by the Minister in terms of section 1(4) of this Act; (v) 15
- ‘Children’s Act’ means the Children’s Act, 2005 (Act No. 38 of 2005);
- ‘Constitution’ means the Constitution of the Republic of South Africa, 1996;
- [(iii)] ‘Department’ means the Department of Home Affairs; [(i)] 20
- ‘foreigner’ means a person who is not a South African citizen;
- [(iv)] ‘former states’ means—
- (a) the former Republic of Transkei as referred to in the Status of Transkei Act, 1976 (Act No. 100 of 1976);

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.

(Engelse teks deur die President geteken.)
(Goedgekeur op 3 Desember 2010.)

WET

Tot wysiging van die Wet op Suid-Afrikaanse Burgerskap, 1995, ten einde sekere omskrywings te vervang, in te voeg of te skrap; die bepalings betreffende die verkryging van burgerskap deur geboorte, afkoms en naturalisasie te hersien; sekere uitgediende verwysings te herroep of te vervang; en sekere tegniese korreksies aan te bring; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Vervanging van Hoofstuk 1 van Wet 88 van 1995

1. Hoofstuk 1 van die Wet op Suid-Afrikaanse Burgerskap, 1995 (hierna die Hoofwet genoem), word hierby deur die volgende Hoofstuk vervang: 5

“Hoofstuk 1**Woordomskrywing en Uitleg [en Toepassing] van Wet****Woordomskrywing**

1. [(1)] In hierdie Wet, tensy uit die samehang anders blyk, beteken— 10
- ‘buitelander’ ’n persoon wat nie ’n Suid-Afrikaanse burger is nie;
- [(i)] ‘Departement’ die Departement van Binnelandse Sake; [(iii)]
- (ii) ‘eggenoot’ ook ’n eggenoot in ’n gebruikelike verbinding; (v)
- (iii) ‘eggenote’ ook ’n eggenote in ’n gebruikelike verbinding; (xvi)
- [(iv)] ‘gade’ [ook ’n gade in ’n gebruikelike verbinding] ’n persoon wat ’n 15
- party is by ’n huwelik wat ingevolge hierdie Wet erken word; [(xiv)]
- (v) ‘gebruikelike verbinding’ die sameleef van ’n man en ’n vrou in ’n 20
- egtelike verhouding ooreenkomstig inheemse reg en gebruik, waar nóg die man nóg die vrou ’n party is by ’n bestaande huwelik, wat deur die Minister ingevolge artikel 1(4) van hierdie Wet erken word; (ii)]
- ‘Grondwet’ die Grondwet van die Republiek van Suid-Afrika, 1996;
- [(vi)] ‘hierdie Wet’ ook die Bylaes by die Wet en die regulasies; [(xv)]
- (vii) ‘huwelik’ [ook ’n gebruikelike verbinding]—
- (a) ’n huwelik voltrek ingevolge— 25
- (i) die Huwelikswet, 1961 (Wet No. 25 van 1961); of
- (ii) die Wet op Erkenning van Gebruikelike Huwelike, 1998 (Wet No. 120 van 1998);

- (b) the former Republic of Bophuthatswana as referred to in the Status of Bophuthatswana Act, 1977 (Act No. 89 of 1977);
- (c) the former Republic of Venda as referred to in the Status of Venda Act, 1979 (Act No. 107 of 1979); and
- (d) the former Republic of Ciskei as referred to in the Status of Ciskei Act, 1981 (Act No. 110 of 1981); [(xvi) 5
- (v) **‘husband’ includes a husband in a customary union; (ii)**
‘Immigration Act’ means the Immigration Act, 2002 (Act No. 13 of 2002);
- [(vi)] **‘major’ means any person who has attained the age of [21] 18 years [or who has under the provisions of section 2 of the Age of Majority Act, 1972 (Act No. 57 of 1972), been declared to be a major, and includes a person under the age of 21 years who has contracted a legal marriage; (vii) 10**
- (vii) **‘marriage’ [includes a customary union] means— 15**
- (a) a marriage concluded in terms of—
- (i) the Marriage Act, 1961 (Act No. 25 of 1961); or
- (ii) the Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998);
- (b) a civil union concluded in terms of the Civil Union Act, 2006 (Act No. 17 of 2006); or 20
- (c) a marriage concluded in terms of the laws of a foreign country; [(vii) 25
- (viii)] **‘Minister’ means the Minister of Home Affairs; [(x) 25**
- (ix)] **‘minor’ [or ‘minor child’] means any person who is not a major; [(ix) 25**
‘permanent residence’ means permanent residence in terms of the Immigration Act;
‘permanent resident’ means a person having permanent residence status in terms of the Immigration Act; 30
- [(x)] **‘prescribed’ means prescribed by regulation; [(xv) 30**
- (xi)] **‘prior law’ means any law repealed by section 26; [(xvii) 30**
- (xii)] **‘regulation’ means a regulation made under section 23; [(xi) 30**
- (xiii)] **‘responsible parent’ means a parent [as] contemplated in [section 1 of the Guardianship Act, 1993 (Act No. 192 of 1993)] Chapter 3 of the Children’s Act; [(xiv) 35**
- (xiv)] **‘spouse’ [includes a spouse in a customary union] means a person who is a party to a marriage recognised in terms of this Act; [(iv) 35**
- (xv)] **‘this Act’ includes the Schedules to the Act and the regulations [; (vi) 40**
- (xvi) **‘wife’ includes a wife in a customary union. (iii)]. 40**

Interpretation of Act

[(2)] 1A. (1) For the purposes of this Act, unless clearly inconsistent with the provisions of this Act—

- (a) any reference in this Act to entrance into the Republic, to permanent residence in the Republic, to any period of residence or ordinary residence in the Republic or to any period of absence from the Republic, shall be construed to include any entrance into, residence in or absence from the Republic of South Africa or any of the former states as they had existed immediately prior to the commencement of the Constitution; 45 50
- (b) the expressions ‘in the Republic’ and ‘outside the Republic’ shall be construed as if the former states were part of the former Republic of South Africa, whenever it has to be determined whether any event or action which occurred or took place prior to the commencement of the Constitution, occurred or took place in or outside the Republic; and 55
- (c) the expression ‘Government of the Republic’ shall be construed to include the governments of the former states whenever it has to be determined if a person was in the service of the Government of the Republic prior to the commencement of the Constitution.

[(3)] (2) For the purposes of this Act—

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- (b) 'n burgerlike verbinding voltrek ingevolge die 'Civil Union Act, 2006' (Wet No. 17 van 2006); of
- (c) 'n huwelik voltrek ingevolge die wette van 'n vreemde land; [(vii)] 'Immigrasiewet' die 'Immigration Act, 2002' (Wet No. 13 of 2002); 'Kinderwet' die 'Children's Act, 2005' (Wet No. 38 van 2005);
- [(viii)] **'meerderjarige'** 'n persoon wat die ouderdom van [21] 18 jaar bereik het [of wat ingevolge die bepalings van artikel 2 van die Wet op Meerderjarigheidsoouderdom, 1972 (Wet No. 57 van 1972), meerderjarig verklaar is, en ook 'n persoon wat 'n wettige huwelik sluit terwyl hy of sy onder die ouderdom van 21 jaar is]; [(vi)]
- (ix) **'minderjarige'** [of **'minderjarige kind'**] 'n persoon wat nie 'n meerderjarige is nie; [(ix)]
- (x) **'Minister'** die Minister van Binnelandse Sake; [(viii)] **'permanente inwoner'** 'n persoon met permanente verblyfstatus ingevolge die Immigrasiewet; **'permanente verblyf'** permanente verblyf ingevolge die Immigrasiewet;
- [(xi)] **'regulasie'** 'n regulasie wat kragtens artikel 23 uitgevaardig is; [(xii)]
- (xiv) **'verantwoordelike ouer'** 'n ouer [soos] beoog in [artikel 1 van die Wet op Voogdy, 1993 (Wet No. 192 van 1993)] Hoofstuk 3 van die Kinderwet; [(xiii)]
- (xv) **'voorgeskryf'** by regulasie voorgeskryf; [(x)]
- (xvi) **'voormalige state'**—
- (a) die voormalige Republiek van Transkei soos bedoel in die Wet op die Status van die Transkei, 1976 (Wet No. 100 van 1976);
- (b) die voormalige Republiek van Bophuthatswana soos bedoel in die Wet op die Status van Bophuthatswana, 1977 (Wet No. 89 van 1977);
- (c) die voormalige Republiek van Venda soos bedoel in die Wet op die Status van Venda, 1979 (Wet No. 107 van 1979); en
- (d) die voormalige Republiek van Ciskei soos bedoel in die Wet op die Status van Ciskei, 1981 (Wet No. 110 van 1981); [(iv)]
- (xvii) **'vorige wet'** 'n wet herroep deur artikel 26 [(x)]
- (xviii) **'vreemdeling'** 'n persoon wat nie 'n Suid-Afrikaanse burger is nie (i)].

Uitleg van Wet

[(2)] **1A. (1)** By die toepassing van hierdie Wet, tensy duidelik onbestaanbaar met die bepalings van hierdie Wet—

- (a) moet enige verwysing in hierdie Wet na binnekoms in die Republiek, na permanente verblyf in die Republiek, na enige tydperk van verblyf of gewone verblyf in die Republiek of na enige tydperk van afwesigheid uit die Republiek, uitgelê word om 'n binnekoms in, verblyf in of afwesigheid uit die Republiek van Suid-Afrika of enige van die voormalige state soos wat dit bestaan het onmiddellik voor die inwerkingtreding van die Grondwet, in te sluit;
- (b) word die uitdrukkings 'in die Republiek' en 'buite die Republiek' uitgelê asof die voormalige state deel was van die voormalige Republiek van Suid-Afrika, wanneer dit bepaal moet word of enige gebeurtenis of handeling wat plaasgevind of gebeur het voor die inwerkingtreding van die Grondwet, plaasgevind of gebeur het binne of buite die Republiek;
- (c) word die uitdrukking 'Regering van die Republiek' uitgelê om die regerings van die voormalige state in te sluit, wanneer dit bepaal moet word of 'n persoon in diens van die Regering van die Republiek was voor die inwerkingtreding van die Grondwet.

[(3)] **(2)** By die toepassing van hierdie Wet—

- (a) word 'n persoon wat aan boord van 'n geregistreerde skip of lugvaartuig gebore word, geag op die plek waar die skip of lugvaartuig geregistreer is, gebore te gewees het, en word 'n persoon wat aan

- (a) a person born aboard a registered ship or aircraft shall be deemed to have been born at the place where the ship or aircraft is registered, and a person born aboard an unregistered ship or aircraft belonging to the Government of any country shall be deemed to have been born in that country; 5
- (b) a person—
- (i) to whom an exemption from **[the prohibition mentioned in section 23(a) of the Aliens Control Act, 1991 (Act No. 96 of 1991)]** compliance with visa requirements in terms of section 10A of the Immigration Act, has been granted unconditionally and for an unspecified period in terms of section **[28(2)] 10A(4)(a)** of that Act, whether as an individual or as a member of a category of persons; or
- (ii) to whom **[the said prohibition is not applicable by virtue of section 29(1)(a) or (c) of that Act]** an exemption has been granted in terms of section 31(3)(a) or (c) of the Immigration Act, 15
- and who entered the Republic or is in the Republic for purposes of permanent residence, shall be deemed to be or have been lawfully admitted to the Republic for permanent residence therein, or permanently and lawfully residing in the Republic. 20
- [(4)] (3) For the purposes of this Act—**
- (a) **[A] a customary [union shall be recognised by the Minister for the purposes of this Act] marriage and a marriage concluded in terms of the laws of a foreign country shall be recognised by the Minister,** if the Minister is satisfied, upon information submitted to him or her in the prescribed form by the applicant and such other person alleged to be the applicant's spouse in the **[customary union] marriage concerned,** that the applicant is in fact a spouse in the **[customary union in question.]** said marriage; and 25 30
- (b) **[The] the** Minister may, in addition to any information submitted in terms of paragraph (a) or to clarify any information so submitted, call for further information to be submitted to him or her, or may call upon any person to appear before him or her and require or allow such person to give such oral information or produce such other information as in the opinion of the Minister may assist him or her in deciding the matter in question.”. 35

Substitution of section 2 of Act 88 of 1995

2. The following section is hereby substituted for section 2 of the principal Act:

“Citizenship by birth 40

2. (1) Any person—

- (a) who immediately prior to the date of commencement of the South African Citizenship Amendment Act, 2010, was a South African citizen by birth; or
- (b) who is born in or outside the Republic, one of his or her parents, at the time of his or her birth, being a South African citizen, shall be a South African citizen by birth. 45
- (2) Any person born in the Republic and who is not a South African citizen by virtue of the provisions of subsection (1) shall be a South African citizen by birth, if— 50
- (a) he or she does not have the citizenship or nationality of any other country, or has no right to such citizenship or nationality; and
- (b) his or her birth is registered in the Republic in accordance with the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992).

- boord van 'n ongeregisteerde skip of lugvaartuig van die Regering van een of ander land gebore word, geag in daardie land gebore te gewees het;
- (b) word 'n persoon—
- (i) aan wie 'n vrystelling van **[die verbod in artikel 23(a) van die Wet op Vreemdelinge-beheer, 1991 (Wet 96 van 1991), vermeld]** voldoening aan visumvereistes ingevolge artikel 10A van die Immigrasiewet, hetsy as 'n individu of as 'n lid van 'n kategorie persone, onvoorwaardelik en vir 'n onbepaalde tydperk ingevolge artikel **[28(2)] 10A(4)(a)** van daardie Wet verleen is; of
- (ii) **[op wie bedoelde verbod uit hoofde van artikel 29 (1)(a) of (c) van daardie Wet nie van toepassing is nie]** aan wie 'n vrystelling ingevolge artikel 31(3)(a) of (c) van die Immigrasiewet verleen is,
- en wat die Republiek binnegekome het of in die Republiek is met die doel om hom of haar blywend daarin te vestig, geag wettig vir permanente verblyf tot die Republiek toegelaat, of permanent en wettig in die Republiek woonagtig, te wees of te gewees het.
- [(4)] (3) By die toepassing van hierdie Wet—**
- (a) word 'n **[Gebruiklike verbinding word vir die doeleindes van hierdie Wet deur die Minister erken]** gebruiklike huwelik en 'n huwelik wat ingevolge die wette van 'n vreemde land voltrek is deur die Minister erken, indien die Minister, op inligting wat aan hom of haar in die voorgeskrewe vorm voorgelê is deur die aansoeker en sodanige ander persoon wat na bewering die aansoeker se gade in die **[gebruiklike verbinding] betrokke huwelik** is, oortuig is dat die aansoeker inderdaad 'n gade in **[die betrokke gebruiklike verbinding] daardie huwelik is[.]**; en
- (b) **[Die]** kan die Minister **[kan]**, bykomstig tot enige inligting wat ingevolge paragraaf (a) voorgelê is of om enige inligting wat aldus voorgelê is op te klaar, vereis dat verdere inligting aan hom of haar voorgelê word, of kan enige persoon versoek om voor hom of haar te verskyn en sodanige persoon vereis of toelaat om sodanige mondelinge getuenis te lewer of om sodanige ander inligting aan te voer as wat na die oordeel van die Minister vir hom of haar van hulp kan wees om die betrokke aangeleentheid te besleg.”

Vervanging van artikel 2 van Wet 88 van 1995

2. Artikel 2 van die Hoofwet word hierby deur die volgende artikel vervang:

“Burgerskap deur geboorte

2. (1) 'n Persoon—

- (a) wat, onmiddellik voor die datum van die inwerkingtreding van die Wysigingswet op Suid-Afrikaanse Burgerskap, 2010, 'n Suid-Afrikaanse burger deur geboorte was; of
- (b) wat in of buite die Republiek gebore word en een van sy of haar ouers is of was by sy of haar geboorte 'n Suid-Afrikaanse burger, is 'n Suid-Afrikaanse burger deur geboorte.
- (2) 'n Persoon wat in die Republiek gebore is en wat nie uit hoofde van die bepalings van subartikel (1) 'n Suid-Afrikaanse burger is nie, is 'n Suid-Afrikaanse burger deur geboorte indien—
- (a) hy of sy nie die burgerskap of nasionaliteit van 'n ander land het nie, of nie op sodanige burgerskap of nasionaliteit geregtig is nie; en
- (b) sy of haar geboorte ooreenkomstig die Wet op die Registrasie van Geboortes en Sterftes, 1992 (Wet No. 51 van 1992), in die Republiek geregistreer is.

(3) Any person born in the Republic of parents who have been admitted into the Republic for permanent residence and who is not a South African citizen, qualifies to be a South African citizen by birth, if—

- (a) he or she has lived in the Republic from the date of his or her birth to the date of becoming a major; and
 (b) his or her birth is registered in the Republic in accordance with the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992).”

Substitution for section 3 of Act 88 of 1995, as amended by section 2 of Act 69 of 1997

3. The following section is hereby substituted for section 3 of the principal Act:

“Citizenship by descent

3. Any person who is adopted in terms of the provisions of the Children’s Act by a South African citizen and whose birth is registered in accordance with the provisions of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992), shall be a South African citizen by descent.”

Substitution of section 4 of Act 88 of 1995, as amended by section 3 of Act 69 of 1997

4. The following section is hereby substituted for section 4 of the principal Act:

“Citizenship by naturalisation

4. (1) Any person who—
 (a) immediately prior to the date of the commencement of the South African Citizenship Amendment Act, 2010, was a South African citizen by naturalisation; or
 (b) in terms of this Act is granted a certificate of naturalisation as a South African citizen in terms of section 5,
 shall be a South African citizen by naturalisation.

(2) Any person referred to in subsection (1)(b) shall, with effect from the date of the issue of the certificate, be a South African citizen by naturalisation.

(3) A child born in the Republic of parents who are not South African citizens or who have not been admitted into the Republic for permanent residence, qualifies to apply for South African citizenship upon becoming a major if—

- (a) he or she has lived in the Republic from the date of his or her birth to the date of becoming a major; and
 (b) his or her birth has been registered in accordance with the provisions of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992).”

Amendment of section 5 of Act 88 of 1995, as amended by section 4 of Act 69 of 1997

5. Section 5 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The Minister may, upon application in the prescribed **[form]** manner, grant a certificate of naturalisation as a South African citizen to any **[alien]** foreigner who satisfies the Minister that—”;

- (b) by the substitution in subsection (1) for paragraphs (b) and (c) of the following paragraphs, respectively:

“(b) he or she has been **[lawfully]** admitted to the Republic for permanent residence therein; and

- (3) 'n Persoon gebore in die Republiek van ouers wat tot die Republiek toegelaat is en wat nie 'n Suid-Afrikaanse burger is nie, kwalifiseer om 'n Suid-Afrikaanse burger deur geboorte te wees indien—
- (a) hy of sy vanaf die datum van sy of haar geboorte tot die bereiking van meerderjarigheid in die Republiek gewoon het; en
- (b) sy of haar geboorte ooreenkomstig die Wet op die Registrasie van Geboortes en Sterftes, 1992 (Wet No. 51 van 1992), in die Republiek geregistreer is.”

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Vervanging van artikel 3 van Wet 88 van 1995, soos gewysig deur artikel 2 van Wet 69 van 1997

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3. Artikel 3 van die Hoofwet word hierby deur die volgende artikel vervang:

“Burgerskap deur afkoms

3. 'n Persoon wat ingevolge die bepalings van die Kinderwet deur 'n Suid-Afrikaanse burger aangeneem word en wie se geboorte ooreenkomstig die bepalings van die Wet op die Registrasie van Geboortes en Sterftes, 1992 (Wet No. 51 van 1992), geregistreer is, is 'n Suid-Afrikaanse burger deur afkoms.”

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Vervanging van artikel 4 van Wet 88 van 1995, soos gewysig deur artikel 3 van Wet 69 van 1997

4. Artikel 4 van die Hoofwet word hierby deur die volgende artikel vervang:

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“Burgerskap deur naturalisasie

4. (1) 'n Persoon—
- (a) wat onmiddellik voor die datum van die inwerkingtreding van die Wysigingswet op Suid-Afrikaanse Burgerskap, 2010, 'n Suid-Afrikaanse burger deur naturalisasie was; of
- (b) aan wie ingevolge hierdie Wet 'n sertifikaat van naturalisasie as 'n Suid-Afrikaanse burger ingevolge artikel 5 toegeken word, is 'n Suid-Afrikaanse burger deur naturalisasie.
- (2) 'n Persoon in subartikel (1)(b) bedoel, is vanaf die datum van die uitreiking van die sertifikaat 'n Suid-Afrikaanse burger deur naturalisasie.
- (3) 'n Kind gebore in die Republiek van ouers wat nie Suid-Afrikaanse burgers is nie of wat nie tot die Republiek toegelaat is vir permanente verblyf nie, kwalifiseer om aansoek te doen om Suid-Afrikaanse burgerskap wanneer meerderjarigheid bereik word, indien—
- (a) hy of sy vanaf die datum van sy of haar geboorte tot die bereiking van meerderjarigheid in die Republiek gewoon het; en
- (b) sy of haar geboorte ooreenkomstig die Wet op die Registrasie van Geboortes en Sterftes, 1992 (Wet No. 51 van 1992), in die Republiek geregistreer is.”

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Wysiging van artikel 5 van Wet 88 van 1995, soos gewysig deur artikel 4 van Wet 69 van 1997

5. Artikel 5 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Die Minister kan, op aansoek in die voorgeskrewe [**vorm**] wyse, 'n sertifikaat van naturalisasie as 'n Suid-Afrikaanse burger toeken aan 'n [**vreemdeling**] buitelander wat die Minister oortuig dat—”;

- (b) deur in subartikel (1) paragrawe (b) en (c) onderskeidelik deur die volgende paragrawe te vervang:

“(b) hy of sy [**wettig**] tot die Republiek vir permanente verblyf daarin toegelaat is; en

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- (c) he or she is ordinarily resident in the Republic and that he or she has been so resident for a continuous period of not less than **[one year] five years** immediately preceding the date of his or her application[, **and that he or she has, in addition, been resident in the Republic for a further period of not less than four years during the eight years immediately preceding the date of his or her application];** and”;
- (c) by the substitution in subsection (1) for paragraph (g) of the following paragraph:
“(g) he or she has **[an]** adequate knowledge of the responsibilities and privileges of South African citizenship[.]; **and**”;
- (d) by the addition to subsection (1) of the following paragraph:
“(h) he or she is a citizen of a country that allows dual citizenship: Provided that in the case where dual citizenship is not allowed by his or her country, such person renounces the citizenship of that country and furnishes the Minister with the prescribed proof of such **renunciation.**”;
- (e) by the substitution for subsection (4) of the following subsection:
“(4) (a) The Minister may, notwithstanding the provisions of subsection (1), upon application in the prescribed form **[by the responsible parent or the guardian]** for a certificate of naturalisation in respect of a minor who is permanently and lawfully resident in the Republic, grant to that minor a certificate of naturalisation as a South African citizen.
(b) An application in terms of paragraph (a) must be made by the **responsible parent or the legal guardian of the minor concerned.**”;
- (f) by the substitution for subsection (5) of the following subsection:
“(5) The Minister may, notwithstanding the provisions of subsection (1), upon application in the prescribed manner, grant a certificate of naturalisation as a South African citizen to a foreigner who satisfies the Minister that he or she is the spouse or surviving spouse of a South African citizen and that he or she has been—
(a) admitted to the Republic for permanent residence;
(b) ordinarily resident in the Republic for a prescribed period; and
(c) married to such citizen during the period contemplated in paragraph (b).”;
- (g) by the substitution in subsection (9) for paragraph (a) of the following paragraph:
“(a) Notwithstanding anything to the contrary contained in subsection (1)(c), the Minister may under exceptional circumstances grant a certificate of naturalisation as South African citizen to an applicant who does not comply with the requirements of **[the said]** subsection (1)(c) relating to residence or ordinary residence in the Republic.”.

Amendment of section 6 of Act 88 of 1995

6. Section 6 of the principal Act is hereby amended by the addition of the following subsection:

“(3) Any person who obtained South African citizenship by naturalisation in terms of this Act shall cease to be a South African citizen if he or she engages, under the flag of another country, in a war that the Republic does not support.”.

Amendment of section 8 of Act 88 of 1995

7. Section 8 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Whenever the Minister deprives a person of his or her South African citizenship under this section or section **[9 or]** 10, that person shall cease to be a South African citizen with effect from such date as the Minister may direct and thereupon the certificate of naturalisation or any other certificate issued under this Act in relation to the status of the person concerned, shall be surrendered to the Minister and cancelled, and any person who refuses or fails on demand to surrender any such certificate which he or she has in his or her possession, shall be guilty of

- (c) hy of sy gewone verblyf in die Republiek het en dat hy of sy, sy of haar verblyf aldus gehad het vir 'n ononderbroke tydperk van minstens **[een]** vyf jaar onmiddellik voor die datum van sy of haar aansoek **[en dat hy of sy daarbenewens vir 'n verdere tydperk van minstens vier jaar gedurende die agt jaar onmiddellik voor die datum van sy of haar aansoek, sy of haar verblyf in die Republiek gehad het]; en**”; 5
- (c) deur in subartikel (1) paragraaf (g) deur die volgende paragraaf te vervang:
“(g) hy of sy [**n**] toereikende kennis van die verantwoordelikhede en voorregte van Suid-Afrikaanse burgerskap het[.]; **en**”; 10
- (d) deur die volgende paragraaf by subartikel (1) te voeg:
“(h) hy of sy 'n burger van 'n land is wat dubbele burgerskap toelaat: Met dien verstande dat in die geval waar dubbele burgerskap nie deur sy of haar land toegelaat word nie, sodanige persoon afstand doen van die burgerskap van daardie land en die Minister van die voorgeskrewe bewys van sodanige afstanddoening voorsien.”; 15
- (e) deur subartikel (4) deur die volgende subartikel te vervang:
“(4) (a) Die Minister kan, ondanks die bepalings van subartikel (1), op aansoek in die voorgeskrewe vorm **[deur die verantwoordelike ouer of voog]** om 'n sertifikaat van naturalisasie ten opsigte van 'n minderjarige wat permanent en wettig in die Republiek woonagtig is, aan daardie minderjarige 'n sertifikaat van naturalisasie as 'n Suid-Afrikaanse burger toeken. 20
(b) 'n Aansoek ingevolge paragraaf (a) moet deur die verantwoordelike ouer of die wettige voog van die betrokke minderjarige gedoen word.”; 25
- (f) deur subartikel (5) deur die volgende subartikel te vervang:
“(5) Die Minister kan, ondanks die bepalings van subartikel (1), by aansoek op die voorgeskrewe wyse, 'n sertifikaat van naturalisasie as 'n Suid-Afrikaanse burger toeken aan 'n buitelandse wat die Minister oortuig dat hy of sy die gade of oorlewende gade van 'n Suid-Afrikaanse burger is en dat hy of sy— 30
(a) tot die Republiek toegelaat is vir permanente verblyf;
(b) gewone verblyf in die Republiek het vir 'n voorgeskrewe tydperk; 35
en
(c) met sodanige burger getroud is gedurende die tydperk in paragraaf (b) beoog.”; en
- (g) deur in subartikel (9) paragraaf (a) deur die volgende paragraaf te vervang:
“(a) Ondanks andersluidende bepalings van subartikel (1)(c) kan die Minister onder buitengewone omstandighede 'n sertifikaat van naturalisasie as 'n Suid-Afrikaanse burger aan 'n applikant toeken wat nie aan die voorskrifte van **[genoemde]** subartikel (1)(c) met betrekking tot verblyf of gewone verblyf in die Republiek voldoen nie.”. 40

Wysiging van artikel 6 van Wet 88 van 1995 45

6. Artikel 6 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

- “(3) 'n Persoon wat ingevolge hierdie Wet deur naturalisasie Suid-Afrikaanse burgerskap verkry het, hou op om 'n Suid-Afrikaanse burger te wees indien hy of sy, onder die vlag van 'n ander land, in 'n oorlog betrokke is wat nie deur die Republiek gesteun word nie.”. 50

Wysiging van artikel 8 van Wet 88 van 1995

7. Artikel 8 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

- “(3) Wanneer die Minister 'n persoon sy of haar Suid-Afrikaanse burgerskap ingevolge hierdie artikel of artikel [9 of] 10 ontnem, hou daardie persoon met ingang van die datum wat die Minister gelas, op om 'n Suid-Afrikaanse burger te wees en daarop word die sertifikaat van naturalisasie of enige ander kragtens hierdie Wet uitgereikte sertifikaat met betrekking tot die status van die betrokke persoon aan die Minister teruggegee en gekanselleer, en 'n persoon wat weier of in 60

an offence and liable on conviction to a fine or to imprisonment for a period not exceeding **[two] five years, or to both such fine and imprisonment.**”.

Substitution of section 10 of Act 88 of 1995

8. The following section is hereby substituted for section 10 of the principal Act:

“Deprivation of citizenship in case of children

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10. Whenever the responsible parent of a minor has in terms of the provisions of section **[6, 8 or 9] 6 or 8** ceased to be a South African citizen, the Minister may, with due regard to the provisions of the **[Guardianship Act, 1993 (Act No. 192 of 1993)] Children’s Act**, order that such minor, if he or she was born outside the Republic and is under the age of 18 years, shall cease to be a South African citizen.”.

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Amendment of section 11 of Act 88 of 1995, as amended by section 6 of Act 69 of 1997

9. Section 11 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

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“(3) Whenever—

(a) a South African citizen by naturalisation or registration ceased to be a South African citizen by virtue of the provisions of any prior law; or

(b) a South African citizen by naturalisation ceases to be a South African citizen by virtue of the provisions of section 6, 7, 8, **[9]** or 10,

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he or she shall, for the purposes of the **[Aliens Control Act, 1991 (Act No. 96 of 1991)] Immigration Act**, but subject to the provisions of subsection (4), be deemed to be **[an alien] a foreigner** who is not—

(i) in possession or **[is not]** deemed to be in possession of a permit referred to in section **[25 or 26] 10(2) or 25(2)** of that Act; or

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(ii) in terms of section **[28(2)] 31(2)(a)** of the said Act, exempted or deemed to be exempted from the **[prohibition in] provisions** of section **[23(a)] 10(1)** of that Act.”.

Amendment of section 13 of Act 88 of 1995, as amended by section 7 of Act 69 of 1997

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10. Section 13 of the principal Act is hereby amended—

(a) by the deletion of subsection (1);

(b) by the substitution in subsection (3) for paragraph (a) of the following paragraph:

“(a) Any person who ceased to be a South African citizen by virtue of the provisions of any prior law or by virtue of the provisions of section 9 as it existed immediately before its repeal by section 1 of the South African Citizenship Amendment Act, 2004 (Act No. 17 of 2004), or who ceases to be a South African citizen by virtue of the provisions of section 6, 7, 8, **[9]** or 10 may—

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(i) if he or she is not a person **[as]** referred to in section 11(3) and who is residing in the Republic permanently or returns to the Republic for permanent residence therein, as the case may be; or

(ii) if he or she is a person as referred to in section 11(3) and a permit for permanent residence referred to in section 25 of the **[Aliens Control Act, 1991 (Act No. 96 of 1991),] Immigration Act** is issued to him or her,

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apply to the Minister in the prescribed **[form] manner** for the resumption of his or her former South African citizenship.”; and

gebreke bly om op versoek enige sodanige sertifikaat wat hy of sy in sy of haar besit het terug te gee, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens [**twee**] vyf jaar, of met beide sodanige boete en gevangenisstraf.”.

Vervanging van artikel 10 van Wet 88 van 1995

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8. Artikel 10 van die Hoofwet word hierby deur die volgende artikel vervang:

“Ontneming van burgerskap in geval van kinders

10. Wanneer die verantwoordelike ouer van 'n minderjarige ingevolge die bepalings van artikel [6, 8 of 9] 6 of 8 opgehou het om 'n Suid-Afrikaanse burger te wees, kan die Minister, met behoorlike inagneming van die bepalings van die [**Wet op Voogdy, 1993 (Wet 192 van 1993)**] Kinderwet, gelas dat daardie minderjarige, indien hy of sy buite die Republiek gebore is en wat onder die ouderdom van 18 jaar is, ophou om 'n Suid-Afrikaanse burger te wees.”.

Wysiging van artikel 11 van Wet 88 van 1995, soos gewysig deur artikel 6 van Wet 69 van 1997

9. Artikel 11 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Wanneer—

- (a) 'n Suid-Afrikaanse burger deur naturalisasie of registrasie uit hoofde van die bepalings van 'n vorige wet opgehou het om 'n Suid-Afrikaanse burger te wees; of
- (b) 'n Suid-Afrikaanse burger deur naturalisasie uit hoofde van die bepalings van artikel 6, 7, 8[, 9] of 10 ophou om 'n Suid-Afrikaanse burger te wees, word hy of sy by die toepassing van die [**Wet op Vreemdelinge-beheer, 1991 (Wet 96 van 1991)**] Immigrasiewet, maar behoudens die bepalings van subartikel (4), geag 'n [**vreemdeling**] buitelander te wees wat nie—
 - (i) in besit is of [**nie**] geag word in besit te wees van 'n permit bedoel in artikel [25 of 26] 10(2) of 25(2) van daardie Wet nie; of
 - (ii) ingevolge artikel [28(2)] 31(2)(a) van genoemde Wet vrygestel is of geag word vrygestel te wees van die [**verbod in**] bepalings van artikel [23(a)] 10(1) van daardie Wet nie.”.

Wysiging van artikel 13 van Wet 88 van 1995, soos gewysig deur artikel 7 van Wet 69 van 1997

10. Artikel 13 van die Hoofwet word hierby gewysig—

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(a) deur subartikel (1) te skrap;

(b) deur in subartikel (3) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) 'n Persoon wat uit hoofde van die bepalings van 'n vorige wet of uit hoofde van die bepalings van artikel 9 soos dit bestaan het onmiddellik voor dit deur artikel 1 van die Wysigingswet op Suid-Afrikaanse Burgerskap, 2004 (Wet No. 17 van 2004), herroep is opgehou het om 'n Suid-Afrikaanse burger te wees of wat uit hoofde van die bepalings van artikel 6, 7, 8[, 9] of 10 ophou om 'n Suid-Afrikaanse burger te wees, kan—

- (i) indien hy of sy nie 'n persoon is nie [**soos**] bedoel in artikel 11(3) en wat permanent in die Republiek woonagtig is of na die Republiek terugkeer vir permanente verblyf daarin, na gelang van die geval; of
- (ii) indien hy of sy 'n persoon is soos bedoel in artikel 11(3) en 'n permit vir permanente verblyf bedoel in artikel 25 van die [**Wet op Vreemdelinge-beheer, 1991 (Wet 96 van 1991)**] Immigrasiewet, aan hom of haar uitgereik is,

[**in**] op die voorgeskrewe [**vorm**] wyse by die Minister om die herneming van sy of haar vorige Suid-Afrikaanse burgerskap aansoek doen.”; en

(c) by the substitution for subsection (4) of the following subsection:

“(4) The provisions of section 5(7) shall [*mutatis mutandis*] apply with the changes required by the context in respect of a certificate referred to in subsection (3)(b).”.

Substitution of certain words in Act 88 of 1995

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11. The principal Act is hereby amended by the substitution for the words “alien” and “Supreme Court”, wherever they occur, of the words “foreigner” and “High Court”, respectively.

Short title and commencement

12. This Act is called the South African Citizenship Amendment Act, 2010, and 10 comes into operation on a date determined by the President by Proclamation in the *Gazette*.

(c) deur subartikel (4) deur die volgende subartikel te vervang:

“(4) Die bepalinge van artikel 5(7) is [*mutatis mutandis*] met die veranderinge deur die samehang vereis van toepassing met betrekking tot ’n sertifikaat in subartikel (3)(b) bedoel.”.

Vervanging van sekere woorde in Wet 88 van 1995

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11. Die Hoofwet word hierby gewysig deur die woorde “vreemdeling” en “Hooggeregshof”, waar dit ook al voorkom, deur onderskeidelik “buitelander” en “Hoë Hof” te vervang.

Kort titel en inwerkingtreding

12. Hierdie Wet heet die Wysigingswet op Suid-Afrikaanse Burgerskap, 2010, en tree 10 in werking op ’n datum deur die President by proklamasie in die *Staatskoerant* bepaal.