



**Tuvalu**

# **CITIZENSHIP ACT**

**5 of 1979 9 of 1984 L.N.8/87 1 of 1989**





Tuvalu

# CITIZENSHIP ACT

## Arrangement of Sections

<b>Section</b>	
1	Short title..... 5
2	Interpretation..... 5
3	Register of Citizenship..... 7
4	Citizenship Committee..... 8
5	Citizenship by registration..... 8
6	Citizenship by naturalisation..... 9
7	Loss of Tuvalu citizenship..... 10
8	Renunciation of Tuvalu citizenship..... 11
9	Regaining Tuvalu citizenship..... 11
10	Renunciation of foreign citizenship in certain cases..... 12
11	Offences..... 12
12	Regulations..... 13
13	Declarations, how made..... 13

### **FORM 1** **14**

DECLARATION OF INTENT TO RENOUNCE FOREIGN CITIZENSHIP OR NATIONALITY.....	14
---	----

### **FORM 2** **16**

APPLICATION FOR REGISTRATION AS A CITIZEN OF TUVALU.....	16
--	----

### **FORM 3** **18**

CERTIFICATE OF REGISTRATION AS A CITIZEN OF TUVALU.....	18
---	----

---

<b>FORM 4</b>	<b>19</b>
<hr/>	
APPLICATION FOR NATURALISATION AS A CITIZEN OF TUVALU.....	19
 <b>FORM 5</b>	 <b>21</b>
<hr/>	
CERTIFICATE OF NATURALISATION AS A CITIZEN OF TUVALU .....	21
 <b>FORM 6</b>	 <b>22</b>
<hr/>	
DECLARATION OF RENUNCIATION OF TUVALU CITIZENSHIP .....	22
 <b>FORM 7</b>	 <b>23</b>
<hr/>	
CERTIFICATE OF REGAINED TUVALU CITIZENSHIP .....	23

## Supporting Documents

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<b>ENDNOTES</b>	<b>24</b>
<hr/>	
Table of Legislation History .....	24
Table of Renumbered Provisions.....	24
Table of Endnote References .....	24



Tuvalu

## CITIZENSHIP ACT

5 of 1979 9 of 1984 L.N.8/87 1 of 1989

**AN ACT TO MAKE PROVISION FOR THE REGISTRATION AND  
REGULATION OF MATTERS PERTAINING TO CITIZENSHIP, FOR  
THE ACQUISITION AND LOSS OF TUVALU CITIZENSHIP, AND  
FOR MATTERS INCIDENTAL THERETO AND CONNECTED  
THEREWITH**

ENACTED BY THE PARLIAMENT OF TUVALU

Commencement [29th August 1979]  
L.N. 15/79

### 1 Short title

This Act may be cited as the Citizenship Act.

### 2 Interpretation

(1) In this Act, unless the context otherwise requires —

“**adopted**” means adopted by registration in a Native Lands Court in accordance with the customary law of Tuvalu or adopted as dependant under the law of any other country;

“**citizen of Tuvalu by operation of law**” means either a person who —

- (a) became a citizen of Tuvalu automatically on Independence Day by virtue of section 19 of the Independence Constitution; or
- (b) became a citizen of Tuvalu by birth under section 22 or 23 of the Independence Constitution; or

(c) became, before the commencement of the Citizenship (Amendment) Act 1989, or becomes, a citizen of Tuvalu under section 45 of the Constitution;

**“citizen of Tuvalu by naturalisation”** means a person who is granted naturalisation as a citizen of Tuvalu under the provisions of section 6 of this Act;

**“citizen of Tuvalu by registration”** means a person who is granted registration as a citizen of Tuvalu under the provisions of section 5 of this Act;

**“the citizenship Committee”** means the Committee established by section 4 of this Act;

**“the Constitution”** means the Constitution of Tuvalu contained in the Schedule to the Constitution of Tuvalu Act 1986;

**“full age and capacity”** means that a person is of or over the age of 18 years, that he is of sound mind and that he has authority in matters of his own citizenship;

**“good character”** means that a person has never been sentenced by a court in any country to imprisonment for a term of or exceeding 12 months;

**“the Independence Constitution”** means the former Constitution of Tuvalu contained in the Schedule to the Tuvalu Independence Order 1978;

**“Independence Day”** means 1st October 1978;

**“the Register”** means the Register of Citizenship kept by the Registrar under the provisions of section 3(1);

**“the Registrar”** means the Registrar of Citizenship appointed by the Minister under section 3(1).

(2) For the purposes of this Act and of Part In of the Constitution —

(a) A public officer, his spouse and minor children shall be deemed to be residing in Tuvalu during any period in which such officer is employed outside Tuvalu in the service of the Government;

(b) A period during which a person is in custody awaiting deportation from Tuvalu shall be disregarded in computing any period of residence, but a period of residence shall not otherwise be disregarded by reason only that the person entered or resided in Tuvalu without having complied with any law relating to immigration.

### 3 Register of Citizenship

- (1) The Minister shall cause to be kept a Register of Citizenship and shall appoint a public officer to be the Registrar of Citizenship.
- (2) The Register shall contain the names and such other particulars as maybe prescribed of —
  - (a) every person who is granted a certificate of registration as a citizen of Tuvalu under the provisions of section 5;
  - (b) every person who is granted a certificate of naturalisation as a citizen of Tuvalu under the provisions of section 6;
  - (c) every citizen of Tuvalu who is or becomes also a national or citizen of some other country;
  - (d) every person who, being a national or citizen of some other country, renounces, or makes under section 10 a declaration of intention to renounce, such nationality or citizenship with a view to obtaining or retaining Tuvalu citizenship;
  - (e) every person whose status as a Tuvalu citizen or otherwise has been settled by the Citizenship committee or a court, whether in relation to the issue or a Tuvalu Passport under the provisions or the Passports Ordinance or otherwise;  
Cap. 78
  - (f) any citizen of Tuvalu who loses such citizenship under the provisions of section 7 or 10;
  - (g) every citizen of Tuvalu who renounces his Tuvalu citizenship under the provisions of section 8;
  - (h) every person who, having lost or renounced his Tuvalu citizenship under the provisions of section 7 or 8 respectively, regains such citizenship under the provisions of section 9.
- (3) The appearance or otherwise of a person's name in the register as a registered or naturalised citizen of Tuvalu shall be conclusive as to such person's status as a citizen of Tuvalu or otherwise and a person whose name so appears and has not been removed shall be regarded as a citizen of Tuvalu for all purposes as from the date of such registration or naturalisation as the case may be:

Provided —

- (a) that the appearance or otherwise in the Register of the name of a person who claims to be a citizen of Tuvalu by operation of law shall not affect such a claim except in relation to paragraphs (c) to (h) of subsection (1);

- (b) that any person may claim from the Citizenship Committee rectification of the Register by the insertion or removal of his name in any part thereof as provided in section 4.

#### **4 Citizenship Committee**

- (1) Any dispute as to a person's right to be registered in any part of the Register or to have his name removed from any part of the Register shall be referred to the Citizenship Committee, which shall consist of the Secretary to Government, all other Secretaries and Assistant Secretaries, the Chief of Police and the Attorney General as adviser.
- (2) An appeal by the Registrar or the applicant from any decision of the Citizenship Committee shall lie to the Minister in the first instance and thereafter to the High Court in accordance with such procedure as may be prescribed by the Rules Committee established under section 22 of the Superior Courts Act 1987.

#### **5 Citizenship by registration**

- (1) Any person of or over the age of 18 years who is not a citizen of Tuvalu by operation of law may apply to be registered as a citizen of Tuvalu if either —
  - (a) on the day prior to Independence Day he was deemed to belong to Tuvalu pursuant to section 16 of the Constitution set out in Schedule 2 to the Tuvalu Order 1975; or
  - (b) at the date of such application he is lawfully married either•
    - (i) to a person who is a citizen of Tuvalu by operation of law, other than by virtue of the provisions of section 19(4) of the Independence Constitution; or
    - (ii) to a person who is a citizen of Tuvalu by registration pursuant to the provisions of paragraph (a) above; or
  - (c) but for the fact that he was not a citizen of the United Kingdom and Colonies or a British Protected Person on Independence Day he would have become a citizen of Tuvalu by operation of law by virtue of section 19 of the Independence Constitution on Independence Day; or
  - (d) he has been adopted by a person who is or would but for such person's death be a citizen of Tuvalu by operation of law; or
  - (e) one of his parents is, or would but for the death of such parent be, a citizen of Tuvalu by virtue of section 19(2) of the Independence Constitution.

- (2) An application under subsection (1) shall be made to the Registrar in Form 2 set out in the Schedule and shall be accompanied by such registration fee as may be prescribed. It shall not be subject to any time limit.

Schedule

- (3) The Registrar, upon being satisfied of the matters set out in Form 2 by such documentary or oral evidence as he may in any particular case require, shall cause an applicant for registration as a citizen of Tuvalu to be so registered and shall provide such person with a certificate of registration in Form 3 set out in the Schedule

Schedule

Provided that no person who is a national or citizen of another country at the time of such application shall be registered as a citizen of Tuvalu unless at the time of making such application he renounces, or makes under section 10 a declaration of intention to renounce, that other nationality or citizenship.

- (4) The parent or lawful guardian of a person under the age of 18 years may apply for the registration of such person as a citizen on one or more of the grounds set out in subsection (1) of this section.

## **6 Citizenship by naturalisation**

- (1) Any person of full age and capacity may apply to be naturalised as a citizen of Tuvalu.
- (2) An application under subsection (1) shall be made to the Registrar in Form 4 set out in the Schedule and shall be accompanied by such fee as may be prescribed.

Schedule

- (3) The Registrar shall refer such application to the Citizenship Committee, which upon being satisfied of the matters set out in subsection (4) by such documentary or oral evidence as it may in any particular case require, shall cause an applicant for registration as a naturalised citizen of Tuvalu to be so registered by the Registrar, who shall provide such person with a certificate of naturalisation in Form 5 set out in the Schedule.

Schedule

- (4) The matters as to which the Citizenship Committee shall satisfy itself before causing a certificate of naturalisation to be granted to any person are —

- (a) that he is and for the 7 years immediately preceding the application has been ordinarily resident in Tuvalu;
  - (b) that he intends to make Tuvalu his permanent home;
  - (c) that he is and will be able to remain financially self-supporting;
  - (d) that he is familiar with the laws and customs of Tuvalu;
  - (e) that he is of good character and not suffering from any permanent communicable disease;
  - (f) such other matters as the Citizenship Committee may consider material.
- (5) Before any person is registered as a naturalised citizen of Tuvalu he shall —
- (a) being a national or citizen of some other country, renounce such other nationality or citizenship; and
  - (b) take before the Governor-General the Oath of Allegiance prescribed in section 1 of Schedule 4 to the Constitution.

## **7 Loss of Tuvalu citizenship**

- (1) A citizen of Tuvalu of full age and capacity who —
- (a) obtains the nationality or citizenship of another country by voluntary act other than marriage;
  - (b) exercises a right that is exclusive to nationals or citizens of another country, unless such right was exercised inadvertently;
  - (c) takes an oath or makes a declaration or affirmation of allegiance to another country or to the sovereign or Head of State of another country except with the express approval of the Prime Minister and for temporary purposes;
- (5) Any person who is found by a court to have obtained Tuvalu Citizenship by registration or naturalisation by any oral or written statement that was to his knowledge false in a material particular, or by the production of any document or calling of any witness which or who to his knowledge was false or by any wilful concealment of a material fact, may be deprived of his Tuvalu citizenship unless the offence was of a minor nature and did not affect the grant of registration or naturalisation.
- (6) Any person who is a citizen of Tuvalu by naturalisation and who fails to comply with any of the matters set out in paragraphs (b), (c), or (f) of section 6 (4) after such grant of naturalisation may be deprived of his Tuvalu citizenship.

- (7) The Registrar shall refer to the Citizenship Committee any case in which loss of Tuvalu Citizenship may arise and the decision whether to deprive a person of such citizenship shall be for the Citizenship Committee:

Provided that when considering depriving a person of citizenship under the provisions of subsections (1), (4) or (5) the Committee shall give such person an opportunity to make representations to it.

## **8 Renunciation of Tuvalu citizenship**

- (1) Subject to subsections (2) and (3), a citizen of Tuvalu of full age and capacity who renounces his Tuvalu citizenship by declaration in Form 6 set out in the Schedule shall cease to be a citizen of Tuvalu ~as from the date of such renunciation.

Schedule

- (2) A citizen of Tuvalu may not renounce his citizenship unless —
- (a) he already holds some other nationality or citizenship; or
  - (b) the renunciation is for the purpose of obtaining some other nationality or citizenship.
- (3) In time of war, a citizen of Tuvalu may not renounce his citizenship without the prior written consent of the Prime Minister.

## **9 Regaining Tuvalu citizenship**

- (1) A woman who —
- (a) is required to renounce her Tuvalu citizenship in order to retain or obtain nationality or citizenship of another country upon marriage to a national or citizen of such country; or
  - (b) loses her Tuvalu citizenship as a result of marriage to a national or citizen of another country under the provisions of section 7 (2) or (3),

may apply to the Citizenship Committee to regain her Tuvalu citizenship on the ground that her marriage has irretrievably broken down.

- (2) A citizen of Tuvalu who loses his citizenship under the provisions of section 7 (2) or (3) may apply to the Citizenship Committee to regain his citizenship on the ground either that he was not aware of the requirement to renounce other nationality or citizenship in order to retain Tuvalu citizenship or that such renunciation was impracticable within the prescribed period.

- (3) The Citizenship Committee, if satisfied of the relevant facts upon such oral and documentary evidence as it may require in any particular case and upon the applicant renouncing any other nationality or citizenship he may have, shall grant such application and cause the Registrar to provide the applicant with a certificate of regained citizenship in Form 7 set out in the Schedule.

#### Schedule

- (4) The provisions of section 7 (4) shall apply to the regaining of citizenship under this section.
- (5) Any person having lost his Tuvalu citizenship otherwise than in the circumstances specified in subsection (1) or (2) or having renounced his Tuvalu citizenship, and who desires to regain such citizenship, shall be required to apply for the grant of Tuvalu citizenship either by registration or naturalisation, as the case may be.

Provided that the number of years' ordinary residence in Tuvalu specified in section 6 (4) (a) shall in the case of an application under this section be 5 years instead of 7 and shall not include any period before Tuvalu citizenship was lost or renounced.

## 10 Renunciation of foreign citizenship in certain cases

- (1) Where —
- (a) under or for the purposes of this Ordinance a person is required to renounce, or wishes to renounce his foreign citizenship or nationality; and
  - (b) the law of the foreign country concerned does not permit him to renounce it or it is impracticable for him to do so,
- he may instead make a declaration of intent in Form I.
- (2) If after a person has become a citizen of Tuvalu by virtue of a declaration under subsection (1) the law of the foreign country concerned is amended to permit him to renounce its citizenship or nationality, or it becomes practicable for him to do so, he shall, if required by the Minister to do so, formally renounce that citizenship or nationality, and if he fails to do so within such period as is fixed by the Minister his citizenship of Tuvalu is cancelled.

## 11 Offences

Any person who, for the purpose of procuring anything to be done or not to be done under this Ordinance or any regulations made hereunder, makes any oral or written statement or produces any document which he knows to be false in a

material particular, or recklessly makes any such statement or produces any such document or wilfully fails to disclose any material fact, shall be guilty of an offence and liable on conviction to a fine of \$1000 and to imprisonment for one year.

## 12 Regulations

- (1) The Minister may make regulations for giving effect to the provisions of this Ordinance, including but not limited to regulations —
  - (a) prescribing the fees to be paid for registration, naturalisation or any other act of the Registrar in relation to the Register;
  - (b) for the custody of documents used in the course of any application to the Registrar or Citizenship Committee;
  - (c) for furnishing copies of any document or entry in the Register, including fees therefor;
  - (d) for notice of various matters to be given by any applicant under this Ordinance to an overseas representative of the Government;
  - (e) for cancellation and surrender of certificates of registration and naturalisation in the event of loss of Tuvalu citizenship;
  - (f) prescribing the procedure of the Citizenship Committee.
- (2) The Minister may by regulation amend any of the Forms set out in the Schedule.  
Schedule

## 13 Declarations, how made

The declarations prescribed in Forms 1, 2, 4 and 6 in the Schedule shall be made under the provisions of the Oaths and Statutory Declarations Ordinance.

Cap. 6

**Form 1**

(Section 10)

**DECLARATION OF INTENT TO RENOUNCE FOREIGN CITIZENSHIP OR NATIONALITY**

To the Registrar of Citizenship, Funafuti

1. I (full name) .....

of (address) .....

am of full age and capacity and was born at .....on the .....

day of.....19.....

2. I am a citizen/national of .....by reason of (state basis of citizenship or nationality) .....

3. I am desirous of renouncing my citizenship/nationality of..... for the purpose of(state reason) .....

but I am unable to renounce that citizenship/nationality under the laws of..... because (state whether laws do not allow or it is merely impractical).....

4. I hereby declare my intention —

- (a) to renounce as far as I can my .....citizenship (or my nationality as a .....); and
- (b) not to avail myself of any of the rights and privileges of that citizenship/nationality; and
- (c) to regard myself as, and to act in all ways as, a citizen of Tuvalu.

5. I further declare that if and when the law of (country of foreign citizenship/nationality) permits me to do so, or it becomes practicable for me to do so, I will, when required by the Minister responsible for citizenship matters to do so, formally renounce my foreign citizenship / nationality.

Declaration

I, the said (full name)....., do solemnly and sincerely declare that the foregoing particulars are true and I make this solemn declaration conscientiously believing the same to be true by virtue of the Oaths and Statutory Declarations Act.

.....

*(Signature of declarant)*

Declared at (place) .....

this .....day of .....19.....

before me.....

*(name of officer before whom declared)*

Signed:.....

Office held.....

*Seal (if any)*

**FORM 2**

(Section 5 (2))

**APPLICATION FOR REGISTRATION AS A CITIZEN OF TUVALU**

To the Registrar of Citizenship. Funafuti.

1. I (full name) ..... not being a citizen of Tuvalu, hereby apply to be registered as a citizen of Tuvalu.

2. The ground on which I claim to be entitled to be registered as a citizen of Tuvalu is as follows: —

(Here set out which of the provisions of section 5 (I) of the Citizenship Ordinance, Cap. 98, you say applies to you, with full details of parentage, marriage etc. where relevant. You must be prepared to furnish documentary evidence and to be questioned by the Registrar or Citizenship Committee on your statement).

3. I am at present a national/citizen of ..... but I am prepared to renounce such nationality/citizenship upon being registered as a citizen of Tuvalu.

4. I enclose a fee of \$

5. My personal particulars are as follows: —

Name .....

Address .....

Date and place of birth .....

Marital status (with details if now married) .....

Dependant children (under'18 years) .....

Occupation .....

Declaration

I, the said (full name) ..... do solemnly and sincerely declare that the foregoing particulars are true and I make this solemn declaration conscientiously believing the same to be true by virtue of the Oaths and Statutory Declarations Ordinance, Cap. 6.

.....

*(Signature of declarant)*

Declared at (place) .....

this .....day of .....19.....

before me .....

*(name of officer before whom declared)*

Signed .....

Office held .....

*Seal [if any]*

**FORM 3**

(Section 5 (3))

**CERTIFICATE OF REGISTRATION AS A CITIZEN OF TUVALU**

(*Cert. No*            )

Whereas (full name of applicant) .....

has applied to be registered as a citizen of Tuvalu under the provisions of section 5 of the Citizenship Ordinance, Cap. 98, and has satisfied me that the conditions laid down in the said Ordinance are fulfilled in relation to him/her for the grant of a certificate of registration,

And whereas the said ..... (full name) has renounced his/her existing nationality or citizenship and paid the prescribed fees,

Now therefore in exercise of the power conferred on me by the said Ordinance, I do hereby grant to the said .....(full name)

this certificate of registration and declare that he/she shall be a citizen of Tuvalu as from the date of this certificate.

**SIGNED**.....

*Registrar of Citizenship*

Dated at Funafuti this .....day of .....19 .....

**FORM4**

(Section 6 (2))

**APPLICATION FOR NATURALISATION AS A CITIZEN OF TUVALU**

To the Registrar of Citizenship, Funafuti.

1. I (full name) .....

not being a citizen of Tuvalu, and not being eligible to be registered as a citizen of Tuvalu under s.5 of the Citizenship Ordinance, Cap. 98, hereby apply to be registered as a naturalised citizen of Tuvalu.

2. By reference to the matters set out in s.6 (4) of the Citizenship Ordinance, I hereby declare as follows: —

- (a) I am now and have for the 7 (or 5) years immediately preceding this application been ordinarily resident in Tuvalu.
- (b) I intend to make Tuvalu my permanent home;
- (c) I am now and will in future be able to support myself financially;
- (d) I am familiar with the laws and customs of Tuvalu;
- (e) I have never been sentenced by a court in any country to imprisonment for a term exceeding 12 months;
- (f) I do not suffer from any permanent communicable disease.

I understand that I may be required to produce documentary evidence as to all or any of these matters and to be questioned by the Citizenship Committee on them and any other matter it may consider material.

3. I am at present a national/citizen of .....but I am prepared to renounce such nationality/citizenship upon being granted a certificate of naturalisation as a citizen of Tuvalu.

4. I am prepared to take before the Governor-General the Oath of Allegiance.

5. I enclose a fee of \$

6. My personal particulars are as follows: —

Name .....

Address .....

Date and place of birth .....

Marital Status (with details if now married) .....

Dependent Children (under 18 years) .....

Occupation .....

.....

7. The following persons may be referred to for corroboration of the statements made herein (name and address of one or more referees) .....

Declaration

I, the said (full name) .....do solemnly and sincerely declare that the foregoing particulars are true and I make this solemn declaration conscientiously believing the same to be true by virtue of the Oaths and Statutory Declarations Ordinance. Cap. 6.

.....

*(Signature of declarant)*

Declared at (place).....

this .....day of .....19 .....

before me .....

*(name of officer before whom declared)*

Signed .....

Office held .....

*Seal [if any]*

**FORM 5**

(Section 6 (3))

**CERTIFICATE OF NATURALISATION AS A CITIZEN OF TUVALU**

(*Cert. No*                    )

Whereas (full name of applicant) .....

has applied to be registered as a naturalised citizen of Tuvalu under the provisions of section 6 of the Citizenship Ordinance. Cap. 98, and has satisfied me that the conditions laid down in the said Ordinance are fulfilled in relation to him/her for the grant of a certificate of naturalisation.

And whereas the said .....(full name) has renounced his/her existing nationality or citizenship, has paid the prescribed fees and has taken before the Governor-General the Oath of Allegiance.

Now therefore, in exercise of the powers conferred by the said Ordinance, and upon the direction of the Citizenship Committee, I do hereby grant to the said.....(full name) this certificate of naturalisation and declare that he/she shall be a citizen of Tuvalu as from the date of this certificate.

**SIGNED** .....

*Registrar of Citizenship*

Dated at Funafuti this .....day of .....19 .....

**FORM 6**

(Section 8 (1))

**DECLARATION OF RENUNCIATION OF TUVALU CITIZENSHIP**

To the Registrar of Citizenship, Funafuti.

1. I (full name) .....

(of address) .....

am of full age and capacity and was born at .....on the .....day of .....19 .....

2. I am a citizen of Tuvalu by reason of ..... (state basis of Tuvalu citizenship)

3. I am desirous of renouncing my Tuvalu citizenship.

4. I am also (or I shall as a result of renouncing Tuvalu citizenship be eligible to become) a national/citizen of .....

5. I hereby renounce my Tuvalu citizenship.

**Declaration**

I, the said (full name) .....do solemnly and sincerely declare that the foregoing particulars are true and I make this solemn declaration conscientiously believing the same to be true by virtue of the Oaths and Statutory Declarations Ordinance, Cap. 6.

.....

*(Signature of declarant)*

Declared at (place).....

this .....day of .....19 .....

before me .....

*(name of officer before whom declared)*

Signed .....

Office held .....

*Seal [if any]*

**FORM 7**

(Section 9 (1))

**CERTIFICATE OF REGAINED TUVALU CITIZENSHIP**

(*Cert. No*                    )

Whereas (full name of applicant) ..... was  
until the..... day of .....19.....a  
citizen of Tuvalu, but on that day ceased to be a citizen by reason of (state reason for  
loss of citizenship).....

And whereas the said .....(full name) has  
successfully applied to the Citizenship Committee to regain his/her Tuvalu citizenship  
on the ground that (state ground under section 9 of the Citizenship Ordinance) .....

.....  
and has renounced other nationality or citizenship.

Now therefore, in exercise of the powers conferred by the said Ordinance, and upon the  
direction of the Citizenship Committee, I do hereby grant to the

said ..... (full name) this certificate of regained  
citizenship and declare that he/she shall be a citizen of Tuvalu as from the date of this  
certificate.

**SIGNED** .....

*Registrar of Citizenship*

**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>

**Table of Renumbered Provisions**

<b>Original</b>	<b>Current</b>

**Table of Endnote References**