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STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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KANTOOR VAN DIE STAATSPRESIDENT

No. 1409. 2 Julie 1986

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

No. 73 van 1986: Wet op Herverlening van Suid-Afrikaanse Burgerskap, 1986.

STATE PRESIDENT'S OFFICE

No. 1409. 2 July 1986

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

No. 73 of 1986: Restoration of South African Citizenship Act, 1986.

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Wet No. 73, 1986 WET OP HERVERLENING VAN SUID-AFRIKAANSE BURGERSKAP, 1986

ALGEMENE VERDUIDELIKENDE NOTA:

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

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

WET

Om voorsiening te maak vir die verlening van Suid-Afrikaanse burgerskap aan sekere burgers van die Republieke van Transkei, Bophuthatswana, Venda en Ciskei, en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 27 Junie 1986.)

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

Woordomskrywing.

1. (1) In hierdie Wet, tensy uit die samehang anders blyk, beteken—

"Direkteur-generaal" die Direkteur-generaal: Binnelandse Sake;

"onafhanklike staat" die Republiek van Transkei, Bophuthatswana, Venda of Ciskei;

"registreer" aanteken in die bevolkingsregister ooreenkomstig die Wet op Identifikasie, 1986, van die feit dat 'n persoon 'n Suid-Afrikaanse burger is; en het "registrasie" 'n ooreenstemmende betekenis.

(2) In hierdie Wet word 'n verwysing na die Republiek, met betrekking tot die geboorte, binnekoms of verblyf van 'n persoon in die Republiek, uitgelê as 'n verwysing na die grondgebied waaruit die Republiek ten tyde van die geboorte, binnekoms of verblyf, na gelang van die geval, bestaan het.

Burgerskap deur geboorte.

2. 'n Persoon wat ingevolge 'n Wet in die Bylae vermeld 'n burger van 'n onafhanklike staat is, is 'n Suid-Afrikaanse burger deur geboorte indien hy—

(a) voor die inwerkingtreding van daardie Wet in die Republiek gebore is en ingevolge daardie Wet opgehou het om 'n Suid-Afrikaanse burger te wees en—

(i) onmiddellik voor die inwerkingtreding van hierdie Wet sy permanente verblyf in die Republiek gehad het en aldus gehad het sedert hy 'n burger van daardie onafhanklike staat geword het; en

(ii) die Direkteur-generaal skriftelik in kennis stel dat hy weer Suid-Afrikaanse burgerskap wil verkry; of

(b) na die inwerkingtreding van daardie Wet in die Republiek gebore is en onmiddellik voor die inwerkingtreding van hierdie Wet sy permanente verblyf in die Republiek gehad het en sedert sy geboorte aldus gehad het.

Burgerskap deur afkoms.

3. 'n Persoon wat ingevolge 'n Wet in die Bylae vermeld 'n burger van 'n onafhanklike staat is, is 'n Suid-Afrikaanse burger deur afkoms indien hy—

(a) die minderjarige kind (wat nie getroud is of was nie) is

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GENERAL EXPLANATORY NOTE:

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

Words underlined with solid line indicate insertions in existing enactments.

ACT

To provide for the granting of South African citizenship to certain citizens of the Republics of Transkei, Bophuthatswana, Venda and Ciskei, and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 27 June 1986.)

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

Definitions.

1. (1) In this Act, unless the context otherwise indicates—
"Director-General" means the Director-General: Home Affairs;
"independent state" means the Republic of Transkei, Bophuthatswana, Venda or Ciskei;
"register" means recording in the population register in accordance with the Identification Act, 1986, of the fact that a person is a South African citizen; and "registration" has a corresponding meaning.

(2) In this Act a reference to the Republic, in relation to the birth, entry or residence of a person in or into the Republic, shall be construed as a reference to the territorial limits of the Republic as constituted at the time of such birth, entry or residence, as the case may be.

Citizenship by birth.

2. Any person who in terms of an Act specified in the Schedule is a citizen of an independent state, shall be a South African citizen by birth if he—

(a) was born in the Republic before the commencement of that Act and ceased to be a South African citizen in terms of that Act and—

(i) immediately before the commencement of this Act was permanently resident in the Republic and has been so resident since he became a citizen of that independent state; and

(ii) informs the Director-General in writing that he is desirous of regaining South African citizenship; or

(b) was born in the Republic after the commencement of that Act and immediately before the commencement of this Act was permanently resident in the Republic and has been so resident since his birth.

Citizenship by descent.

3. A person who in terms of an Act specified in the Schedule is a citizen of an independent state shall be a South African citizen by descent if he—

(a) is the minor child (who is not or has not been married)

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van 'n persoon wat 'n Suid-Afrikaanse burger ingevolge artikel 2 *(a)* geword het;

(b) na die inwerkingtreding van daardie Wet buite die Republiek gebore is;

(c) voor die inwerkingtreding van hierdie Wet die Republiek binnegekom het; en

(d) onmiddellik voor die inwerkingtreding van hierdie Wet wettig en permanent sy verblyf in die Republiek gehad het.

Burgerskap deur registrasie.

4. (1) 'n Persoon wat ingevolge 'n Wet in die Bylae vermeld 'n burger van 'n onafhanklike staat is en onmiddellik voor die inwerkingtreding van daardie Wet 'n Suid-Afrikaanse burger was, kan by die Direkteur-generaal om registrasie as 'n Suid-Afrikaanse burger aansoek doen en is geregtig om as sodanig geregistreer te word indien hy—

(a) die Republiek na die inwerkingtreding van daardie Wet maar voor die inwerkingtreding van hierdie Wet binnegekom het;

(b) wettig en permanent sy verblyf in die Republiek het en aldus gehad het vir 'n ononderbroke tydperk van minstens een jaar onmiddellik voor sy aansoek om registrasie as 'n Suid-Afrikaanse burger en hy daarbenewens vir 'n verdere tydperk van minstens vier jaar gedurende die agt jaar onmiddellik voor sy aansoek wettig en permanent sy verblyf in die Republiek gehad het; en

(c) op die datum van sy aansoek nie jonger as 16 jaar is nie.

(2) Enige tydperk wat 'n persoon wat aansoek doen om registrasie as 'n Suid-Afrikaanse burger, buite die Republiek in diens was van die Regering van die Republiek of op 'n skip of lugvaartuig of 'n openbare vervoermiddel wat in die Republiek geregistreer of gelisensieer is en vandaar bestuur word, en enige tydperk wat 'n vrou wat aldus aansoek doen buite die Republiek saam met haar eggenoot woonagtig was terwyl laasgenoemde aldus in diens was, word, by die toepassing van subartikel (1), as 'n tydperk van permanente verblyf in die Republiek beskou, en by sodanige toepassing kan die Direkteur-generaal na goeddunke enige tydperk wat 'n aansoeker om registrasie as 'n Suid-Afrikaanse burger buite die Republiek in diens was op 'n skip, lugvaartuig of openbare vervoermiddel wat vanuit die Republiek bestuur is, en enige tydperk wat 'n vrou wat aldus aansoek doen buite die Republiek saam met haar eggenoot woonagtig was terwyl laasgenoemde aldus in diens was, as 'n tydperk van permanente verblyf in die Republiek beskou, ondanks die feit dat sodanige skip, lugvaartuig of openbare vervoermiddel nie in die Republiek geregistreer of gelisensieer was nie.

(3) Die Direkteur-generaal kan, ondanks die bepalings van subartikel (1), 'n minderjarige wat ingevolge 'n Wet in die Bylae vermeld 'n burger van 'n onafhanklike staat is, wat nie getroud is of was nie en wie se vader of moeder 'n Suid-Afrikaanse burger ingevolge artikel 2 of subartikel (1) van hierdie artikel is of geword het, as 'n Suid-Afrikaanse burger registreer indien die Direkteur-generaal oortuig is dat die betrokke minderjarige wettig en permanent sy verblyf in die Republiek het.

(4) Die Direkteur-generaal kan voordat hy iemand as 'n Suid-Afrikaanse burger registreer, so iemand aansê om voor hom of voor 'n deur hom aangewese persoon te verskyn ten einde deur hom of so 'n persoon ondervra te word oor sake rakende die registrasie van daardie persoon.

Burgerskap deur naturalisasie.

5. (1) 'n Persoon wat ingevolge 'n Wet in die Bylae vermeld 'n burger van 'n onafhanklike staat is, kan ingevolge artikel 10 van die Wet op Suid-Afrikaanse Burgerskap, 1949 (Wet No. 44 van 1949), om 'n sertifikaat van naturalisasie as 'n Suid-Afrikaanse burger aansoek doen, en so 'n aansoek kan ingevolge daardie artikel toegestaan word, indien hy—

(a) voor die inwerkingtreding van eersgenoemde Wet in

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of a person who has become a South African citizen in terms of section 2 *(a)*;

(b) was born outside the Republic after the commencement of that Act;

(c) entered the Republic before the commencement of this Act; and

(d) immediately before the commencement of this Act was lawfully and permanently resident in the Republic.

Citizenship by registration.

4. (1) Any person who in terms of an Act specified in the Schedule is a citizen of an independent state and immediately before the commencement of that Act was a South African citizen, may apply to the Director-General for registration as a South African citizen and shall be entitled to be registered as such if he—

(a) entered the Republic after the commencement of that Act but before the commencement of this Act;

(b) is lawfully and permanently resident in the Republic and has been so resident for a continuous period of not less than one year immediately preceding his application for registration as a South African citizen and has, in addition, been lawfully and permanently resident in the Republic for a further period of not less than four years during the eight years immediately preceding his application; and

(c) is at the date of his application not under the age of 16 years.

(2) Any period during which a person applying for registration as a South African citizen has been employed outside the Republic in the service of the Government of the Republic or on a ship or aircraft or any public means of transport registered or licensed in and operating from the Republic, and any period during which a woman so applying has been resident outside the Republic with her husband while the latter was so employed, shall, for the purposes of subsection (1), be regarded as a period of permanent residence in the Republic, and for such purposes the Director-General may, in his discretion, regard as a period of permanent residence in the Republic any period during which an applicant for registration as a South African citizen has been employed outside the Republic on a ship, aircraft or public means of transport operating from the Republic, and any period during which a woman so applying has been resident outside the Republic with her husband while the latter was so employed notwithstanding the fact that such ship, aircraft or public means of transport was not registered or licensed in the Republic.

(3) The Director-General may, notwithstanding the provisions of subsection (1), register as a South African citizen any minor who is a citizen of an independent state in terms of an Act specified in the Schedule, who is not or has not been married and whose father or mother is or has become a South African citizen in terms of section 2 or subsection (1) of this section if the Director-General is satisfied that the minor concerned is lawfully and permanently resident in the Republic.

(4) The Director-General may, before he registers any person as a South African citizen, require such person to appear before him or before a person designated by him in order to be questioned by him or such person on matters affecting the registration of such person.

Citizenship by naturalization.

5. (1) Any person who in terms of an Act specified in the Schedule is a citizen of an independent state may apply in terms of section 10 of the South African Citizenship Act, 1949 (Act No. 44 of 1949), for a certificate of naturalization as a South African citizen, and such an application may be granted in terms of that section, if he—

(a) was born in the Republic before the commencement of

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die Republiek of na bedoelde inwerkingtreding in daardie onafhanklike staat gebore is of 'n persoon is wie se vader of moeder aldus in die Republiek of in daardie onafhanklike staat gebore is;

(b) die Republiek na die inwerkingtreding van hierdie Wet wettig binnegekom het; en

(c) aan die vereistes van daardie artikel voldoen.

(2) Die Direkteur-generaal kan, ondanks die bepalings van subartikel (1), op skriftelike aansoek 'n sertifikaat van naturalisasie as 'n Suid-Afrikaanse burger aan 'n vrou toeken wat ingevolge 'n Wet in die Bylae vermeld 'n burger van 'n onafhanklike staat is indien sy die Direkteur-generaal oortuig dat sy—

(a) die vrou of weduwee van 'n Suid-Afrikaanse burger is; en

(b) wettig en permanent haar verblyf in die Republiek het en aldus gehad het vir 'n ononderbroke tydperk van minstens twee jaar onmiddellik voor haar aansoek en na haar huwelik met dié burger.

Toepassing van Wette in Bylae vermeld.

6. (1) Geen bepaling van 'n Wet in die Bylae vermeld, word by die toepassing van die wette van die Republiek uitgelê as sou dit die burgerskap van 'n persoon wat na die inwerkingtreding van hierdie Wet in die Republiek gebore word, bepaal nie, en ook nie as sou dit so 'n persoon se Suid-Afrikaanse burgerskap hom ontneem nie.

(2) 'n Persoon wat ingevolge 'n Wet in die Bylae vermeld 'n burger van 'n onafhanklike staat is en wat 'n Suid-Afrikaanse burger ingevolge hierdie Wet word, hou op om by die toepassing van die wette van die Republiek 'n burger van so 'n onafhanklike staat ingevolge daardie Wet te wees.

Uitleg van sekere verwysings in ander wette na Suid-Afrikaanse burgers en burgerskap.

7. (1) 'n Verwysing in die Wet op Suid-Afrikaanse Burgerskap, 1949 (Wet No. 44 van 1949), of in 'n ander wet—

(a) na 'n Suid-Afrikaanse burger, of na Suid-Afrikaanse burgerskap, ingevolge die Wet op Suid-Afrikaanse Burgerskap, 1949, word by die toepassing van daardie Wet of so 'n wet, tensy duidelik onvanpas, uitgelê as 'n verwysing ook na 'n Suid-Afrikaanse burger, of na Suid-Afrikaanse burgerskap, ingevolge hierdie Wet; of

(b) na 'n Suid-Afrikaanse burger, of na Suid-Afrikaanse burgerskap, ingevolge die Wet op Suid-Afrikaanse Burgerskap, 1949, deur geboorte, afkoms of naturalisasie, word by die toepassing van daardie Wet of so 'n wet, tensy duidelik onvanpas, uitgelê as 'n verwysing ook na 'n Suid-Afrikaanse burger, of na Suid-Afrikaanse burgerskap, ingevolge hierdie Wet deur geboorte, afkoms of naturalisasie, na gelang van die geval.

(2) By die toepassing van subartikel (1) *(b)*—

(a) word 'n persoon wat ingevolge hierdie Wet 'n Suid-Afrikaanse burger deur registrasie geword het, geag 'n Suid-Afrikaanse burger ingevolge hierdie Wet deur geboorte te wees; en

(b) word Suid-Afrikaanse burgerskap ingevolge hierdie Wet deur registrasie, geag Suid-Afrikaanse burgerskap ingevolge hierdie Wet deur geboorte te wees.

Wysiging van artikel 10 van Wet 71 van 1951, soos gewysig deur artikel 5 van Wet 61 van 1978.

8. Artikel 10 van die Wet op Diplomatieke Voorregte, 1951, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Die immuniteite, voorregte en vrystelling waarvoor in hierdie Wet voorsiening gemaak is, geld nie vir Suid-Afrikaanse burgers nie en word ook nie aan hulle verleen nie: Met dien verstande dat—

(a) genoemde immuniteite, voorregte en vrystelling geld of verleen kan word aan Suid-Afrikaanse burgers wat ook burgers is van 'n staat waarvan die grondgebied voorheen deel van die Republiek uitgemaak het, mits daardie staat op 'n basis van wederkerigheid soortgelyke immuniteite, voorregte en vrystelling verleen aan burgers van daardie staat wat ook Suid-Afrikaanse burgers is;

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the first-mentioned Act or in that independent state after such commencement or is a person whose father or mother was so born in the Republic or in that independent State;

(b) has lawfully entered the Republic after the commencement of this Act; and

(c) complies with the requirements of that section.

(2) The Director-General may, notwithstanding the provisions of subsection (1), on written application grant a certificate of naturalization as a South African citizen to a woman who in terms of an Act specified in the Schedule is a citizen of an independent state and who convinces the Director-General that she—

(a) is the wife or widow of a South African citizen; and

(b) is lawfully and permanently resident in the Republic and has been so resident for a continuous period of not less than two years immediately preceding her application and after her marriage to such citizen.

Application of Acts specified in Schedule.

6. (1) No provision of an Act specified in the Schedule shall for the purposes of the laws of the Republic be construed as determining the citizenship of a person who is born in the Republic after the commencement of this Act, nor as depriving such person of his South African citizenship.

(2) A person who is a citizen of an independent state in terms of an Act specified in the Schedule and who becomes a South African citizen in terms of this Act shall for the purposes of the laws of the Republic cease to be a citizen of such independent state in terms of that Act.

Interpretation of certain references in other laws to South African citizens and citizenship.

7. (1) A reference in the South African Citizenship Act, 1949 (Act No. 44 of 1949), or in any other law—

(a) to a South African citizen, or to South African citizenship, in terms of the South African Citizenship Act, 1949, shall for the purposes of that Act or any such law, unless clearly inappropriate, be construed as including a reference to a South African citizen, or to South African citizenship, in terms of this Act; or

(b) to a South African citizen, or to South African citizenship, in terms of the South African Citizenship Act, 1949, by birth, descent or naturalization shall for the purposes of that Act or any such law, unless clearly inappropriate, be construed as including a reference to a South African citizen, or to South African citizenship, in terms of this Act by birth, descent or naturalization, as the case may be.

(2) For the purposes of subsection (1) *(b)*—

(a) a person who in terms of this Act became a South African citizen by registration shall be deemed to be a South African citizen in terms of this Act by birth; and

(b) South African citizenship in terms of this Act by registration shall be deemed to be South African citizenship in terms of this Act by birth.

Amendment of section 10 of Act 71 of 1951, as amended by section 5 of Act 61 of 1978.

8. Section 10 of the Diplomatic Privileges Act, 1951, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The immunities, privileges and exemption provided for in this Act shall not apply to or be extended to South African citizens: Provided that—

(a) the said immunities, privileges and exemption shall apply or may be extended to South African citizens who are also citizens of a state the territory of which previously formed part of the Republic, provided that such a state on a basis of reciprocity extends similar immunities, privileges and exemption to citizens of such a state who are also South African citizens;

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(b) as die Regering van die **[Unie]** Republiek, by ooreenkoms met 'n in artikel 2 (1) *(d)* bedoelde organisasie of instelling, onderneem het om enige immuniteite, voorregte of vrystelling aan Suid-Afrikaanse burgers wat die verteenwoordigers van ander regerings in sodanige organisasie of instelling is, of wat lede, agente of amptenare van sodanige organisasie of instelling is, te verleen, genoemde immuniteite, voorregte en vrystelling dan ook vir sulke Suid-Afrikaanse burgers geld.".

Wysiging van artikel 2 van Wet 26 van 1970.

9. Artikel 2 van die Wet op Burgerskap van Nasionale State, 1970, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Elke Swart persoon in die Republiek wat 'n Suid-Afrikaanse burger is anders as uit hoofde van 'n bepaling van die Wet op Herverlening van Suid-Afrikaanse Burgerskap, 1986, is, indien hy nie 'n burger is nie van 'n **[selfregerende Swart gebied in die Republiek en nie 'n verbode immigrant in die Republiek is nie]** staat waarvan die grondgebied voorheen deel van die Republiek uitgemaak het, ooreenkomstig die bepalings van artikel 3 'n burger van die een of die ander gebiedsowerheidsgebied.".

Wysiging van artikel 3 van Wet 26 van 1970, soos vervang deur artikel 19 van Wet 70 van 1974 en gewysig deur artikel 1 van Wet 13 van 1978.

10. Artikel 3 van die Wet op Burgerskap van Nasionale State, 1970, word hierby gewysig deur na subartikel (3) die volgende subartikel in te voeg:

"(3A) Iemand wat ingevolge die Wet op Herverlening van Suid-Afrikaanse Burgerskap, 1986, 'n Suid-Afrikaanse burger geword het, kan op die voorgeskrewe wyse aansoek om burgerskap van 'n gebiedsowerheidsgebied doen, en die Minister of sy gemagtigde kan, indien die bevoegde gesag van die gebiedsowerheid van daardie gebied aldus aanbeveel, daardie burgerskap aan so iemand verleen.".

Kort titel en inwerkingtreding.

11. Hierdie Wet heet die Wet op Herverlening van Suid-Afrikaanse Burgerskap, 1986, en word geag in werking te getree het op 1 Julie 1986.

Bylae

Wet op die Status van Transkei, 1976 (Wet No. 100 van 1976)

Wet op die Status van Bophuthatswana, 1977 (Wet No. 89 van 1977)

Wet op die Status van Venda, 1979 (Wet No. 107 van 1979)

Wet op die Status van Ciskei, 1981 (Wet No. 110 van 1981)

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(b) if the Government of the **[Union]** Republic has by agreement with an organization or institution referred to in section 2 (1) *(d)* undertaken to extend any immunities, privileges or exemptions to South African citizens who are representatives of another Government on such organization or institution, or who are members, agents or officers of such organization or institution, the said immunities, privileges and exemptions shall apply also to such South African citizens.".

9. Section 2 of the National States Citizenship Act, 1970, is hereby amended by the substitution for subsection (2) of the following subsection: Amendment of section 2 of Act 26 of 1970.

"(2) Every Black person in the Republic who is a South African citizen otherwise than by virtue of a provision of the Restoration of South African Citizenship Act, 1986, shall, if he is not a citizen of any **[self-governing Black territory in the Republic and is not a prohibited immigrant in the Republic]** state the territory of which formerly formed part of the Republic, be a citizen of one or other territorial authority area, in accordance with the provisions of section 3.".

10. Section 3 of the National States Citizenship Act, 1970, is hereby amended by the insertion after subsection (3) of the following subsection: Amendment of section 3 of Act 26 of 1970, as substituted by section 19 of Act 70 of 1974 and amended by section 1 of Act 13 of 1978.

"(3A) Any person who in terms of the Restoration of South African Citizenship Act, 1986, became a South African citizen, may in the prescribed manner apply for citizenship of a territorial authority area, and the Minister or his assignee may, if the competent authority of the territorial authority of that territory thus recommends, grant that citizenship to such person.".

11. This Act shall be called the Restoration of South African Citizenship Act, 1986, and shall be deemed to have come into operation on 1 July 1986. Short title and commencement.

Schedule

Status of Transkei Act, 1976 (Act No. 100 of 1976)

Status of Bophuthatswana Act, 1977 (Act No. 89 of 1977)

Status of Venda Act, 1979 (Act No. 107 of 1979)

Status of Ciskei Act, 1981 (Act No. 110 of 1981)

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