

“(2A) A person who has served in the Defence Force of the Commonwealth or in the armed forces of a country other than a foreign country shall, for the purposes of this section, be deemed to have resided in Australia or in the other country, as the case requires, as follows:

“(a) If that person, having volunteered to serve beyond the limits of Australia and the Territories, has served in the Permanent Forces of the Commonwealth, each four weeks of his service, whether within or beyond those limits, shall be deemed to be eight weeks’ residence in Australia;

“(b) If, during the period of eight years immediately preceding his application for naturalization, that person has voluntarily rendered continuous full-time service in the armed forces of a country other than a foreign country and was liable for service beyond the limits of that country, each four weeks of that service, whether within or beyond the limits of that country, shall be deemed to be eight weeks’ residence in that country; or

“(c) If that person, having volunteered to serve beyond the limits of Australia and the Territories, has served in the Citizen Forces, each four weeks of the period from the date of his enlistment to the date of his application for naturalization or the date of the termination of his service, whichever is the earlier, shall be deemed to be five weeks’ residence in Australia.”

3. Section sixteen of the Principal Act is amended by omitting from paragraph (a) of subsection (1) the words “in the prescribed manner”.

4. Section thirty-six of the Principal Act is amended by inserting in subsection (1), after the word “naturalization” (first occurring), the words “, being a person of full age,”.

5. Section forty-eight of the Principal Act is amended by omitting the words “, on or before the date upon which the order takes effect,” and inserting in their stead the words “, upon demand by the Minister,”.

6. Austria

(a) CONSTITUTIONAL ACT OF 6 FEBRUARY 1947.¹

1. The following persons shall be excluded from possession and acquisition of Austrian citizenship under the Transitional Citizenship Act, 1949, and the Citizenship Act, 1949:

(a) All persons who acquired German nationality by naturalization between 1 July 1933 and 13 March 1938;

(b) All persons of German nationality who during that period acquired Austrian Federal citizenship by grant and were members of the National Socialist German Workers’ Party or one of its organizations;

(c) Persons who, by supporting the National Socialist Movement between 1 July 1933 and 26 November 1946, have committed and have been or may in future be convicted of an offence against the Republic of Austria under article 58 of the Penal Code, unless they have been or are in future sentenced merely for membership of the National Socialist German Workers’ Party or one of its organizations.

¹ *Bundesgesetzblatt*, No. 25/1947, part III, section II. Translation by the Secretariat of the United Nations.

2. An order or certificate attesting to possession or acquisition of Austrian citizenship by a person referred to in paragraph 1 shall be void.

(b) TRANSITIONAL CITIZENSHIP ACT OF 1949.¹

SECTION I

Article 1. With effect from 27 April 1945 the following persons shall be Austrian citizens:

(a) Persons who possessed Austrian Federal citizenship on 13 March 1938;

(b) Persons who in the period between 13 March 1938 and 27 April 1945 acquired Federal citizenship by legal derivation from an Austrian Federal citizen (birth, legitimation, marriage) in virtue of the extended application of the Federal Law of 30 July 1925 (*Bundesgesetzblatt*, No. 285) on the acquisition and loss of provincial and Federal citizenship, as amended on 13 March 1938;

provided that no personal circumstance which under the Law referred to in subparagraph (b) hereof entails loss of Federal citizenship occurred before 27 April 1945. Loss of Federal citizenship by voluntary entry into the military service of a foreign State shall not be incurred by persons who have served in the armies of the United Nations. (*Bundesgesetzblatt*, No. 51/1946, article 1; *Bundesgesetzblatt*, No. 25/1947, part III, section I).

Article 2. (1) Irrespective of his sex or marital status, a person to whom article 17, paragraph (2) of the Prohibition Act, 1947, does not apply, and who has not incurred a conviction of a crime or offence which has not been expunged, and who under the law of his previous country of domicile is of full capacity, and who produces evidence that he has resided in the territory of the Republic since 1 January 1919, shall acquire citizenship by making a declaration of his intention to become a loyal citizen of the Austrian Republic. Lack of capacity may be remedied by the consent of the legal representative.

(2) A wife shall acquire citizenship through the declaration of her husband provided that the marriage is valid and the spouses are not judicially separated *a mensa et toro*. Incapable legitimate children follow the father, and incapable illegitimate male and unmarried female children follow the mother.

(3) Residence shall also be established according to paragraph (1) hereof if the person has left the Federal Territory only temporarily and in circumstances indicating retention of residence, particularly if called up for military or other personal service. Residence shall also be established if the person gave up residence after 13 March 1938 because after that date he had reason to fear or actually suffered persecution by an organ of the National Socialist German Workers' Party or by an authority of the Third Reich, or where the person was obliged to give up his residence between 5 March 1933 and 13 March 1938 by reasons of persecution or fear of persecution on account of his support of the Democratic Republic of Austria (*Bundesgesetzblatt*, No. 142/1949, article I).

Article 2a. A woman who on 13 March 1938 possessed Austrian Federal citizenship but who has lost it in consequence of a marriage contracted

¹ *Bundesgesetzblatt*, No. 276/1949, p. 1170. Translation by the Secretariat of the United Nations.

before 27 April 1945 may acquire citizenship by making a declaration of her intention to become a loyal citizen of the Austrian Republic, provided that she has not incurred a conviction of a crime or offence which has not been expunged. A child born of such a marriage who is not yet of full capacity shall also, if the legal representative consents, acquire citizenship through declaration of the mother. If such consent is not forthcoming, the court may give valid consent. An illegitimate child not of full capacity shall also acquire citizenship by declaration of the mother. A female child not of full capacity shall follow the mother only if unmarried (*Bundesgesetzblatt*, No. 142/1949, article I).

Article 3. (1) The declaration referred to in articles 2 and 2a above shall be made in writing before 31 December 1949 to the administrative department of the provincial government having jurisdiction in the place of residence (*Bundesgesetzblatt*, No. 52/1946, article I; *Bundesgesetzblatt*, No. 141/1949, article I).

(2) Fulfilment of the conditions laid down in articles 2 and 2a must be ascertained in due form. If they have been fulfilled, the party shall be given a certificate affirming acquisition of citizenship with effect from the moment of the declaration (*Bundesgesetzblatt*, No. 52/1946, article I).

Article 4. (1) The deprivation of citizenship of a person who has lost Austrian Federal citizenship under article 10, paragraph (2), of the Federal Act of 30 July 1925 (*Bundesgesetzblatt*, No. 285) as amended by the Order of the Federal Government of 16 August 1933 (*Bundesgesetzblatt*, No. 369) shall be revoked by order of the district administrative authorities (or the Federal police authorities) at the request of the person deprived of citizenship on proof that he was not deprived of citizenship on account of a general attitude incompatible with the principles of the Independent Democratic Republic of Austria.

(2) The deprivation of citizenship may also be revoked by the authorities referred to in article 3, paragraph (1) even if the person deprived of citizenship does not satisfy the conditions laid down in paragraph (1), if his previous political behaviour raises a strong presumption that he is favourably disposed towards the Independent Republic of Austria (*Bundesgesetzblatt*, No. 142/1949, article I).

(3) Applications for revocation shall be required to be submitted before 31 December 1949 to the authorities who originally ordered the loss of Federal citizenship (*Bundesgesetzblatt*, No. 141/1949, article I; *Bundesgesetzblatt*, No. 142/1949, article I).

(4) A person who has acquired a foreign citizenship after deprivation of citizenship must prove that if his deprivation of citizenship is revoked he will relinquish his present nationality. Such a person may be promised revocation of his deprivation of citizenship on condition of release from his present nationality (*Bundesgesetzblatt*, No. 142/1949, article I).

(5) A person whose deprivation of citizenship is revoked under paragraph (1) shall be treated as if he had possessed Federal citizenship on 13 March 1938. A person whose deprivation of citizenship is revoked under paragraph (2) shall become an Austrian citizen with effect from the making of the order of revocation (*Bundesgesetzblatt*, No. 142/1949, article I).

(c) CITIZENSHIP ACT OF 1949¹.

SECTION I

Article 1. Without prejudice to any treaty or to the provisions of the Transitional Citizenship Act of 1949, acquisition and loss of citizenship shall in future be governed by the provisions of this Act.

Acquisition of citizenship

Article 2. Citizenship may be acquired:

- (1) By birth (or legitimation);
- (2) By marriage;
- (3) By grant;
- (4) By assumption of a public teaching post in an Austrian institution of higher education (*Bundesgesetzblatt*, No. 142/1949, article II).

Article 3. (1) A legitimate child not of full capacity shall acquire citizenship from his father. If his father is stateless but his mother possesses citizenship, he shall acquire it. An illegitimate child not of full capacity shall acquire citizenship from his mother. An illegitimate child shall if legitimated acquire citizenship from his father.

(2) The provisions of paragraph (1) shall apply to female children only if unmarried (*Bundesgesetzblatt*, No. 142/1949, article II).

Article 4. (1) An alien woman shall acquire citizenship from her husband by marriage.

(2) The legally effective reunion of spouses judicially separated *a mensa et toro* shall have the same effect as marriage.

Article 5. (1) Citizenship may be granted to an alien only if he:

1. Is of full capacity under the law of his former State; but lack of capacity may be remedied by the consent of the legal representative;

2. Proves that on acquiring citizenship he will relinquish his former nationality; but this condition may be dispensed with if under the law of his former State he may retain his former nationality on being granted a foreign citizenship (*Bundesgesetzblatt*, No. 142/1942, article II);

3. Has been regularly resident in the territory of the Republic for at least four years; but this condition need not be fulfilled if the Federal Government indicates that to grant citizenship would be in the interests of the Federation.

(2) Before citizenship is granted to an alien, his relations with his previous or earlier State and his personal and family circumstances must be ascertained. Citizenship may not be granted if those relations or circumstances are such as to give ground for apprehension that naturalization would be against the interests of the province or Federation; nor in a case to which article 17, paragraph (2), of the Prohibition Act of 1947 applies; nor if the applicant has incurred an unexpunged conviction which by article 24, paragraph (1) lines 1, 3 and 4, paragraphs (2-4) and paragraphs (6) and (7) of the National Parliamentary Elections Order would presumably have entailed simultaneous deprivation of franchise (*Bundesgesetzblatt*, No. 142/1949, article II).

¹ *Bundesgesetzblatt*, No. 276/1949, p. 1171. Translation by the Secretariat of the United Nations.

(3) A provincial government shall, if the conditions laid down in paragraphs (1) and (2) hereof are fulfilled, grant citizenship on application to an alien who has resided in the territory of the Republic for the thirty years immediately preceding his application. The provisions of article 2, paragraph (3), of the Transitional Citizenship Act of 1949 shall apply. The foregoing shall apply also to a person who, if he had not been of full capacity, would have followed his father or mother in acquiring citizenship under article 2, paragraph 2, of the Transitional Citizenship Act, 1949 (*Bundesgesetzblatt*, No. 142/1949, article II).

(4) A provincial government may, if the conditions laid down in paragraph (1) sub-paragraphs 1 and 2 and paragraph (2) hereof are fulfilled, grant citizenship to an alien who has resided in the territory of the Republic for the ten years immediately preceding his application. Article 2, paragraph (3) of the Transitional Citizenship Act of 1949 shall apply (*Bundesgesetzblatt*, No. 142/1949, article II).

(5) Otherwise a provincial government may grant citizenship to an alien only if the Office of the Federal Chancellor and the Federal Ministry of the Interior certify that with regard to the interests of the Federation there is no objection to the grant of citizenship.

(6) In calculating the periods of residence required by paragraph (1), sub-paragraph 3, and paragraph (4), the length of time spent in the territory of the Republic during the period from 13 March 1938 to 27 April 1945 shall not be taken into account if the applicant first took up residence during that period (*St. G. Bl.*, No. 126/1945).

(7) Where citizenship is granted to an alien a wife shall acquire the citizenship of her husband, provided that the marriage is valid and the spouses are not judicially separated *a mensa et toro*. A legitimate child not of full capacity shall follow his father's and an illegitimate child his mother's citizenship only if the grant of citizenship is expressly extended to him (*Bundesgesetzblatt*, No. 142/1949, article II).

Article 6. If a male alien assumes a public teaching post in an Austrian institution of higher education, he shall acquire citizenship. Any children of his not of full capacity shall follow him, but female children only if unmarried. His wife also shall follow him in citizenship, provided that the marriage is valid and the spouses are not judicially separated *a mensa et toro* (*Bundesgesetzblatt*, No. 142/1949, article II).

Loss of citizenship

Article 7. Citizenship shall be lost:

- (a) By marriage; or
- (b) By deprivation of citizenship.

Article 8. (1) A married woman shall lose her citizenship by marriage to an alien if it is established that, under the laws of the State of which her husband is a national, she acquires the nationality of that State by the marriage. She may nevertheless be permitted on valid grounds to retain her citizenship (*Bundesgesetzblatt*, No. 142/1949, article II).

(2) A woman who has lost or loses her citizenship in consequence of a marriage contracted with an alien between 27 April 1945 and 19 January 1950 may be permitted subsequently to retain her citizenship as provided in paragraph 1 if she applies therefor before 19 July 1950. Such retention of citizenship shall take effect from the date of authorization (*Bundesgesetzblatt*, No. 142/1949, article III).

(3) The legally-effective reunion of spouses judicially separated *a mensa et toro* shall have the same effect as marriage.

(4) If his mother marries an alien, an illegitimate child not of full capacity shall lose his citizenship together with her only if, under the laws of the State to which his mother's husband belongs, he is deemed legitimate and thereby acquires the nationality of that State. The foregoing shall apply to female children only if unmarried (*Bundesgesetzblatt*, No. 142/1949, article II).

Article 9. (1) Citizenship shall be lost by deprivation, in the absence of any provision of military law to the contrary:

1. By any person who acquires a foreign citizenship; but retention of citizenship may on valid grounds be approved by the Federal Ministry of the Interior in agreement with the Office of the Federal Chancellor;

2. By any person who voluntarily enters the public or military service of a foreign State; but citizenship shall not be lost by a citizen who assumes a public teaching post in an institution of higher education abroad if under the laws of the foreign State the assumption of the teaching post does not entail acquisition of the foreign citizenship. Loss of citizenship by voluntary entry into the military service of a foreign State shall not be incurred by persons who by 15 July 1945 had served in the armies of the United Nations (*Bundesgesetzblatt*, No. 53/1946, article I).

(2) Loss of citizenship by deprivation shall extend to the wife if she simultaneously acquires foreign nationality and if the marriage is valid and the spouses are not judicially separated *a mensa et toro*. Loss of citizenship by deprivation shall extend to a child not of full capacity only if he simultaneously acquires the foreign nationality, and to a female child only if unmarried (*Bundesgesetzblatt*, No. 142/1949, article II).

Article 10. (1) Recovery of citizenship may not be denied to a person who formerly possessed it but who lost it before he attained full capacity, provided that he applies therefor within two years after attaining full capacity and is qualified for admission to citizenship notwithstanding the provisions of article 5 (2). Save as provided by the second half-sentence of article 5 (1) 2, if he is an alien he shall also be required to establish that he will lose his previous nationality upon recovery of citizenship (*Bundesgesetzblatt*, No. 142/1949, article II).

(2) Subject to the same conditions, and notwithstanding the provision contained in the penultimate sentence of article 5 (2), recovery of citizenship shall not be denied to a woman who has lost it by marriage to an alien if the marriage has been dissolved by the husband's death or by judicial separation (*Bundesgesetzblatt*, No. 25/1947, part III, section I).

(3) A person who possessed Austrian Federal citizenship on 5 March 1933 and who after that date went abroad for one of the reasons given in the Transitional Citizenship Act, 1949, article 2, paragraph (3), penultimate and last sentences, and has acquired or acquires a foreign nationality abroad by 19 January 1950, may recover citizenship if he applies for it on valid grounds before 19 July 1950. Article 5, paragraph (2), penultimate and last sentences, shall apply (*Bundesgesetzblatt*, No. 142/1949, article IV).

(4) In calculating the time referred to in paragraph (1) the period from 13 March 1938 to 14 July 1945 shall not be accounted. For a person who attained full capacity or whose marriage came to an end or was annulled or dissolved during that period, the time shall begin to run from 15 July 1945 (*Bundesgesetzblatt*, No. 142/1949, article II).

Article 11. Citizenship shall be neither acquired nor lost by adoption or fosterage.

Article 12. A person found in the territory of the Republic (a foundling) shall be deemed to be a citizen until proved to possess another nationality.

Article 13. (1) Except as otherwise provided by this Act, matters of citizenship shall be considered and decided by the provincial government authority having local jurisdiction under the General Administrative Procedure Law.

(2) If there is no authority having local jurisdiction in the meaning of paragraph (1), the Town Council (*Magistrat*) shall have jurisdiction as a provincial government authority.

(3) An order of an authority contrary in substance or law to the provisions of this Federal Act or of an international treaty shall be bad and may be set aside (*Bundesgesetzblatt*, No. 142/1949, article II).

Article 14. A citizen shall upon application be entitled to receive a certificate of citizenship. The authority obliged to issue such certificates shall be specified by order.

Article 15. The form of the certificate of citizenship and of the instruments attesting grant and withdrawal of citizenship shall be determined by order.

Article 16. (1) If a citizen desires to acquire a foreign nationality, the competent authorities may at his request issue to him a certificate stating that if he acquires the foreign nationality he will cease to be a national of Austria.

(2) If the requirements of article 5 are satisfied, the authority empowered to grant nationality may by order promise an alien Federal nationality on condition of release from his previous nationality.

7. Belgique

(a) ARRÊTÉ ROYAL DU 14 DÉCEMBRE 1932 PORTANT COORDINATION DES LOIS SUR L'ACQUISITION, LA PERTE ET LE RECouvreMENT DE LA NATIONALITÉ

Article 1. Sont Belges:

1) L'enfant légitime né, même en pays étranger, d'un père ayant la qualité de Belge au jour de la naissance;

2) L'enfant né en Belgique de parents légalement inconnus. L'enfant trouvé en Belgique est présumé, jusqu'à preuve contraire, être né sur le sol belge.

Article 2. L'enfant naturel dont la filiation maternelle est légalement constatée pendant sa minorité et avant son émancipation, suit la condition de sa mère au jour de l'acte de reconnaissance ou du jugement déclaratif de filiation. Si ce jugement n'est rendu qu'après la mort de la mère, l'enfant suit la condition que celle-ci avait au jour de son décès.

Il suit la condition de son père, si la reconnaissance volontaire ou judiciaire de sa filiation paternelle est antérieure ou concomitante à celle de sa filiation maternelle.

Article 3. L'enfant naturel légitimé pendant sa minorité et avant son émancipation, suit la condition de son père, si celui-ci est Belge ou sujet d'une nation dont la loi confère aux enfants légitimés la nationalité de leur père.