



CITIZENSHIP

Namibian Citizenship Act 14 of 1990

What does the law do?

This law adds details to the provisions of the Namibian Constitution on citizenship.

What is the purpose of the law?

The law clarifies how a person can get or lose Namibian citizenship. Citizenship is an important precondition for many other rights. Most of the rights guaranteed by the Namibian Constitution apply to all persons in Namibia, but others – such as the right to vote and to run for political office – apply only to Namibian citizens. The Constitution also allows Parliament to place restrictions on the ownership of land by non-citizens. Some social services and benefits are provided only to Namibian citizens, or only to citizens and permanent residents.



When did the law come into force?

15 September 1990. This law was enacted shortly after Namibian independence because the concept of Namibian citizenship was new to the new Namibian nation.

What does the Namibian Constitution say about citizenship?

The Constitution provides five basic routes to citizenship:

- (1) Citizenship by birth
- (2) Citizenship by descent
- (3) Citizenship by marriage
- (4) Citizenship by registration (only in the first year after independence)
- (5) Citizenship by naturalisation.

The Constitution also says that Parliament can enact laws on honorary Namibian citizenship based on special skills or experience, or commitment or services to the Namibian nation.

The statute on citizenship explains more about how each type of citizenship works.



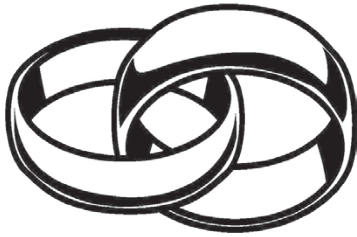
Citizenship by birth

The rules on citizenship by birth come entirely from the Namibian Constitution. The key rule is that you are a Namibian citizen by birth if you were born in Namibia after independence AND either of your parents was a Namibian citizen, or “ordinarily resident” in Namibia, at the time of your birth. (There are a few narrow exceptions and some additional transitional provisions that apply to people born in “South West Africa” before Namibian independence.)

Citizenship by descent

According to the Namibian Constitution, you are a Namibian citizen by descent if you were born outside Namibia AND either of your parents was a Namibian citizen when you were born, or *would have been* a Namibian citizen if the Constitution had already been in force when you were born.

The *Namibian Citizenship Act* adds some registration requirements. The birth must be registered with the Namibian diplomatic authority in the country where you were born (if there is one) or at any other Namibian diplomatic authority. Alternatively, your birth can be registered inside Namibia for citizenship purposes within one year after you arrive in Namibia. (There are a few narrow exceptions.)



Citizenship by marriage

According to the Namibian Constitution, you can apply to the Minister responsible for home affairs to become a Namibian citizen by marriage if you marry a Namibian citizen and then live in Namibia for at least 10 years as that person's spouse. The marriage can be a civil marriage or a customary marriage.

The *Namibian Citizenship Act* contains steps for establishing that a customary marriage has taken place, since there is no law providing for the national registration of customary marriages.

Citizenship by registration

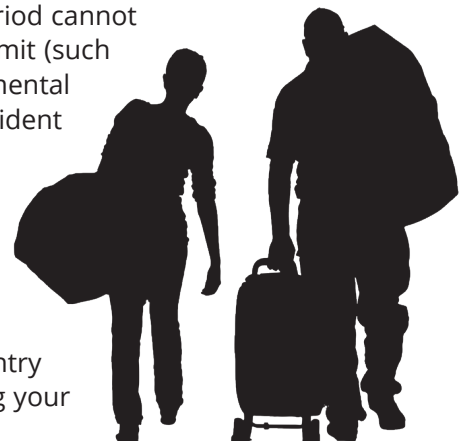
During the first year after independence, people who had been living in Namibia for at least five years could apply for Namibian citizenship by registration. That deadline is now long past.

Citizenship by naturalisation

According to the Namibian Constitution, you can apply to the Minister responsible for home affairs to be a Namibian citizen by naturalisation if you have been "ordinarily resident" in Namibia for at least 10 years.

The *Namibian Citizenship Act* gives more details. This 10-year period cannot include periods when you were in Namibia on a temporary permit (such as a short-term work or study visa), time spent in prison or a mental institution, or time spent in Namibia as a visitor or by some accident or mistake. Also, your application will have to show that –

- you are an adult (age 18 or older)
- you entered Namibia legally
- you intend to continue to reside in Namibia
- you are a person of good character
- you understand the rights and duties of Namibian citizenship
- you are willing to renounce your citizenship of any other country
- you have not been convicted of certain serious crimes during your time in Namibia.



These rules mean that permanent residence is generally the first step on the path to citizenship by naturalisation. (Permanent residence is governed by another statute, the *Immigration Control Act 7 of 1993*.)

The *Namibian Citizenship Act* allows a parent or guardian to apply for citizenship by naturalisation of a child under age 18. Anyone over age 14 who is approved for citizenship by naturalisation must take an oath of allegiance to Namibia.



Honorary Namibian citizenship

The President has the power to grant honorary citizenship of Namibia to anyone who has rendered “distinguished service” to Namibia.

Honorary Namibian citizenship does not make a person eligible to vote, and it does not extend to that person’s family members.

Dual citizenship

The *Namibian Citizenship Act* says that “no Namibian citizen may also be a citizen of a foreign country”. But the Namibian courts have said that this rule cannot be applied to persons who are Namibian citizens by birth or by descent.

Losing Namibian citizenship

Any Namibian citizen can choose to renounce Namibian citizenship if they want to become a citizen of another country.

Citizenship can be taken away *only* from persons who are Namibian citizens by naturalisation or registration. Depending on the circumstances, you might lose these forms of Namibian citizenship if you –

- become a citizen of another country
- serve in the armed forces of another country
- take up permanent residence in another country and leave Namibia for more than two years without the written permission of the Minister (with a few exceptions).



The Minister can also take away your Namibian citizenship by naturalisation or registration if –

- you used fraud or false representations to get that citizenship
- while outside Namibia, you have been disloyal towards Namibia or acted in a way that could be bad for public safety or order
- you helped an enemy of Namibia while Namibia was at war
- you were sentenced to prison for any crime in a foreign country, or for certain crimes committed in Namibia, for a period of at least twelve months, without the option of paying a fine
- before you were granted Namibian citizenship, you were deprived of the citizenship of another country for reasons similar to those that apply in Namibia
- before you were granted Namibian citizenship, you were prohibited from entering Namibia for any of the reasons set out in Namibia’s laws on immigration, including infection with a contagious disease, lack of sufficient means of support, previous convictions for certain serious crimes and habits of life “unsuited to the requirements of Namibia”.

But the Minister cannot take away your Namibian citizenship if you would be left stateless (without the citizenship of any country) or if the Minister decides that it would be in the public interest to let you keep Namibian citizenship.

Crimes

It is a crime to give false information in connection with citizenship, or to try to improperly influence the Minister’s decision on an application for citizenship. The penalty is a fine of up to N\$6 000 or prison for up to 3 years, or both.



Gender equality in Namibian citizenship

Namibia has been praised for having citizenship rules that do not discriminate between men and women. At the time of Namibian independence, many countries had different rules about citizenship for children of citizen-mothers and citizen-fathers, or different rules about citizenship by marriage for husbands and wives. Gender equality in citizenship rules has been improving around the world over the years, and Namibia was one of the leaders in this area.

The challenges of determining “ordinary residence”

Many of the rules on citizenship refer to “ordinary residence”. This term refers to situations where people make Namibia their regular home. But the rules can be complicated to apply where people move between places and end up with family members or property or bank accounts in different countries. There is no permit that confirms a person’s “ordinary residence”, so interpretations of this concept can lead to disagreements that have to be resolved by the courts. The challenges of applying this concept may lead to future constitutional amendments or law reforms.

Statelessness

The Constitution and the *Namibian Citizenship Act* both say that some of the rules and exceptions concerning citizenship should not be applied if this would make persons stateless (without the citizenship of any country). But the protections against statelessness could be made even stronger.

Namibian Citizenship Special Conferment Acts

There are two laws that provide Namibian citizenship for descendants of persons who left Namibia before 1915 because of persecution by the colonial government: the ***Namibian Citizenship Special Conferment Act 14 of 1991*** and the ***Namibian Citizenship (Second) Special Conferment Act 6 of 2015***. After independence, some of the descendants of such people wanted to relocate to Namibia and become Namibian citizens.

The laws were necessary because the Namibian Constitution provides for citizenship by descent only in cases where a person’s parents are Namibian citizens – it does not cover situations where only a grandparent or a more remote ancestor was a Namibian citizen. But the Constitution allows Parliament to make laws on Namibian citizenship as long as they are consistent with the Constitution, so Parliament stepped in to assist.

These two laws were aimed particularly at assisting descendants of persons who fled to Botswana to escape the Herero-Nama genocide. But the special procedures in the laws are not limited to members of any particular ethnic group or to people who fled to any particular country. The citizenship application only has to show that the applicant –

- is a descendant of someone who is a Namibian citizen by birth (or would have been a Namibian citizen by birth if the Constitution had been in force at the time) and who fled colonial persecution before 1915
- has renounced the citizenship of any other country
- lives or intends to live in Namibia.

The first law allowed applications for citizenship for five years after the law was passed by Parliament in 1991. This time period was too short to assist everyone who fell into the target category, so Parliament passed another similar law in mid-2015 that will remain active for 10 years (until mid-2025).

