

Citizenship Laws and
Statelessness



Marshall Islands

Overview of Citizenship and Statelessness

Last Update: 28 November 2020

BACKGROUND

After World War II, the Marshall Islands became a trust territory of the United States, when they ran nuclear testing on the islands.¹ A 'free association' agreement was entered with the United States in 1986.

Since joining the United Nations, the Marshall Islands has ratified six human rights treaties:

- The *International Covenant on Civil and Political Rights*;
- The *International Covenant on Economic, Social and Cultural Rights*;
- The *Convention on the Rights of the Child*;
- The *Convention on the Elimination of Racial Discrimination*;
- The *Convention on the Elimination of All Forms of Discrimination Against Women*; and
- The *Convention of the Rights of Persons with Disabilities*.

Marshall Islands has not signed the *Convention relating to the Status of Stateless Persons*, or the *Convention on*

the Reduction of Statelessness ('1961 Convention').

ACQUISITION

Descent

Persons of Marshallese descent are entitled to citizenship through the *Constitution of the Marshall Islands*.²

If a child is born inside the country, in or out of wedlock, citizenship is automatically passed if either parent is a citizen.³ This is consistent with article 4 of the 1961 Convention. Any child born to parents of Marshallese descent outside of the country is entitled to citizenship by registration.⁴ These requirements are also consistent with article 4 of the 1961 Convention.

There is no recognition for foundlings in the domestic legislation of the Marshall Islands, which is inconsistent with article 2 of the 1961 Convention.

Naturalisation

Persons who are not of Marshallese descent are entitled to citizenship by naturalisation through two channels: residence or at the discretion of the Cabinet.

There are no express provisions for naturalisation as a direct result of marriage

¹ Agence France, 'Bikini Atoll nuclear test: 60 years later and islands still unliveable', *The Guardian* (Article, 2 March 2014) <<https://www.theguardian.com/world/2014/mar/02/bikini-atoll-nuclear-test-60-years>> ('France Guardian Article').

² *Constitution of the Marshall Islands 1978 (Article XI) (amendments to 1995)* ('Constitution Article XI').

³ *Ibid* s 1(2)(a).

⁴ *Ibid* s 2(1)(c).

to a Marshallese citizen. A person who lives in the Marshall Islands for the period of time required for naturalisation, however, may apply for residency, regardless of their marital status.

The *Citizenship Act* requires that an applicant for naturalisation by residence must have ordinarily resided in the Marshall Islands for 10 years immediately preceding the application,⁵ and must be domiciled in the country at the time of their application.

The period of residence will not be calculated to include any period spent in the country where: the applicant was not legally residing there as an immigrant,⁶ or if the applicant was granted entry into the country as a non-resident worker. The applicant must be 18 years of age, have full mental capacity, must pass a citizenship test, and are required to take an oath of allegiance.

Unless the applicant is prevented by mental or physical disability, they must speak and understand Marshallese at a conversational level. The applicant must be of good character, and have respect for the customs and traditions of the Marshall Islands.

Applicants must have reasonable knowledge of the responsibilities and duties of citizenship, and must renounce any other citizenship they may hold as dual citizenship is prohibited.⁷ They must have a means to support themselves, and in the case of a male applicant who includes dependents on his application, he must have the means to support them as well.

It follows that minor children may be included on applications and will be naturalised as citizens when, and if, the primary applicant is granted naturalisation. Applications for minor children must be

accompanied with an express statement of consent from a parent who is not included in the application.

If a person has resided in the Marshall Islands for at least three years and is the parent of a citizen, they are entitled to apply for citizenship by naturalisation through application to the High Court.

If a child is adopted by a Marshallese citizen, they are entitled to be registered as a citizen from the day the adoption becomes official.⁸ Adopted children must live in the Marshall Islands for five years before they are eligible to have an application lodged on their behalf, if they are under the age of 18.

If over the age of 18, they are entitled to apply individually but are required to take an oath of allegiance. All adopted children are eligible, unless they are disqualified for reasons found in section 410 of the *Citizenship Act*, including national security. The number of persons naturalised as Marshallese citizens under section 403 shall not exceed 10 in a calendar year, including any dependants on applications.

A person who is not eligible for naturalisation for any other reason may be entitled to apply for citizenship for two reasons: they have rendered distinguished service to the Marshall Islands, or conferral of citizenship to the applicant is in the public interest. To be eligible for this pathway, the applicant must be domiciled in the country at the time of their application.

Further, the number of persons naturalised under section 404 shall not exceed five in a calendar year.

RENUNCIATION

⁵ *Citizenship Act 1984 (Title 43, Chapter 4)* (Marshall Islands) s 403(2)(a) ('Citizenship Act').

⁶ *Ibid* s 403(7)(a).

⁷ *Ibid* s 411.

⁸ *Ibid* s 409(a).

A person who has reached 18 years of age and who has full mental capacity is entitled to renounce their citizenship.⁹ A person may not renounce their citizenship during a time of war.

Renunciation may only be made where a person has obtained the citizenship of another country, or where the renunciation is for the purpose of obtaining the citizenship of another country. These provisions are consistent with the 1961 Convention, namely article 7, and operate to protect persons from statelessness.

LOSS

A person will lose their Marshallese citizenship if they acquire citizenship in another country as a result of a voluntary act (other than by marriage).¹⁰ This loss is contingent on the acquisition of citizenship in a foreign country and is consistent with the 1961 Convention, namely article 5.

Further, citizenship by registration or naturalisation will be revoked if it is found that the person successfully obtained citizenship as a result of concealment of fact or misrepresentation;¹¹ if they have advocated for the unlawful deposition of the Marshallese Government; or through their participation in, or conspiracy to participate in espionage, sabotage or sedition against the Government.

This is consistent with article 8 of the 1961 Convention, which permits countries to deprive a person of their citizenship if they act in a manner consistent with the interests of the state.

DUAL NATIONALITY

Dual nationality is prohibited for persons who obtain citizenship through naturalisation.¹² Persons who are

naturalised under section 404 of the *Citizenship Act* may be, however, at the discretion of the Cabinet not required to renounce foreign citizenship and may be entitled to remain a dual citizen.

If a person is required to renounce their foreign citizenship for any reason under Chapter 4 of the *Citizenship Act*, but they are unable to do so as a result of the law of their other country of citizenship, or it is otherwise impracticable to do so, the applicant may make a declaration to the Cabinet.

The declaration must include: a statement that, as soon as they are able, they will renounce their foreign citizenship; that they will not exercise the privileges of citizenship in that other country; and that they see themselves as a Marshallese citizen, undertaking to act in a manner consistent with a citizen.

If it becomes possible for the applicant to renounce their citizenship, the Cabinet may order them to do so. Failure to do so may result in their citizenship being revoked. This is consistent with the 1961 Convention, as it is only enlivened when and if a person possesses foreign citizenship, operatively avoiding statelessness.

UNHCR Representation in Canberra

Note: This factsheet only provides information of a general nature. It should not be relied on for any other purpose, such as legal advice. This factsheet should be read in light of the last date on which it was updated.

⁹ Ibid s 408(1).

¹⁰ Ibid s 406.

¹¹ Ibid s 407(a).

¹² Ibid s 406 and 411; Constitution (Article XI) (n 2) ss 3(c), 3(d).