

Act No. 21, 1898.

NATURALIZATION
AND
DENIZATION.
—An Act to consolidate the Laws relating to the
Naturalization and Denization of Aliens.
[27th July, 1898.]

Preamble.

WHEAREAS by the Imperial Act of the thirty-third year of Her present Majesty, intituled *An Act to amend the Law relating to the Legal conditions of aliens and British Subjects*, it is enacted that all laws, statutes, and ordinances which may be duly made by the Legislature of any British Possession for imparting to any person the privileges or any of the privileges of naturalization to be enjoyed by such person within the limits of such Possession shall, within such limits, have the authority of law, but shall be subject to be confirmed or disallowed by Her Majesty in the same manner and subject to the same rules in and subject to which Her Majesty has power to confirm or disallow any other laws, statutes, or ordinances in that Possession: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

Preliminary.

Short title and
division.

1. This Act may be cited as the "Naturalization and Denization Act of New South Wales, 1898," and is divided into parts, as follows:—

PART I.—*Preliminary.*—ss 1-3.

PART II.—*Rights and disabilities of aliens.*—s. 4.

PART III.—*Naturalization.*—ss. 5-11.

PART IV.—*Denization.*—ss. 12-14.

Repeal.
First Schedule.

2. The Acts mentioned in the First Schedule to this Act are, to the extent therein expressed, hereby repealed.

Provision for
protection of
existing interests.
39 Vic. No. 19, s. 14.

3. Nothing in this Act shall deprive any person of any estate or interest in any property to which such person is entitled at the time of the passing of this Act, or shall affect such estate or interest to such person's prejudice.

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PART II.

Rights and disabilities of aliens.

4. Real and personal property of every description in New South Wales may be taken, acquired, held, and disposed of by an alien in the same manner in all respects as by a natural-born British subject ; and a title to any such property may be derived through, from, or in succession to an alien in the same manner in all respects as through, from, or in succession to a natural-born British subject : Capacity of aliens as to real and personal property.
39 Vic. No. 19, s. 3.

Provided that nothing in this section contained—

- (a) shall qualify an alien for any office, or extend or be construed to confer any parliamentary, municipal, or other franchise in New South Wales ;
- (b) shall qualify an alien to be the owner of a British ship ;
- (c) shall affect any estate or interest in real or personal property in New South Wales to which any person has or may become entitled, either mediately or immediately, in possession or expectancy, in pursuance of any disposition made before the passing of this Act, or in pursuance of any devolution by law on the death of any person dying before the passing of this Act ; or
- (d) shall entitle an alien to any right or privileges as a British subject in New South Wales, except such rights and privileges in respect of property or otherwise as are hereby expressly given or extended to him.

PART III.

Naturalization.

5. (1) An alien who has resided in New South Wales for a term of not less than five years, and who intends when naturalized to reside in New South Wales, may apply to the Governor for a certificate of naturalization : Ibid. s. 4.

Provided that the said term of residence shall have taken place within such limited time before making the said application as may be allowed by the Governor, either by general order or on any special occasion.

(2) The applicant shall produce in support of his application— Evidence in support of application.

- (a) his own statutory declaration stating his name, age, birthplace, occupation, and residence ; and
- (b) a like declaration of some other person as to the applicant's term of residence in New South Wales.

and shall give such further evidence of the completion by him of the said term of residence, and of his intention to reside in New South Wales as the Governor may require. (3)

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Powers of Governor.

(3) The Governor, if satisfied with the evidence adduced, shall take the applicant's case into consideration, and may, with or without assigning any reason, grant or withhold a certificate as he thinks most conducive to the public good, and no appeal shall lie from his decision.

Oath to be taken.

(4) No such certificate shall have any effect until the applicant has taken the oath of allegiance hereinafter prescribed.

Oath of allegiance,
before whom taken.
39 Vic. No. 19, s. 5.
Second Schedule.

6. If the Governor thinks fit to grant such certificate of naturalization he shall direct the applicant to take the oath of allegiance in the form of the Second Schedule hereto before some Judge of the Supreme Court, or of a District Court, or before some police magistrate, or justice of the peace; and upon the certificate of such Judge, police magistrate, or justice, that the applicant has taken before him the said oath, he shall issue to the applicant a certificate of naturalization accordingly.

Effect of certificate
of naturalization.
Ibid. s. 6.

7. Every person to whom a certificate of naturalization under this Act is granted shall in New South Wales be entitled to all political and other rights, powers, and privileges, and be subject to all obligations to which a natural-born British subject is entitled or subject in New South Wales, any thing in the Constitution Act, section two, to the contrary notwithstanding.

Status of married
women.
Ibid. s. 7.

8. (1) Every married woman shall in New South Wales be deemed to be a subject of the State of which her husband is for the time being a subject.

Alien married
women.

(2) Every alien woman married to a natural-born British subject or to a person who has obtained a certificate of naturalization under this Act shall be deemed to be herself naturalized and to have had in New South Wales from the time of her marriage all the rights and privileges of a natural-born British subject.

Children.

(3) Every child under the age of sixteen years—

- (a) whose father or mother was at the time of the birth of such child an alien but afterwards obtained a certificate of naturalization; or
- (b) whose mother being an alien marries a natural-born British subject,

shall, if such child was resident in New South Wales at any time while under that age, be deemed naturalized and to have all the rights and privileges of a natural-born British subject.

Persons naturalized
in other British
Colonies may be
naturalized in New
South Wales.

Ibid. s. 8.

9. When any person resident in New South Wales desires to be naturalized here, and has previously obtained any certificate of naturalization in the United Kingdom or in any British Colony, if such person,—

- (a) submits such certificate to the Governor; and
- (b) further satisfies the Governor that he is the person named in such certificate, and that the same was obtained without any fraud

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fraud or intentional false statement, and that the signature and the seal (if any) thereto are to the best of his belief and knowledge genuine, the Governor may at his discretion grant such person a certificate of naturalization without requiring from him any further residence in New South Wales or other condition.

10. (1) The Colonial Secretary shall—

- (a) enrol for safe custody as of record all certificates of naturalization granted under this Act ; and
- (b) demand and receive from every person to whom such certificate is granted the fee of one pound in respect of such enrolment ; and
- (c) cause to be made proper indexes to such certificates, and permit every person desirous of so doing at all reasonable times to inspect the same and make copies of such certificates, on payment of the fee of one shilling for every such inspection.

Record of certificate,
&c.
39 Vic. No. 19, s. 9.

(2) No person to whom any such certificate is granted shall fees be liable to any other fees or charges for such certificate, enrolment, or otherwise.

11. A certificate of naturalization may be proved in any proceeding in any Court by the production of—

- (a) the original certificate ; or
- (b) any copy thereof certified to be a true copy under the hand of the Colonial Secretary.

Certificate, how
proved.
Ibid. s. 11.

PART IV.

Denization.

12. When any foreign officer or person arrives in New South Wales with a recommendation from Her Majesty's Principal Secretary of State for the Colonies for the granting to him of letters of denization, if such foreign officer or person applies for letters of denization by petition addressed to the Governor setting forth his native country, age, profession, trade, or usual occupation, and his intention to settle in New South Wales, the Governor in exercise of the prerogative right of the Crown as now exercised by him, may grant letters of denization under the seal of New South Wales to such foreign officer or person.

Governor may grant
letters of denization.
9 Geo. IV No. 6, s. 1.

13. (1) If any person who receives letters of denization in virtue of this Act within one month after the date thereof takes and subscribes the oaths, and subscribes the declaration directed and appointed in and by the Imperial Act first George the First, statute two, chapter thirteen, such person shall be qualified to hold lands in New South Wales, and shall be entitled to all such rights and privileges as are conferred by ancient

Effect of letters of
denization.
Ibid. s. 2.

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ancient usage or by any Imperial Act in force on the third day of July, in the year one thousand eight hundred and twenty-eight, upon any denizen in England.

(2) The Chief Justice or any Judge of the Supreme Court shall, upon the request of such person, administer and receive the said oaths and declaration in manner and form as in the said Act is prescribed.

Letters of denization
to be recorded in the
Supreme Court.

9 Geo. IV No. 6, s. 3.

Proof of certificate.

14. (1) The Chief Justice or Judge before whom such oaths are taken and such declaration subscribed as aforesaid, shall immediately afterwards certify the same upon the back of the said letters of denization, and shall cause such letters of denization and the certificate so indorsed thereon to be recorded in the Supreme Court.

(2) A certificate of such record shall be deemed in every Court in New South Wales to be a sufficient proof that the person to whom such letters of denization were granted as aforesaid is a denizen subject of Great Britain to all intents and purposes whatsoever.

SCHEDULES.

FIRST SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal.
9 Geo. IV No. 6	An Act for enabling the Governor or Acting Governor of New South Wales to grant Letters of Denization to such foreigners as may arrive in the Colony with a recommendation to that effect from His Majesty's Principal Secretary of State for the Colonies.	The whole.
39 Vic. No. 19..	Naturalization Act of New South Wales	The whole.

Section 6.

39 Vic. No. 19, s. 10. I, , do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, according to law. So help me, GOD.

SECOND SCHEDULE.

Act