

Approved for reprint, 12th June, 1953.

WESTERN AUSTRALIA.

NATIVES (CITIZENSHIP RIGHTS).

8° and 9° Geo. VI., No. XXIII.

No. 23 of 1944.

As amended by Acts No. 44 of 1950* and No. 27 of 1951† and reprinted pursuant to the Amendments Incorporation Act, 1938.

AN ACT to provide for the acquisition of full rights of citizenship by aborigine natives.

[Assented to 23rd December, 1944.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Natives (Citizenship Rights) Act, 1944-1951*.

Short title.
No. 23 of
1944, s. 1.
amended
by No. 27 of
1951, s.2.

2. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State to the intent that where any provision of this Act would but for this section be in excess of that power it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

Construc-
tion.

*Assented to 18th December, 1950.

†Assented to 12th December, 1951: Proclaimed to come into operation on 29th February, 1952. See *Government Gazette* dated 29th February, 1952.

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Interpretation.

No. 23 of 1944, s. 3. Amended by No. 27 of 1951, ss. 4. and 12.

3. "Board" means a Natives (Citizenship Rights) Board constituted pursuant to the provisions of this Act.
- "Commissioner" means the Commissioner of Native Affairs appointed under the Native Administration Act, 1905-1947.
- "district" means a municipal district constituted pursuant to the provisions of the Municipal Corporations Act, 1906-1947,* or a road district constituted pursuant to the Road Districts Act, 1919-1948,† as the case requires.
- "Holder" means the person to whom a Certificate of Citizenship has been granted under this Act.

Constitution of boards. Section 3A added by No. 27 of 1951, s. 5.

3A. (1) The Governor may constitute Boards for the purposes of this Act.

(2) A Board shall consist of a police, resident, or stipendiary magistrate, and a person nominated by the Minister as a district representative.

(3) The person nominated by the Minister as district representative shall be the mayor of the municipality or the chairman of the road board, as the case may be, of the district in which the native concerned ordinarily resides, or a person who is a member of and is nominated by that municipality or road board, or if those persons are unable or unwilling to accept office on the Board, a person who has a good general knowledge of the district and who is willing and able to accept office on the Board, and shall hold office on the Board for such time and be entitled to such allowances for expenses as the Governor shall determine.

(4) Acceptance of or acting in the office of district representative on a Board by a person shall not of itself render the provisions of the Public Service Act, 1904-1950, the Superannuation Act, 1871-1947,‡ or the Superannuation and Family Benefits Act, 1938-1950,§ applicable to him, nor affect the application of those provisions to him if they applied to him at the time of the acceptance of or acting in the office.

* Now the Municipal Corporations Act, 1906-1951. See No. 41 of 1951, s. 7.

† Now the Road Districts Act, 1919-1951. See No. 41 of 1951, s. 8.

‡ Now the Superannuation Act, 1871-1951. See No. 25 of 1951, s. 3.

§ Now the Superannuation and Family Benefits Act, 1938-1951. See No. 25 of 1951, s. 2.

3B. For the purposes of this Act, a Board shall have jurisdiction in the district in which the native concerned ordinarily resides.

Jurisdiction of Board. Section 3B added by No. 27 of 1951, s. 5.

4. (1) Any adult person who is a native within the meaning of the Native Administration Act, 1905-1947, may make application for a Certificate of Citizenship to a Board having jurisdiction in the district in which he ordinarily resides in the manner prescribed by the regulations.

Adult natives may make application to a magistrate for a Certificate of Citizenship. No. 23 of 1944, s. 4. Amended by No. 27 of 1951, ss. 6 and 12.

(2) Such application shall be in the prescribed form supported by a statutory declaration signed by the applicant to the effect that he wishes to become a citizen of the State, that for the two years prior to the date of the application he has dissolved tribal and native association except with respect to lineal descendants or native relations of the first degree, and—

- (a) that he has served in the Naval, Military or Air Force of the Commonwealth and has received or is entitled to receive an honourable discharge; or
- (b) that he is otherwise a fit and proper person to obtain a Certificate of Citizenship.

(3) [Repealed by No. 27 of 1951, s. 6.]

5. (1) Before granting any application brought under the provisions of the preceding section, the Board shall be satisfied that—

Evidence to be adduced in support of an application under this Act. No. 23 of 1944, s. 5. Amended by No. 44 of 1950, s. 2 and No. 27 of 1951, s. 7.

- (a) for the two years immediately prior the applicant has adopted the manner and habits of civilised life;
- (b) the full rights of citizenship are desirable for and likely to be conducive to the welfare of the applicant;
- (c) the applicant is able to speak and understand the English language;
- (d) the applicant is not suffering from active leprosy, syphilis, granuloma or yaws;
- (e) the applicant is of industrious habits and is of good behaviour and reputation;
- (f) the applicant is reasonably capable of managing his own affairs.

(2) The Commissioner shall receive notice of any pending application and shall be entitled to appear or to be represented by counsel or agent to support or oppose the application.

The applicant shall be entitled to representation by counsel or agent.

(3) At the hearing of the application, whether or not the Commissioner appears in support or opposition, the Board may direct the production of all relevant papers and other documentary evidence and may call for such reports and order the summoning of such witnesses as the Board may consider necessary.

If the Commissioner appears he may be granted an adjournment not exceeding one month within which to make all necessary enquiries.

(4) If a Board grants an application the Board shall thereupon issue under the hands of the members of the Board a Certificate of Citizenship in the prescribed form. Such certificate shall have affixed thereto a photographic likeness of the applicant in the manner of a passport.

(5) A Board may, upon application in the prescribed form, include in a Certificate of Citizenship granted under this Act, the names of any children not of full age of whom the applicant is the responsible parent.

In this subsection, "responsible parent," in relation to a child, means the father of that child, or, where the father is dead or the mother has been given the custody of the child by order of a Court, or the child was born out of wedlock, means the mother of that child.

6. Notwithstanding the provisions of the Native Administration Act, 1905-1947, or any other Act the holder of a Certificate of Citizenship and any child whose name is under the last preceding section, included in a Certificate of Citizenship shall have all the rights, privileges and immunities and shall be subject to the duties and liabilities of a natural born or naturalised subject of His Majesty.

Subsec. (5)
added by
No. 44 of
1950, s. 2.
Amended
by No. 27 of
1951, s. 7.

Holder of a
Certificate of
Citizenship
to acquire
full citizen-
ship rights.
No. 23 of
1944, s. 6.
Amended
by No. 44 of
1950, s. 3,
and No. 27 of
1951, ss. 8
and 12.

Nothing herein contained shall deprive the holder of the right to property or benefit accrued prior to the granting of the application, or of any property which would accrue to or devolve on him if a Certificate of Citizenship had not been granted.

Provided that a certificate of citizenship insofar as it concerns children shall be deemed to include those persons only so long as they are under the age of twenty-one years.

Proviso added by No. 44 of 1950, s. 3.

7. (1) Upon complaint of the Commissioner of Native Affairs or any other person, a Board having jurisdiction in the district in which the native concerned ordinarily resides may suspend or cancel a Certificate of Citizenship if the Board is satisfied that the holder—

Cancellation or suspension of Certificate of Citizenship in certain cases. No. 23 of 1944, s. 7. Amended by No. 44 of 1950, s. 4, and No. 27 of 1951, ss. 9 and 12.

- (a) is not adopting the manner and habits of civilised life; or
- (b) has been twice convicted of any offence under the Native Administration Act, 1905-1947, or of habitual drunkenness; or
- (c) has contracted leprosy, syphilis, granuloma or yaws.

(2) Upon suspension or cancellation of a Certificate of Citizenship the person concerned and every child, as a Board may direct, whose name is included in the Certificate and who is not of full age at the time of the suspension or cancellation shall lose the full rights of citizenship conferred by such Certificate and shall be deemed to be a native or aborigine for all the purposes of the Native Administration Act, 1905-1947, or any other Act.

(3) A Certificate of Citizenship may be suspended for a fixed term or for an indefinite period subject to the right of the native to prove to a Board having jurisdiction in the district in which he ordinarily resides that his conduct and character justify a renewal of the Certificate.

7A. In exercising the jurisdiction conferred by the provisions of this Act, a Board shall satisfy itself that the native concerned ordinarily resides in the district in which it has jurisdiction.

Section 7A added by No. 27 of 1951, s. 10.

Section 7B
added by
No. 27 of
1951, s. 10.

7B. Every decision of a Board on any matter shall be the unanimous decision of both members, but in case of disagreement, an application shall be refused, or complaint dismissed, and the decision of the Board shall be final.

Penalties.
No. 33 of
1944, s. 8.

8. No penalty exceeding Twenty-five Pounds shall be imposed for any breach of the Act or regulations.

Regulations.
No. 23 of
1944, s. 9.
Amended
by No. 27 of
1951, s. 11.

9. (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular and without prejudice to the generality of subsection (1) of this section, the regulations may—

- (a) prescribe the manner and form of applications for Certificates of Citizenship and the particulars to be furnished in support of such applications;
- (b) prescribe a form of Certificate of Citizenship to be issued to successful applicants;
- (c) prescribe penalties not exceeding Twenty-five Pounds for any fraud in connection with an application for a Certificate of Citizenship or with respect to any Certificate of Citizenship when issued, or for any other offence against the regulations;
- (d) prescribe the procedure to be followed upon application or complaint to a Board;
- (e) prescribe fees payable for the purposes of this Act.

No. 27 of
1951, s. 11.