

ELIZABETH II



Tuvalu Act 1978

1978 CHAPTER 20

An Act to make provision for, and in connection with, the attainment by Tuvalu of independence within the Commonwealth. [30th June 1978]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) On and after 1st October 1978 (in this Act referred to as "Independence Day") Her Majesty's Government in the United Kingdom shall have no responsibility for the government of Tuvalu. Independence for Tuvalu.

(2) No Act of the Parliament of the United Kingdom passed on or after Independence Day shall extend, or be deemed to extend, to Tuvalu as part of its law; and on and after that day the provisions of Schedule 1 to this Act shall have effect with respect to the legislative powers of Tuvalu.

2.—(1) On and after Independence Day the British Nationality Acts 1948 to 1965 shall have effect as if in section 1(3) of the 1948 Act (Commonwealth countries having separate citizenship) there were added at the end the words "and Tuvalu". Consequential modifications of British Nationality Acts.

(2) Except as provided by section 3 below, any person who immediately before Independence Day is a citizen of the United Kingdom and Colonies shall on that day cease to be such a citizen if he becomes on that day a citizen of Tuvalu.

(3) Section 6(2) of the 1948 Act (registration as citizens of the United Kingdom and Colonies of women who have been married to such citizens) shall not apply to a woman by virtue of her marriage to a person who on Independence Day ceases

to be such a citizen under subsection (2) above or who would have done so if living on that day.

1967 c. 4.

(4) In accordance with section 3(3) of the West Indies Act 1967, it is hereby declared that this and the following section extend to all associated states.

Retention of citizenship of the United Kingdom and Colonies by certain citizens of Tuvalu.

3.—(1) A person shall not cease to be a citizen of the United Kingdom and Colonies under section 2(2) above if he, his father or his father's father—

- (a) was born in the United Kingdom or a relevant territory ;
or
- (b) is or was a person naturalised in the United Kingdom and Colonies by virtue of a certificate of naturalisation granted in the United Kingdom or a relevant territory ;
or
- (c) was, in the United Kingdom or a relevant territory, registered as a citizen of the United Kingdom and Colonies, or was so registered by a High Commissioner exercising functions under section 8(2) or 12(7) of the 1948 Act ; or
- (d) became a British subject by reason of the annexation of any territory included in a relevant territory,

or if his father or his father's father would, if living immediately before the commencement of the 1948 Act, have become a person naturalised in the United Kingdom and Colonies under section 32(6) of that Act (previous local naturalisation in a colony or protectorate) by virtue of having enjoyed the privileges of naturalisation in a relevant territory.

(2) In the preceding subsection "relevant territory" means any territory which on Independence Day is a colony or an associated state, other than any territory which on that day is not a colony for the purposes of the 1948 Act as then in force (and accordingly does not include Tuvalu).

(3) Subsection (1) above shall not apply to a woman by virtue of her registration as a citizen of the United Kingdom and Colonies if that registration was effected under section 6(2) of the 1948 Act (registration as citizens of the United Kingdom and Colonies of women who have been married to such citizens).

(4) A woman who is a citizen of the United Kingdom and Colonies, and is the wife of such a citizen, shall not herself cease to be such a citizen under section 2(2) above unless her husband does so.

(5) Part III of the 1948 Act (supplementary provisions) as in force from time to time, except section 23 (legitimated children),

shall have effect for the purposes of this section as if this section were included in that Act.

(6) A person born out of wedlock and legitimated (within the meaning of section 23(2) of the 1948 Act) by the subsequent marriage of his parents shall be treated, for the purpose of determining whether he has by virtue of this Act ceased to be a citizen of the United Kingdom and Colonies, as if he had been born legitimate.

4.—(1) Notwithstanding anything in the Interpretation Act 1889, the expression “colony” in any Act of the Parliament of the United Kingdom passed on or after Independence Day shall not include Tuvalu. Consequential modifications of other enactments. 1889 c. 63.

(2) On and after Independence Day—

(a) the expression “colony” in the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957 shall not include Tuvalu ; and 1955 c. 18.
1955 c. 19.
1957 c. 53.

(b) in the definitions of “Commonwealth force” in section 225(1) and 223(1) respectively of those Acts of 1955, and in the definition of “Commonwealth country” in section 135(1) of that Act of 1957, at the end there shall be added the words “or Tuvalu” ;

and no Order in Council made on or after Independence Day under section 1 of the Armed Forces Act 1976 which continues either of those Acts of 1955 or that Act of 1957 in force for a further period shall extend to Tuvalu as part of its law. 1976 c. 52.

(3) On and after Independence Day the enactments specified in Schedule 2 to this Act shall have effect subject to the amendments there specified.

(4) Subsection (3) above and Schedule 2 to this Act shall not extend to Tuvalu as part of its law.

5.—(1) In this Act, and in any amendment made by this Act in any other enactment, “Tuvalu” means the territories which immediately before Independence Day constitute the colony of Tuvalu. Interpretation.

(2) In this Act “the 1948 Act” means the British Nationality Act 1948. 1948 c. 56.

(3) References in this Act to any enactment are references to that enactment as amended or extended by or under another enactment.

6. This Act may be cited as the Tuvalu Act 1978.

Short title.

SCHEDULES

Section 1(2).

SCHEDULE 1

LEGISLATIVE POWERS OF TUVALU

1865 c. 63. 1. The Colonial Laws Validity Act 1865 shall not apply to any law made on or after Independence Day by the legislature of Tuvalu.

2. No law and no provision of any law made on or after Independence Day by that legislature shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any Act of the Parliament of the United Kingdom, including this Act, or to any order, rule or regulation made under any such Act, and accordingly the powers of that legislature shall include the power to repeal or amend any such Act, order, rule or regulation in so far as it is part of the law of Tuvalu.

3. The legislature of Tuvalu shall have full power to make laws having extra-territorial operation.

4. Without prejudice to the generality of the preceding provisions of this Schedule—

1894 c. 60. (a) sections 735 and 736 of the Merchant Shipping Act 1894 shall be construed as if references therein to the legislature of a British possession did not include references to the legislature of Tuvalu; and

1890 c. 27. (b) section 4 of the Colonial Courts of Admiralty Act 1890 (which requires certain laws to be reserved for the signification of Her Majesty's pleasure or to contain a suspending clause), and so much of section 7 of that Act as requires the approval of Her Majesty in Council to any rules of court for regulating the practice and procedure of a Colonial Court of Admiralty, shall cease to have effect in Tuvalu.

Section 4(3).

SCHEDULE 2

AMENDMENTS NOT AFFECTING THE LAW OF TUVALU

Diplomatic immunities

1961 c. 11. 1. In section 1(5) of the Diplomatic Immunities (Conferences with Commonwealth Countries and Republic of Ireland) Act 1961, before the word "and" in the last place where it occurs there shall be inserted the word "Tuvalu".

Visiting forces

1933 c. 6. 2. In the Visiting Forces (British Commonwealth) Act 1933, section 4 (attachment and mutual powers of command) shall apply in relation to forces raised in Tuvalu as it applies to forces raised in Dominions within the meaning of the Statute of Westminster 1931.

1931 c. 4 (22 & 23 Geo. 5.).

3. In the Visiting Forces Act 1952—

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(a) in section 1(1)(a) (countries to which the Act applies) at 1952 c. 67. the end there shall be added the words “ Tuvalu or ”;

(b) in section 10(1)(a), the expression “ colony ” shall not include Tuvalu ;

and, until express provision with respect to Tuvalu is made by an Order in Council under section 8 of that Act (application to visiting forces of law relating to home forces), any such Order for the time being in force shall be deemed to apply to visiting forces of Tuvalu.

Ships and aircraft

4. In section 427(2) of the Merchant Shipping Act 1894, as set 1894 c. 60. out in section 2 of the Merchant Shipping (Safety Convention) 1949 c. 43. Act 1949, before the words “ or in any ” there shall be inserted the words “ or Tuvalu ”.

5. In the Whaling Industry (Regulation) Act 1934, the expression 1934 c. 49. “ British ship to which this Act applies ” shall not include a British ship registered in Tuvalu.

6. Tuvalu shall not be a relevant overseas territory for the purposes of sections 21(2) and 22(3) of the Civil Aviation Act 1971. 1971 c. 75.

Colonial stock

7. Section 20 of the Colonial Stock Act 1877 (which relates to the 1877 c. 59. jurisdiction of courts in the United Kingdom as to colonial stock) shall, in its application to stock of Tuvalu, have effect as if for the second paragraph there were substituted—

“ (2) Any person claiming to be interested in colonial stock to which this Act applies, or in any dividend thereon, may institute civil proceedings in the United Kingdom against the registrar in relation to that stock or dividend.

(3) Notwithstanding anything in the foregoing provisions of this section, the registrar shall not by virtue of an order made by any court in the United Kingdom in any such proceedings as are referred to in this section be liable to make any payment otherwise than out of moneys in his possession in the United Kingdom as registrar.”

Commonwealth Institute

8. In section 8(2) of the Imperial Institute Act 1925, as amended 1925 ch. xvii. by the Commonwealth Institute Act 1958, (power to vary the provisions of the said Act of 1925 if an agreement for the purpose is made with the governments of certain territories which for the time being are contributing towards the expenses of the Commonwealth Institute) at the end there shall be added the words “ and Tuvalu ”.

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