

PARLIAMENT OF CEYLON

1st Session 1952



Indian and Pakistani Residents (Citizenship) Amendment Act, No. 45 of 1952

Date of Assent : November 28, 1952

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L. D.—O. 41/52.

AN ACT TO AMEND THE INDIAN AND PAKISTANI
RESIDENTS (CITIZENSHIP) ACT, NO. 3 OF 1949.

[Date of Assent: November 28, 1952.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Indian and Pakistani Residents (Citizenship) Amendment Act, No. 45 of 1952.

Short title.

2. Section 6 of the Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949 (hereinafter referred to as the "principal Act") is hereby amended as follows:—

Amendment
of section 6
of Act No. 3
of 1949.

(1) in paragraph (2) of that section, by the substitution for the word "minor orphan under fourteen years of age," of the following:—

"minor orphan under fourteen years of age, or of an applicant who is a student at any university or any Government or Assisted School, or at any other educational institution approved by the Minister,";

(2) in paragraph (2) (ii) of that section, by the substitution, for all the words from "that his wife" to "so dependent," of the following:—

"that his wife was uninterruptedly resident in Ceylon from a date not later than the first anniversary of the date of her marriage and until the date of the application, and in addition, that each minor child dependent on the applicant was uninterruptedly resident in Ceylon from a date not later than the first anniversary of the date of the child's birth and until the date of the application;"; and

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(3) by the addition at the end of that section of the following new provisions:—

“ Nothing in the preceding paragraph (2) (ii) shall require or be deemed to require that any wife or minor child should have been resident in Ceylon at any time prior to January 1, 1939.

For the purposes of the preceding paragraph (2) (ii), the continuity of residence of the wife or a minor child of an applicant shall notwithstanding her or his occasional absence from Ceylon be deemed to have been uninterrupted if such absence did not on any one occasion exceed twelve months in duration.

For the purposes of the preceding paragraph (2) (ii), the continuity of residence of the wife or a minor child of an applicant shall not be deemed to have been interrupted by reason that she or he was not resident in Ceylon during the period commencing on December 1, 1941, and ending on December 31, 1945, or during any part of that period, if the Commissioner is satisfied that she or he did not reside in Ceylon during that period or part thereof owing to apprehension of enemy action in or against Ceylon or owing to special difficulties caused by the existence of a state of war.”

3. Section 7 of the principal Act is hereby amended by the addition, at the end of that section, of the following new sub-section:—

“(5) Where a request has been made under this section for the registration, simultaneously with an applicant, of a person who was a minor at the date of the application, the attainment of majority by such person during the pendency of the application, or the marriage of such person (if a female) during the pendency of the application, shall not prevent the registration of such person under this Act.”

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4. The following new section is hereby inserted immediately after section 8 of the principal Act, and shall have effect as section 8A of that Act:—

Insertion of
new section 8A
in the
principal Act.

“ Registration
of widow or
children of
deceased
applicant.

8A. (1) Where any person who has made an application for registration under this Act dies before an order is made by the Commissioner allowing or refusing the application, then if, but only if, the applicant had prior to the death duly made a request under section 7 for the registration, simultaneously with the applicant, of any other person or persons, the Commissioner shall proceed with the consideration of the application notwithstanding the death in order to determine whether or not the applicant if alive would have been entitled to registration under this Act; and if the final determination upon the application is that the applicant would have been so entitled, each person for whose registration a request had been duly made by the applicant shall be registered under this Act.

(2) The succeeding provisions of this Act shall, in their application in relation to any case referred to in sub-section (1) of this section, have effect subject to the following modifications:—

(a) Any notice or other document required under any such provision to be served on the applicant shall be served on his widow if a request for her registration had been made by the applicant, and in any other case shall be served on such person or persons as may be specified in that behalf by regulations which are hereby authorised to be made for the purpose under section 21.

(b) Every reference in any such provision to the applicant shall be construed as a reference to the person or each person to whom notices are required as

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provided in paragraph (a) of this sub-section to be served, and accordingly such person or each such person shall have the right to prefer an appeal to the Supreme Court as though he were the applicant.

(c) Where registration is to be effected in pursuance of the provisions of sub-section (1), a certificate of registration shall be issued to such person or to each such person as may be specified in that behalf by regulations which are hereby authorised to be made in that behalf under section 21.''

Retrospective
effect of
amendments
and savings.

5. (1) The amendments effected by the preceding sections of this Act shall be deemed to have come into force on the date appointed under section 1 of the principal Act; and accordingly, but subject to the provisions of sub-section (3) of this section, the principal Act shall be deemed on and after that date to have had effect, and shall have effect, in like manner as though it had on that date been amended in the manner provided by this Act.

(2) In any case where prior to the date of the commencement of this Act, the Commissioner had under section 9 of the principal Act made order refusing any application for registration, and the Commissioner is satisfied that the order of refusal would not have been made if the amendments made by this Act had actually been in force at the time of the making of the order, the Commissioner may, of his own motion or upon application made to him for the purpose, revoke the order of refusal and take the steps he is authorised by the principal Act to take whenever there is a *prima facie* case for allowing an application.

(3) The amendments made in section 6 of the principal Act by paragraphs (2) and (3) of section 2 of this Act shall not prejudice or be deemed to prejudice—

(a) the rights of each applicant, and of the wife and children of each applicant, in the cases of *the Commissioner for the Registration of Indian and Pakistani Residents v. Mohideen Abdul Cader Badurdeen* and of

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*the Commissioner for the Registration of
Indian and Pakistani Residents v.
Mohamed Mohideen Abdul Cader (Privy
Council Appeals Nos. 34 and 35 of 1951)
decided by the Judicial Committee of the
Privy Council on October 6, 1952; or*

(b) the rights of any applicant, or of the wife or child of any applicant, who had prior to October 6, 1952, duly preferred an appeal to the Supreme Court under section 15 of the principal Act,

and accordingly any such appeal by any such applicant which was pending on October 6, 1952, shall be heard and determined in like manner as though section 6 of the principal Act had not been amended in the manner provided by paragraphs (2) and (3) of section 2 of this Act.