

Citizenship (Amendment) Act 2016 (No. 8)

REPUBLIC OF VANUATU

CITIZENSHIP (AMENDMENT) ACT NO. 8 OF 2016

Arrangement of Sections

REPUBLIC OF VANUATU

Assent: 27/06/2016

Commencement: 08/07/2016

CITIZENSHIP (AMENDMENT) ACT NO. 8 OF 2016

An Act to amend the [Citizenship Act](#) [CAP 112].

Be it enacted by the President and Parliament as follows-

1. Amendment

The [Citizenship Act](#) [CAP 112] is amended as set out in the Schedule.

2. Commencement

This Act commences on the day on which it is published in the Gazette.

SCHEDULE

AMENDMENTS OF THE [CITIZENSHIP ACT](#) [CAP 112]

1. Subsection 1(1)

Insert in their correct alphabetical positions:

““applicant” means an applicant for citizenship under this Act;

“citizenship” means the citizenship of Vanuatu;

“spouse” means the lawful spouse of an applicant;”

2. Subsection 1(1) (Definition of “child”)

Repeal the definition, substitute

““child” means a natural or lawfully adopted child of an applicant or of the spouse who has not

attained 18 years;”

3. Subsection 1(1) (Definition of “oath of allegiance”)

After “allegiance” (second occurring), insert “or solemn affirmation”

4. Subsection 7(1)

Delete “4”, substitute “12”

5. Subsection 7(5)

After “meetings”, insert “to ensure that the processing of applications are carried out in an effective and efficient manner”

6. Section 11

Delete “the male adopter”, substitute “either of the adopters”

7. Subsections 12(1) and 13B(1)

(a) Delete “full”

(b) After “and” insert “full”

8. After subsection 12(1)

Insert

“(1A) The following persons are prohibited from lodging any application with the Commission:

(a) a person whose citizenship has been revoked by the Commission; and

(b) a person whom the Commission has filed an official complaint against with the police, for investigation and prosecution.

(1B) A person referred to under paragraph (1A)(b), may lodge an application with the Commission if:

(a) the Public Prosecutor has determined that there is no sufficient evidence to proceed with prosecution; or

(b) the person was not found guilty by the Court for the relevant criminal offence or the investigations have ceased.

9. Paragraph 12(2)(a)

Repeal the paragraph, substitute

“(a) has been ordinarily and legally residing in Vanuatu for a continuous period of 10 years in compliance with the requirements of the [Immigration Act](#) No. 17 of 2010;

(aa) is not in default of payment of any charges or fees due to the Government;”

10. Subsection 12(8)

Repeal the subsection, substitute

“(8) For the purpose of determining the period of residing in Vanuatu under paragraph (2)(a), the Commission must disregard any period during which the applicant has been in custody awaiting deportation or removal from Vanuatu.”

11. **Section 13A**

Delete “of the Republic of Vanuatu”

12. **Subsection 13B(2)**

Repeal the subsection, substitute

“(2) Subject to subsection (3), in addition to any other classes of persons eligible to apply for citizenship under this Act, the following persons may apply for and be granted citizenship:

(a) an investor under the Capital Investment Immigration Plan who complies with the requirements set out under section 13C; and

(b) an investor under the Contribution Program who complies with the requirements as set out under section 13CB.”

13. **Subsection 13B(4)**

Delete “subsection (2)”, substitute “sections 13C and 13D”

14. **Subsections 13C and 13D**

Repeal the sections, substitute

“13C Application for citizenship by an investor under the Capital Investment Immigration Plan

(1) The Minister is to prescribe by Regulation, the requirements for an application for citizenship by an investor under the Capital Investment Immigration Plan.

(2) The prescribed fees payable by an applicant under the Capital Investment Immigration Plan covers the applicant, his or her spouse and 2 children.

(3) The Minister may prescribe additional fees for any other child or resident dependant of the applicant.

(4) The Commission is to approve and grant a citizenship within 3 months of receiving an application under this section.

(5) For the purpose of this section and section 13D:

“children” is taken to have the same meaning as “child” under section 2;

“resident dependant” includes the following:

(a) a natural or adopted son or daughter of an applicant or his or her spouse who is or between the age of 18 to 25 years and is:

(i) residing with or dependent upon the applicant or his or her spouse; and

(ii) attending full time education; or

(b) the lawful mother or father of the applicant or his or her spouse who is:

(i) residing with and is dependent upon the applicant or his or her spouse; and

(ii) over the age of 65 years.

13D Application for citizenship by an investor under the Contribution Program

(1) The Minister is to prescribe by Regulation the requirements for an application for citizenship by an investor under the Contribution Program.

(2) The prescribed fees payable by an applicant under the Contribution Program covers the applicant, his or her spouse and 2 children.

(3) The Minister may prescribe additional fees for any other child or resident dependant of the applicant.

(4) The Commission must within 3 months of receiving an application under this section, make a decision on whether or not to approve and grant a citizenship.”

15. Subsection 17(2)

After “his”, insert “or her”

16. Paragraph 17(2)(a)

After “he”, insert “or she”

17. Subsection 20(1)

Delete “convey”, substitute “confer”

18. Subsections 20(2) and (3)

Delete “conveyed”, substitute “conferred”

19. Paragraph 20(2)(a)

After “has” insert “contributed”

20. Subsection 20(3)

Delete “advice” substitute “advise”

21. Paragraph 20(4)(b)

Delete “is”, substitute “must be”

22. Subsection 22(2)

(i) Delete “A member of the Commission or Citizenship Office”, substitute “A person”;

(ii) After “who”, insert “fraudulently”

23. After section 22

Insert

“22A Penalty notices

- (1) The Secretary General of the Commission may serve a penalty notice on a person if it appears to the officer that the person has committed an offence under this Act or the Regulations and the offence is one that is stated by the Regulations to be an offence to which this section applies.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay within a time and to a person specified in the notice, the amount of penalty stated in the penalty notice.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, that person is not liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any proceeding arising out of the same occurrence.
- (6) The Regulations may:
 - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence; and
 - (b) prescribe the amount of penalty payable for the offence if dealt with under this section; and
 - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (7) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty prescribed in this Act.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.”