

*Citizenship Laws and
Statelessness*



Tuvalu

Overview of Citizenship and Statelessness

Last Update: 16 December 2020

BACKGROUND

Tuvalu became fully independent in 1978. It became a United Nations Member State in 2000. Tuvalu has signed four human rights treaties:

- The *Convention Relating to the Status of Refugees*;
- The *Convention on the Elimination of All Forms of Discrimination Against Women*;
- The *Convention on the Rights of the Child*; and
- The *Convention of the Rights of Persons with Disabilities*.

Tuvalu is not a party to the *Convention relating to the Status of Stateless Persons*, nor the *Convention on the Reduction of Statelessness* ('1961 Convention').

ACQUISITION

Descent

Persons of Tuvaluan descent are granted citizenship through the *Constitution of Tuvalu*.¹ A child born inside,² or outside,³ of Tuvalu, either in or out of wedlock, will automatically acquire citizenship if either of their parents is a citizen. These provisions

are consistent with article 4 of the 1961 Convention.

Any person born in Tuvalu to parents who were not citizens and who were in Tuvalu for the purposes of carrying out a diplomatic mission, shall not become a citizen of Tuvalu.

A person born in Tuvalu may not be granted citizenship at the time of their birth if their father was a citizen of a country with which Tuvalu was at war,⁴ and the birth occurred in Tuvalu where that country may occupy that territorial space.

Naturalisation

Persons who are not Tuvaluan citizens by birth are entitled to apply for naturalisation through two channels: residence and registration.⁵ Dual citizenship as a result of a voluntary act, other than marriage, is not permitted.⁶

1. Residence

The *Citizenship Act* allows persons who have legally resided in Tuvalu for not less than seven years preceding the application to apply for citizenship.⁷ The applicant must be 18 years of age, intend to reside in Tuvalu permanently, and be of good character and have adequate knowledge of

¹ *Constitution of Tuvalu 1978 (w amendments to 2008)* ('Constitution').

² *Ibid* s 45(1).

³ *Ibid* s 45(2).

⁴ *Ibid* s 45(4)(a).

⁵ *Ibid* s 47(1)(a).

⁶ *Citizenship Act 1979 (w amendments to 2008)* (Tuvalu) s 7(a) ('Citizenship Act').

⁷ *Ibid* s 6(4)(a).

the laws and customs of Tuvalu. The application requires an oath of allegiance. Applicants must be able to prove they have personal assets of at least \$250,000, and are not suffering from a permanent communicable disease.

2. Registration

A person, who is over the age of 18, is entitled to apply for citizenship if they, by operation of law, marry a citizen of Tuvalu.⁸ A person whose parents were citizens by virtue of the *Independence Constitution* are also entitled to apply for citizenship by registration.

Minor children, under the age of 18, may be included in applications for citizenship by naturalisation.⁹ Children adopted by Tuvaluan citizens are eligible to become citizens by registration. This is consistent with article 4 of the 1961 Convention. Foundlings are recognised under domestic legislation,¹⁰ which is consistent with article 2 of the 1961 Convention.

RENUNCIATION

A Tuvaluan citizen who is 18 years of age and of full mental capacity may renounce their citizenship.¹¹ Renunciation is limited to persons who already possess citizenship in another country or are pursuing renunciation for the purposes of gaining alternate citizenship, potentially creating a statelessness risk gap. Renunciation may not occur during wartime, absent the express written consent of the Prime Minister.¹²

Where a person may be required to renounce citizenship of another country but is unable to do so by some operation of the

foreign domestic law, they may file a declaration pursuant to the *Citizenship Act* to exempt the prohibition on acquisition of dual citizenship.¹³ If that foreign law is amended at any time in which the person holds dual citizenship which would permit such a renunciation as above, they must renounce their foreign citizenship to maintain Tuvaluan citizenship.

LOSS

If citizenship is acquired through willful misrepresentation or fraud, that person may lose their citizenship.¹⁴ This is consistent with article 8 of the 1961 Convention.

Previously, any person who knowingly exercised a right which is exclusively guaranteed for the nationals of another country could be deprived of their citizenship.¹⁵ This included participation in elections, or service in foreign armed forces.

Further, a citizen of Tuvalu was prohibited from taking an oath of allegiance or loyalty to another state without the express consent of the Prime Minister. These requirements were eased however with the *Citizenship (Amendment) Act 2009* which sharply narrowed the scope for loss of Tuvalu citizenship by omitting then ss. 7(1)-7(4).

UNHCR Representation in Canberra

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

⁸ Citizenship Act (n 6) s 5(1)(b).

⁹ Ibid s 5(4).

¹⁰ Constitution (n 1) s 43(2).

¹¹ Citizenship Act (n 6) s 8(1).

¹² Ibid s 8(3).

¹³ Ibid s 10(1).

¹⁴ Ibid s 7(5).

¹⁵ Citizenship Act (n 6) s 7(1)(a),(b) and (d).

