

Gender and
Statelessness



Nauru

Gender, Citizenship Laws and Statelessness

Last Update: 22 November 2020

CONFERRAL TO BIOLOGICAL CHILDREN

Children born in the country

A child born in Nauru is automatically a Nauruan citizen if either parent was a citizen at the date of birth.¹ Additionally, a child born in Nauru may become a citizen of Nauru by application, if at the date of birth, the child would not have the nationality of any other country.²

Children born outside of the country

A child born outside of Nauru is automatically a Nauruan citizen if either parent was a citizen at the date of birth.³ If a child is born of a marriage between a Nauruan citizen and a Pacific Islander and neither person within seven days has determined the child is not a Nauruan citizen, the child automatically becomes a Nauruan citizen.⁴

ADOPTED CHILDREN

In the *Citizenship Act*, a 'child of a Nauruan' is defined to include a child adopted under the *Adoption Act*.⁵

¹ *Constitution of Nauru 1968* s 72(1) ('*Constitution*'); *Citizenship Act 2017* s 9 ('*Citizenship Act*').

² *Constitution of Nauru (Citizenship) (Amendment) Act 2015* schedule cl 1 ('*Constitution Citizenship Amendment Act*').

³ *Constitution* (n 1) s 72(1).

⁴ *Constitution* (n 1) s 72(2); *Citizenship Act* (n 1) s 12.

⁵ *Citizenship Act* (n 1) s 3(1): definition of 'child of a Nauruan'.

A child who is not a citizen becomes a citizen on the day the adoption order is made, where the child is adopted by one or more citizens; is present in Nauru; and prior approval for the adoption was given by the Minister in consultation with the Cabinet.⁶

FOUNDINGS

Citizenship for foundlings is not explicitly mentioned in the Nauru citizenship legislation. The Constitution does however provide that a child born in Nauru may become a citizen of Nauru by application, if at the date of birth, the child would not have the nationality of any other country.⁷

REGISTRATION OF THE BIRTH OF A CHILD

The registration of a child born in Nauru is compulsory within 21 days of the birth.⁸ This is to be completed by one or both parents jointly.⁹

LOSS AND RENUNCIATION OF CITIZENSHIP

To renounce Nauru citizenship a person of full age and capacity may make a declaration of renunciation of his or her

⁶ *Ibid* s 15.

⁷ *Constitution Citizenship Amendment Act* (n 2) schedule cl 1.

⁸ *Births Deaths and Marriages Registration Act 2017* s 13.

⁹ *Ibid* s 13.

Nauru citizenship in writing to the Minister.¹⁰ The Minister may decline such an application where the person provides no evidence that he or she is a citizen of another country.¹¹

NATURALISATION FOR SPOUSE OF CITIZEN

Nauru's provisions regarding naturalisation for the spouse of a citizen contain some discrepancies, when comparing those of the *Constitution of Nauru* and the *Citizenship Act*. The *Constitution* provides that a woman who is married to a Nauruan citizen may make an application to become a citizen.¹² The *Constitution* does not contain an equivalent provision for a male marrying a Nauruan citizen.

The *Citizenship Act* does not make a distinction based on gender however. It states that a person may apply for citizenship by virtue of marriage to a citizen.¹³ This is subject to a number of conditions, including having been married and residing with his or her spouse in Nauru for a continuous period of seven years.¹⁴

DUAL NATIONALITY

Dual citizenship is permitted in Nauru.¹⁵ A Nauru citizen who acquires the citizenship of another country does not lose their Nauru citizenship.¹⁶ Additionally, a person who acquires Nauru citizenship by marriage or adoption shall not lose their foreign citizenship.¹⁷

GENDER EQUALITY ACHIEVED

Although Nauru's *Citizenship Act*, introduced in 2017, does not discriminate based on gender, the *Constitution* still discriminates

based on gender with respect to the naturalisation of a spouse of a citizen. On this basis, there still may be potential for discrimination.

It is to be noted that the Nauru *Citizenship Act* uses the pronouns "he or she", or the descriptor "the person" throughout. However, the Nauru *Constitution* uses only the pronoun "he".

GENDER AND STATELESSNESS RISKS

A risk to be addressed in Nauru regarding gender discrimination and citizenship is the discrepancy which exists between the *Constitution* and *Citizenship Act* regarding citizenship by marriage.

Additionally, there is a gap in the citizenship legislation where citizenship for foundlings is not explicitly mentioned.

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.

¹⁰ *Citizenship Act* (n 1) s 22(1).

¹¹ *Ibid* s 22(3).

¹² *Constitution* (n 1) s 74.

¹³ *Citizenship Act* (n 1) s 13.

¹⁴ *Ibid* s 13(2)(a).

¹⁵ *Citizenship Act* (n 1) s 16.

¹⁶ *Ibid* s 16(2).

¹⁷ *Ibid* s 16(3).