

BILL NO. 36 OF 2020

A BILL

FOR AN ACT TO AMEND THE CITIZENSHIP OF FIJI ACT 2009

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Citizenship of Fiji (Amendment) Act 2020.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

(3) In this Act, the Citizenship of Fiji Act 2009 is referred to as the “Principal Act”.

Section 3 amended

2. Section 3 of the Principal Act is amended by—

(a) in the definition of “commencement date”, deleting “and”;

(b) in the definition of “Permanent Secretary”, deleting “.” and substituting “; and”; and

(c) inserting the following new definitions—

““permanent residence permit” means a permit to permanently reside and work in Fiji as prescribed by the Minister pursuant to section 9(4) of the Immigration Act 2003;” and

““special purpose permit” means a permit to enter Fiji for a special purpose as prescribed by the Minister pursuant to section 9(4) of the Immigration Act 2003.”.

Section 8 amended

3. Section 8 of the Principal Act is amended by—

- (a) in subsections (2), (3), (4) and (5) after “18”, inserting “years”; and
- (b) in subsection (7)(a) after “Fiji”, inserting “under a permanent residence permit”.

Section 10 amended

4. Section 10 of the Principal Act is amended by—

- (a) deleting the heading and substituting “Grant of certificate of registration”; and
- (b) in subsection (2) after “18”, inserting “years”.

Section 11 amended

5. Section 11 of the Principal Act is amended by deleting subsection (2) and inserting the following new subsections—

“(2) In order to qualify for the grant of a certificate of naturalisation under section 13, a person must—

- (a) be the holder of a valid permanent residence permit;
- (b) have been lawfully present in Fiji for an aggregate period of 10 years in the 15 consecutive years immediately before the application for naturalisation;
- (c) be of good character;
- (d) intend to continue to reside in Fiji; and
- (e) have adequate knowledge of the English language and of the responsibilities and privileges of Fijian citizenship in accordance with guidelines which may be prescribed by regulations.

(3) For the avoidance of doubt, in calculating the aggregate period in subsection (2)(b) the Minister must—

- (a) not take into account any period in which the applicant was not a holder of a valid permanent residence permit; and
- (b) where the applicant has held more than one permanent residence permit, only take into account consecutive periods in which the applicant has held a permanent residence permit.”.

Section 12 amended

6. Section 12(1) of the Principal Act is amended after “form” by inserting “at least 3 months immediately before the permanent residence permit expires”.

Section 13 amended

7. Section 13 of the Principal Act is amended by—

(a) deleting the heading and substituting “Grant of certificate of naturalisation”;

(b) in subsection (1), deleting “has been met, but subject to subsection (2), may” and substituting “have been met, must”; and

(c) deleting subsection (2) and substituting the following—

“(2) If the Minister is not satisfied that the conditions prescribed by section 11(2) have been met, the Minister must refuse to grant to the applicant a certificate of naturalisation.”.

Section 15 amended

8. Section 15(a) of the Principal Act is amended after “18” by inserting “years”.

Section 22A inserted

9. The Principal Act is amended after section 22 by inserting the following new section—

“Transitional—Citizenship of Fiji (Amendment) Act 2020

22A.—(1) An application for citizenship lodged with the Fijian Immigration Department on or prior to 31 August 2020 must be assessed under the criteria applicable on that date.

(2) An application for citizenship lodged with the Fijian Immigration Department on or after 1 September 2020 must be assessed under the criteria provided for by virtue of the Citizenship of Fiji (Amendment) Act 2020.”.

Section 23 amended

10. Section 23(a) of the Principal Act is amended by—

(a) in subparagraph (iii) after “;”, deleting “and”; and

(b) after subparagraph (iv), inserting the following new subparagraphs—

“(v) was present in Fiji pursuant to a special purpose permit issued under the Immigration Act 2003; or

(vi) was present in Fiji pursuant to a co-extensive residence permit issued in relation to a student permit under the Immigration Act 2003.”.

CITIZENSHIP OF FIJI (AMENDMENT) BILL 2020

EXPLANATORY NOTE

(This note is not part of the Bill and is intended only to indicate its general effect)

1.0 BACKGROUND

- 1.1 The Citizenship of Fiji Act 2009 ('**Act**') provides for the acquisition, renunciation and deprivation of Fijian citizenship.
- 1.2 The Citizenship of Fiji (Amendment) Bill 2020 ('**Bill**') seeks to amend the Act.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.
- 2.2 Clause 2 of the Bill amends section 3 of the Act to include the definitions of "permanent residence permit" and "special purpose permit". These are permits prescribed by the Minister pursuant to section 9(4) of the Immigration Act 2003.
- 2.3 Clause 3 of the Bill amends section 8 of the Act to include the term "years" to provide clarity to the age referred to in subsections (2), (3), (4) and (5), and to require persons applying for citizenship by registration on the basis of their marriage to a Fijian citizen to be lawfully present in Fiji for 3 years under a permanent residence permit as prescribed by regulations.
- 2.4 Clause 4 of the Bill amends section 10 of the Act to provide clarity to the heading and to include the term "years" to also provide clarity to the age referred to in subsection (2).
- 2.5 Clause 5 of the Bill amends section 11 of the Act by deleting subsection (2) which sets out the criteria for the grant of citizenship by naturalisation. Currently, a person only needs to be lawfully present in Fiji for 5 out of the 10 years prior to lodging an application for naturalisation. The Bill seeks to introduce a new set of requirements which *inter alia* require the applicant to be the holder of a

permanent residence permit at the time of lodgement and to have been lawfully present in Fiji for 10 out of the 15 years prior to lodgement.

- 2.6 Clause 6 of the Bill amends section 12 of the Act to require that an application for naturalisation be made to the Minister in the approved form at least 3 months prior to the expiration of the permanent residence permit.
- 2.7 Clause 7 of the Bill amends section 13 of the Act to provide clarity to the heading and aligns subsections (1) and (2) to the proposed amendments to section 11(2) of the Act.
- 2.8 Clause 8 of the Bill amends section 15 of the Act to include the term “years” to provide clarity to the age referred to in paragraph (a).
- 2.9 Clause 9 of the Bill amends the Act to provide for the transitioning of the grant of citizenship from the current criteria to the new criteria. The criteria applicable before the tabling of the Bill will be applicable to applicants for citizenship by naturalisation but applications lodged after the tabling of the Bill will be assessed under the new criteria proposed by the Bill.
- 2.10 Clause 10 of the Bill amends section 23(a) of the Act by inserting new subparagraphs (v) and (vi). When determining whether an applicant for citizenship has been lawfully present in Fiji for a given period, the Minister should not take into account the period during which the applicant is present in Fiji on a special purpose permit or co-extensive residence permit issued in relation to a student permit.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The Act comes under the responsibility of the Minister responsible for immigration.

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Attorney-General