

ANTIGUA AND BARBUDA

MILLENNIUM NATURALISATION ACT, 2004

ARRANGEMENT OF SECTIONS

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**Acquisition of
citizenship by
registration.**

- 3.** (1) Notwithstanding any law to the contrary, and subject to subsection (3), any person of full capacity who was lawfully resident in Antigua and Barbuda on the first day of January, 2000 and, on the date of his application for citizenship under this Act, has been continuously lawfully ordinarily resident in Antigua and Barbuda from that day, may apply to become a citizen of Antigua and Barbuda in accordance with regulations made under this Act.
- (2) An application under subsection (1) shall be made to the Minister in the appropriate form prescribed by regulations made under this Act.
- (3) The Minister may approve an application made under this section if he is satisfied that the applicant –
- (a) possesses the qualifications set out in subsection (1);
 - (b) is of good character; and
 - (c) intends, in the event of being granted a certificate of registration or naturalisation as the case may be, to be ordinarily resident in Antigua and Barbuda.
- (4) The Minister may, upon the applicant paying the fee prescribed by the regulations made under this Act and upon taking the oath or affirmation of allegiance in the form

prescribed by the regulations, where appropriate, grant to the applicant the appropriate certificate of registration or naturalisation as the case may be.

- (5) A person shall for the purposes of this Act be of full capacity if he is not of unsound mind.

Minister may refuse to grant citizenship.

4.

- (1) The Minister may, if satisfied that there are reasonable grounds in the interest of defence, public safety, public morality or public order for so doing, refuse to grant a certificate of registration or naturalisation to any person who by virtue of section 3 would otherwise be entitled to become a citizen of Antigua and Barbuda.
- (2) The Minister may, without prejudice to subsection (1), refuse to grant a certificate of registration or naturalisation to any person referred to in section 3 if he is satisfied that the applicant –
- (a) has been convicted by a court of competent jurisdiction in any country of a criminal offence for which he was sentenced to death or has been detained under a sentence of imprisonment for twelve months or more imposed on him on his conviction of a criminal offence by such court, and in either case, has not received a free pardon in respect of the offence; or
 - (b) has engaged in activities, whether within or outside Antigua and Barbuda, which, in the

opinion of the Minister, are prejudicial to the safety of Antigua and Barbuda or to the maintenance of law and public order in Antigua and Barbuda; or

(c) has been adjudged or otherwise declared bankrupt under any law in force in any country and has not been discharged; or

(d) not being the dependent of a citizen of Antigua and Barbuda, has no sufficient means to maintain himself and is likely to become a public charge.

Renunciation of citizenship.

5. (1) Any person who is granted citizenship under this Act and who has attained the age of eighteen years and who –

(a) is also a citizen or national of any other country; or

(b) intends to become a citizen or national of any other country,

shall be entitled to renounce his citizenship of Antigua and Barbuda by a declaration made in the Form prescribed by the regulations made under this Act:

Provided that in the case of a person who is not a citizen or national of any other country at the date of registration of his declaration of renunciation, if he does not become such a citizen or national within six months from the date of registration he shall be and shall be deemed to have

remained, a citizen of Antigua and Barbuda notwithstanding the making and registration of his declaration of renunciation.

- (2) Subject to subsection (3) of this section, where a declaration is made under subsection (1), the Minister shall cause the declaration to be registered in such manner as may be prescribed and, upon such registration, the person who made the declaration shall cease to be a citizen of Antigua and Barbuda unless the proviso to subsection (1) applies.
- (3) The Minister may, in his discretion, withhold registration of any declaration made under subsection (1) of this section if the declaration is made at any time when Antigua and Barbuda is at war where the declaration is made by a person who is or who intends to become a national or citizen –
 - (a) of any country with which Antigua and Barbuda is at war, or
 - (b) of any country as respects which, because Antigua and Barbuda is at war, it would, in the interests of national security or public policy, be undesirable or inexpedient for that person to be or become a citizen or national thereof.

- (4) Where a person who has renounced his citizenship of Antigua and Barbuda under this section desires to be issued with a certificate of such renunciation, that person may, on making application in writing therefore to the Minister and upon payment of the prescribed fee be issued by the Minister with a certificate of such renunciation in the prescribed form.

Deprivation of citizenship in cases of registration.

6. Subject to section 9, the Minister may in his discretion, by Order deprive of his citizenship any person who is a citizen of Antigua and Barbuda by virtue of registration if the Minister is satisfied that such registration as a citizen was obtained by false representation or fraud or willful concealment of material facts or if that citizen is convicted in Antigua and Barbuda of an act of treason or sedition.

Deprivation of citizenship in case of naturalisation.

7. (1) Subject to section 8, the Minister may, in his discretion, by Order deprive of his citizenship any citizen of Antigua and Barbuda who became such by naturalisation if the Minister is satisfied that the certificate of naturalisation of that citizen was obtained by false representation or fraud or willful concealment of material facts or if that citizen has –
- (a) at any time after naturalisation –
- (i) been convicted of treason or sedition by a competent court in any part of the Commonwealth; or
- (ii) been convicted by a competent court in any country of a criminal offence on conviction

of which the death penalty or a term of imprisonment of not less than seven years may be imposed,

and in either case has not received a free pardon in respect of the offence; or

- (b) within five years after naturalisation been convicted by a competent court in any country of a criminal offence and sentenced to imprisonment for a term of not less than twelve months and has not received a free pardon in respect of the offence; or
 - (c) shown himself by act or speech to be disloyal or disaffected towards Antigua and Barbuda; or
 - (d) during any war in which Antigua and Barbuda was engaged, unlawfully traded or communicated with the enemy or been engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist an enemy in that war; or
 - (e) engaged in activities, whether within or outside of Antigua and Barbuda, which, in the opinion of the Minister, are prejudicial to the safety of Antigua and Barbuda or to the maintenance of law and public order in Antigua and Barbuda.
- (2) The Minister shall not deprive any person of citizenship under this section on the ground mentioned in paragraph

(b) of subsection (1), if it appears to him that that person would thereupon become stateless.

Grounds for the deprivation of citizenship.

8. (1) The Minister shall not deprive a person of citizenship under section 6 or 7 unless he is satisfied that it is not conducive to the public good that such person should continue to be a citizen of Antigua and Barbuda.

(2) Before making an order under section 6 or 7, the Minister shall give the person against whom the order is proposed to be made notice in writing informing him of the ground on which it is proposed to be made and, if the order is proposed to be made on any of the grounds specified in section 6 or 7 of this Act, of his right to appeal against the Minister's decision to the Court of Appeal and to engage legal representation of his own choice.

Deprivation of citizenship of Antigua and Barbuda where persons deprived of citizenship elsewhere

9. (1) Where any citizen of Antigua and Barbuda, who is such by naturalisation, was also a citizen of any Commonwealth country but has been deprived of his citizenship of that country on grounds which in the opinion of the Minister are substantially similar to any of the grounds specified under subsection (1) of section 7, the Minister may at his discretion by order deprive him of his citizenship of Antigua and Barbuda if the Minister is satisfied that it is not conducive to the public good that such person shall continue to be a citizen of Antigua and Barbuda.

(2) Before making an order under this section, the Minister shall give the person against whom the order is proposed to be made notice in writing informing him of the ground on

which it is proposed to be made and of his right to appeal against the decision of the Minister to the Court of Appeal and to engage legal representation of his own choice.

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| Effective date of deprivation of citizenship. | 10. Subject to section 11, a person who is deprived of his citizenship of Antigua and Barbuda by an order made under section 6, 7 or 9 shall upon the making of the order, cease to be a citizen of Antigua and Barbuda. |
| Right of appeal | 11. Any person aggrieved by the decision of the Minister to deprive him of his citizenship may appeal to the Court of Appeal within 30 days of the decision being communicated to him. |
| Regulations. | 12. (1) The Minister may make regulations generally for giving effect to this Act and in particular may make regulations – <ul style="list-style-type: none"> (a) prescribing anything required by this Act to be prescribed; (b) for the registration of anything required or authorized under this Act to be registered; (c) for the administration and taking of oaths of allegiance under this Act, for the time within which oaths of allegiance shall be taken and for the registration of oaths of allegiance; (d) fixing the fees to be paid in respect of – <ul style="list-style-type: none"> (i) any application made to the Minister under this Act; or |

(ii) any registration or the making of any declaration or the grant of any certificate or the taking of any oath of allegiance, required or authorized to be made, granted or taken by or under this Act or by or under Chapter VIII of the Constitution of Antigua and Barbuda; or

(iii) supplying a certified or other copy of any notice, certificate, order, declaration or entry, given, granted or made as aforesaid,

and providing for the application of any such fees;

(e) for the giving of any notice required or authorized to be given to any person by or under this Act;

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

(2) Regulations made under this section shall, as soon as may be after they are made, be laid before the House of Representatives, and if the House resolves that any of those regulations shall be annulled, that regulation is void as from the date of the resolution, but without prejudice to the validity of anything done thereunder or to the making of a new regulation.

Offences.

- 13.** (1) Any person who for the purpose of procuring anything to be done or not to be done under this Act makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular commits an offence and is liable on summary conviction to a fine not exceeding three thousand dollars or to a term of imprisonment not exceeding three months.
- (2) Any person who fails to comply with any requirement imposed on him by regulations with respect to the delivering up of certificates of registration or naturalisation commits an offence and is liable on summary conviction to a fine not exceeding three thousand dollars or to a term of imprisonment not exceeding one month.

Passed the House of Representatives
 this day of , 2004

Passed the Senate
 this day of , 2004

Speaker

President

Clerk to the House of Representatives

Clerk to the Senate

EXPLANATORY MEMORANDUM

This Bill seeks to honour the United Progressive Party manifesto pledge to grant Antigua and Barbuda citizenship to every person who, on the 1st of January 2000, was ordinarily resident in Antigua and Barbuda and intends to make Antigua and Barbuda his home.

Clause 2 of the Bill recognizes Parliament's authority under the Constitution of Antigua and Barbuda to make provision for the acquisition of citizenship of Antigua and Barbuda by registration and by persons who would otherwise not be eligible or are no longer eligible to become citizens.

The Bill does not seek to change or alter the eligibility which the Constitution confers upon certain classes of persons. What Parliament seeks to do in this Bill is to confer eligibility to qualify for citizenship on persons who happen to be lawfully and ordinarily resident in Antigua and Barbuda at the beginning of the new millennium.

Clause 3 sets out the qualifications that would make a person eligible and entitled to apply for citizenship under the Act. Under the Act proposed in this Bill, a person would qualify to apply for citizenship if he is lawfully and ordinarily resident in Antigua and Barbuda at the beginning of the new millennium, is of good character and intends to live in Antigua and Barbuda thereafter.

The Bill authorizes the Minister in clause 4 to refuse the grant of citizenship to an applicant on grounds of defence, public safety, public morality and in certain specified circumstances which include, a record of criminal conviction in a court of competent jurisdiction and sentence of death or detention under a sentence of imprisonment for twelve months or more, or engagement in activities which the Minister considers prejudicial to the maintenance of law and public order in Antigua and Barbuda, or being an undischarged bankrupt under any law in force in any country or not being dependent of a citizen of Antigua and Barbuda has no means of maintaining himself and is likely to be a public charge.

Citizenship acquired under the Millennium Naturalisation Act may be renounced by any person who is also a citizen or national of another country or intends to become a citizen or national of any other country. The process by which citizenship may be renounced are specified in clause 5.

Authority is given to the Minister under clause 5 to withhold registration of declaration of become a citizen of a country with which Antigua and Barbuda is at war or it would be undesirable in the interest of national security or public policy for the person to become a citizen or national of that country because Antigua and Barbuda is at war with that country.

Provision is also made under clause 6 to authorize the Minister to deprive a person who acquired citizenship under this legislation. The Bill provides that a person who acquired citizenship by registration may be deprived of his citizenship, if he acquired the citizenship by false representation or fraud or willful concealment of material facts or if he is convicted in Antigua and Barbuda of an act of treason or sedition.

A person may be deprived of citizenship acquired by naturalisation if, in addition to the circumstances described in clause 6, within five years after naturalisation, he is convicted by a court of competent jurisdiction in any country of a criminal offence and sentence to imprisonment for not less than twelve months; or has shown himself by act or speech to be disloyal or disaffected towards Antigua and Barbuda; or during any war in which Antigua and Barbuda is engaged, he unlawfully trades or communicates with the enemy or engages in or associates with any business that assists the enemy in that war; or engages in activities outside Antigua and Barbuda that compromises the safety of Antigua and Barbuda or the maintenance of law and public order.

Clauses 8 and 9 prescribe the process by which a person who acquires citizenship under this Act may be deprived of that citizenship. The Constitution also recognized that every person who is deprived of his citizenship under the Act have the right to appeal against that decision. In this regard, the Constitution requires that Parliament should include in any law that makes provision for the deprivation of citizenship the right of appeal to a court of competent jurisdiction and a provision to permit the appellant to have legal representation of his choice.

Clause 12 authorises the Minister to make regulations to give effect to the Act and to make provision for prescribing anything that needs to be prescribed for purposes of implementing the provisions of the Act.

The Bill creates certain offences under clause 13. A person commits an offence under the Act, if he procures anything to be done under the Act by making statements which he knows to be false or reckless in any material particular. It is also an offence under the Act if a person who is required by the regulations to deliver up certificates of registration or naturalisation fails to comply with any requirement. It is proposed to punish the making of false statements in violation of the offence created under section 13(1) by the imposition of a fine not exceeding the sum of three thousand dollars or imprisonment not exceeding three months and, in the case of non-compliance with a requirement under the regulations, by a fine not exceeding three thousand dollars or imprisonment not exceeding one month.

Winston Baldwin Spencer
Prime Minister and
Minister responsible for
Immigration and Citizenship