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BILLE NAISIUNTACHTA AGUS SAORANACHTA EIREANN,
1955.

IRISH NATIONALITY AND CITIZENSHIP BILL, 1955.

EXPLANATORY MEMORANDUM.

The purpose of the Bill is to replace the existing law in relation to Irish nationality and citizenship, that is to say, the law in force in Saorstát Éireann immediately prior to the coming into operation of the Constitution on the 29th December, 1937, (which, by virtue of the provisions of Article 50.1 of the Constitution, has continued to be in force up to the present) by an enactment, providing for the future acquisition and loss of Irish nationality and citizenship, to give effect to Article 9.1.2° of the Constitution.

The following is a summary of the main provisions of the Bill—

Preservation of existing citizenship.

The citizenship of existing citizens is to be preserved.

Citizenship by birth or descent.

Every person born in Ireland,* whether born before or after the passing of the Act, will be an Irish citizen from birth but a person born in Northern Ireland on or after 6th December, 1922, and before the re-integration of the national territory will not *by reason of that fact alone* be a citizen unless, in the prescribed manner, he declares himself to be so. The significance of the words in italics is that, under the Bill, citizenship may be acquired in various ways of which birth in Ireland is only one. And the Bill when enacted will confer citizenship automatically on every person born in Northern Ireland on or after 6th December, 1922, without his having to comply with the formality of declaring himself to be a citizen if he is an existing citizen (in which case his citizenship is being preserved) or if his father or mother was a citizen at the time of his birth or becomes (or would if alive have become) a citizen under the Bill for the first time by virtue either of birth in Ireland or of birth of a parent born in Ireland or of birth of a parent who was a citizen at the time of the birth.

Citizenship may be acquired by descent from *either* the father or the mother but a person born outside Ireland will not acquire citizenship through a parent who was also born outside Ireland unless the birth is registered as provided for in the Bill.

Citizenship and marriage.

A person who is an alien at the date of his or her marriage to an Irish citizen will not become an Irish citizen merely by virtue of the marriage but may do so :

(a) in the case of a woman married to a person who is an Irish citizen otherwise than by naturalisation, by lodging a declaration in the prescribed manner with the Minister for Justice or with any Irish diplomatic mission or consular office ;

(b) in the case of a woman married to a naturalised Irish citizen, by obtaining a certificate of naturalisation which may be granted without the fulfilment of the statutory conditions if the Minister for Justice thinks fit ;

(c) in the case of a man married to a person who is an Irish citizen otherwise than by naturalisation, as at (b) ;

* The word "Ireland", wherever it appears, refers to the whole island of Ireland, its islands and the territorial seas.

- (d) in the case of a man married to a naturalised Irish citizen, on fulfilment of the statutory conditions for the grant of a certificate of naturalisation, all of which must be complied with.

A person who marries an alien will not, merely by virtue of the marriage, cease to be an Irish citizen, whether or not he or she acquires the nationality of the alien.

Citizenship as a token of honour.

The President may grant Irish citizenship to a person or to the child or grandchild of a person who, in the opinion of the Government, has done signal honour or rendered distinguished service to the nation.

Citizenship by naturalisation.

An alien may become an Irish citizen subject to the fulfilment of certain conditions, if he obtains a certificate of naturalisation. A person who obtains such a certificate is a citizen from the date thereof and so long as the certificate is unrevoked.

Deprivation of citizenship.

A certificate of naturalisation may be revoked by the Minister for Justice but only on the grounds specified in the Bill and after the person concerned has been given notice of the intention to revoke the certificate, and of the grounds therefor, and afforded an opportunity to apply to the Minister for Justice for an inquiry as to the adequacy of the reasons for the revocation.

Renunciation of citizenship.

An Irish citizen who is or is about to become a citizen of another country and for that reason desires to renounce citizenship may do so, if ordinarily resident outside the State, by lodging with the Minister for Justice a declaration of alienage in the prescribed form.

Mutual citizenship rights.

Where the Government are satisfied that under the law of another country (whether by virtue of a convention between that country and the State or otherwise) Irish citizens enjoy in that country some or all of the rights and privileges of a citizen of that country, the Government may by order declare that citizens of that country shall enjoy in the State similar citizenship rights and privileges to those enjoyed by Irish citizens in that country, but subject to such conditions (if any) as the Government may think fit to impose.

Dual citizenship.

The acquisition of citizenship of another State by a person who is an Irish citizen will not of itself involve the loss of his or her Irish citizenship. This will be the effect of the absence from the Bill of any provision to the contrary such as is contained in section 21 of the Irish Nationality and Citizenship Act, 1935.

The following is an explanation of the Bill section by section.

PART I.

PRELIMINARY.

Section 1: The title of the Bill is in accordance with the phraseology used in Article 9.1.2° of the Constitution.

Section 2 is a definition section. The definition of the expression "Irish citizen" is in accordance with the phraseology used in Article 9.1.1° of the Constitution. The necessity for defining the expression "naturalised Irish citizen" arises from the fact that under the Bill there are important legal differences between the

naturalised citizen and other citizens. Whereas the citizenship of the latter cannot be taken away save by voluntary renunciation the citizenship of the naturalised citizen, depending on an act of State, is subject to the limitation that a person who acquires Irish citizenship by naturalisation will be an Irish citizen only from the date of his certificate of naturalisation and for so long as it remains unrevo-
ked. Moreover, it is provided elsewhere in the Bill (a) that the conditions requisite for the acquisition of citizenship by an alien married to an Irish citizen other than a naturalised citizen are to be less onerous than in the case of an alien who is married to a naturalised Irish citizen, and (b) that whereas the children of an Irish citizen other than a naturalised citizen will either be Irish citizens themselves or be able to acquire Irish citizenship as of right on registration, the children of a naturalised Irish citizen, born before the issue of his or her certificate of naturalisation, will not be able to acquire Irish citizenship save at the discretion of the Minister for Justice on fulfilment of the requisite statutory conditions in Part III of the Bill.

Section 3 provides for the making of the requisite regulations to implement the Act.

Section 4 provides for the payment out of moneys provided by the Oireachtas of the expenses of carrying the Act into effect.

Section 5 repeals the Irish Nationality and Citizenship Act, 1935, and the Irish Nationality and Citizenship (Amendment) Act, 1937. The repeals will have this amongst other effects, that the acquisition of another citizenship will not in future result in the loss of Irish citizenship as it does at present under the provisions of section 21 of the first-mentioned Act. *Section 5* also provides that, notwithstanding the repeals, *existing citizenships are preserved*. Under the existing law (which is contained in Article 3 of the Constitution of Saorstát Éireann, 1922, and the Irish Nationality and Citizenship Acts, 1935 and 1937) the following are citizens:

(1) *Under the said Article 3:*

Every person (other than a person who, being a citizen of another State, elected not to accept the citizenship conferred by the said Article 3) domiciled on 6th December, 1922, in the area of jurisdiction of the Irish Free State*:

- (i) who was born in Ireland, or
- (ii) either of whose parents was born in Ireland; or
- (iii) who was ordinarily resident therein for not less than seven years.

and

(2) *Under the Acts of 1935 and 1937:*

(i) Every person who is not a citizen by virtue of the said Article 3 but was born before 6th December, 1922, either in Ireland or of parents of whom at least one was born in Ireland who

(a) has become permanently resident in the State, or

(b) if permanently living outside the State and is not a naturalised citizen of any other country has had his name registered in the register of nationals or the general register of nationals in pursuance of the provisions of section 2 (5) of the Act of 1935 as amended by section 2 (1) of the Act of 1937; and

(ii) Every person who

(a) was born in the State or in a ship registered in the State on or after 6th December, 1922, or

* i.e. all Ireland (See *In re Logue*, Irish Law Times Reports, Vol. LXVII, page 253).

(b) was born outside the State between 6th December, 1922, and 10th April, 1935 (the date of passing of the 1935 Act) and whose father was a citizen on the date of such person's birth; or

(c) was born outside the State on or after 10 April, 1935, and whose father was a citizen on the date of such person's birth provided that if the father was himself a natural-born citizen (as defined in section 2 of the Act of 1935), born outside the State, or a naturalised citizen, and not in the service of the Government at the date of such person's birth the fact of such person's birth has been registered in pursuance of section 2 (2) of the Act of 1935.

(iii) Every person who has the same status as a natural-born citizen by virtue of a certificate of naturalisation remaining unrevoked.

PART II.

CITIZENSHIP.

This part of the Bill gives effect to the principle that every person who is born in Ireland is an Irish citizen, it provides for the acquisition of citizenship by descent from *either* the father *or* the mother, and it provides also for the acquisition of citizenship in certain cases otherwise than by naturalisation.

Section 6 sets out the categories of persons who will be Irish citizens by birth or descent. Subsection (1) provides that every person born in Ireland is an Irish citizen from birth. (That provision is qualified by subsection (1) of section 7 as regards certain persons born in Northern Ireland). Subsection (2) provides that a person is an Irish citizen if (a) his father or mother was a citizen at the time of his birth, or (b) his father or mother, not having been a citizen at the time of his birth, becomes a citizen for the first time under subsection (1) by virtue of birth in Ireland (for, up to now, birth in any part of Ireland before 6th December, 1922, did not, of itself alone, confer citizenship) or (c) his father or mother (being dead at the passing of the Act) would, if alive, be a citizen under subsection (1). Subsection (3) provides that citizenship under subsection (2) will date from the passing of the Act where the person concerned was born before the passing of the Act. Subsection (4) provides that the children, born before the passing of the Act, of any person who is a citizen under subsection (2) or who would, if alive, be a citizen under that subsection, also are citizens from the passing of the Act. (Children born *after* the passing of the Act will be citizens as well, but subsection (2) itself secures that). Subsection (5) provides that the child of an alien who at the date of the child's birth is entitled to diplomatic immunity in the State does not acquire Irish citizenship by birth in Ireland.

Section 7 qualifies section 6. Subsection (1) provides that, pending the re-integration of the national territory, a person, *not otherwise a citizen*, born in Northern Ireland on or after 6th December, 1922, will not be a citizen unless in the prescribed manner he declares himself to be one. Most of those born—or to be born—in Northern Ireland *will* otherwise be citizens and the declaration clause will apply only where—

(1) (a) neither of the parents was a citizen at the time of the birth, *and*

(b) the parents were born either in Northern Ireland on or after 6th December, 1922, or outside Ireland, *and*

(c) the grandparents were all born outside Ireland,

or

- (2) the person is a descendant (born in Northern Ireland) of a person mentioned in subparagraph (1), and not a citizen by descent from his other parent.

But if a person to whom the declaration clause applies makes the declaration, his descendants born in Northern Ireland will be citizens without formality. *Subsection (2)* of section 7 qualifies subsections (2) and (4) of section 6 by providing that a person born outside Ireland of a parent born outside Ireland will not acquire citizenship by descent unless the birth is registered in the prescribed manner—in other words if a citizen born in Ireland emigrates, his children born abroad will be citizens but *their* children, in turn, if born abroad, will not be citizens unless they register.

Section 8 provides for the acquisition of citizenship on marriage in the case of a woman who is an alien at the date of her marriage to a person who is an Irish citizen otherwise than by naturalisation. Such a woman will be required to do no more than lodge a declaration in the prescribed manner with the Minister for Justice or with any Irish diplomatic mission or consular office accepting Irish citizenship as her post-nuptial citizenship.

Section 9 provides for the citizenship of posthumous children.

Section 10 provides for the citizenship of foundlings and in effect re-enacts the substance of the provision contained in section 13 of the Irish Nationality and Citizenship Act, 1935.

Section 11 provides for the citizenship of adopted children and repeals section 25 of the Adoption Act, 1952. The reason for the repeal is that the provision in the Bill operates to confer citizenship on the adopted child of a married couple, if not already an Irish citizen, where *either* spouse is an Irish citizen and goes further than the provision contained in section 25 of the Act of 1952, which, in the case of an adoption by a married couple, operates to confer citizenship on the child only if the *husband* is an Irish citizen.

Section 12 provides for the grant of citizenship by the President as a token of honour. The person to whom Irish citizenship is so granted is to receive a certificate of citizenship, which will be irrevocable, unlike the certificate of naturalisation which the Government may cause to be issued in special cases under the provisions of section 5 of the Irish Nationality and Citizenship Act, 1935.

Section 13 provides for the citizenship of persons born in ships and aircraft.

PART III.

NATURALISATION.

This Part of the Bill provides for the acquisition of citizenship through the grant by the Minister for Justice of a certificate of naturalisation and for the cesser of such citizenship on revocation of the certificate. The provisions differ materially from the provisions of the existing law which is contained in sections 3 to 12 of the Irish Nationality and Citizenship Act, 1935.

Section 14 provides that any alien of full age may apply to become an Irish citizen by naturalisation.

Section 15 specifies the conditions for the issue of a certificate of naturalisation, which may be granted or withheld at the absolute discretion of the Minister for Justice, subject, in the case of the grant of a certificate, to his being satisfied that the requisite conditions are fulfilled. Two of these conditions are new to the statute law, viz., firstly, the requirement that the applicant (in the case of an application made after the expiration of one year from the passing of the Act) must give notice of his intention to make the application at least one year prior to the date thereof and, secondly, the requirement that the applicant must make either before a Justice of the District Court in open court or in such other manner as the Minister for special reasons allows, a declaration, in the prescribed manner, of fidelity to the nation and loyalty to the State.

Section 16 empowers the Minister for Justice, if he thinks fit, to dispense with the prescribed conditions in certain cases if the applicant is of Irish descent or associations, or is a naturalised Irish citizen acting on behalf of his minor child, or is married to an Irish citizen, or is or has been resident abroad in the public service.

Section 17 provides that applications for a certificate of naturalisation must be made in a prescribed manner and specifies penalties for giving false or misleading statements in connection therewith.

Section 18 provides that every person to whom a certificate of naturalisation is granted shall from the date of issue and so long as it remains unrevoked be an Irish citizen.

Section 19 empowers the Minister for Justice to revoke a certificate of naturalisation, whether granted before or after the passing of the Act, if he is satisfied that it ought to be revoked, for any of the reasons specified therein, but only if he is so satisfied. Before revoking a certificate the Minister is required to give notice of his intention to revoke the certificate stating the grounds therefor and the right of the person to apply for an inquiry as to the reasons for the revocation and, on application being made for such an inquiry, the Minister is required to refer the case to a Committee of Inquiry to be appointed by him consisting of a chairman having judicial experience and such other persons as he may think fit and the Committee so appointed are required to report their findings to the Minister. Under the law as it stands, the Minister for Justice is empowered to revoke a certificate of naturalisation at his absolute discretion and must do so in certain circumstances.

Section 20 provides that the acquisition of Irish citizenship by a person shall not of itself confer Irish citizenship on his or her spouse.

PART IV.

LOSS OF CITIZENSHIP.

This Part of the Bill provides for the renunciation of Irish citizenship in certain circumstances, for the non-effect on a person's citizenship of marriage or the operation of foreign laws, for the non-effect of the death of a spouse on the citizenship of the other spouse or children and for the preservation on the cesser of citizenship of obligations undertaken prior thereto.

Section 21 provides that an Irish citizen who is or is about to become a citizen of another country may renounce citizenship by making a declaration of alienage, if *ordinarily resident outside the State*, but may not do so during a time of war as defined in Article 28.3.3° of the Constitution. A declaration of alienage may also be made on behalf of the child of an alien (not entitled to diplomatic immunity in the State) who is then a duly appointed consular or other officer of another country or as an official of an international organisation on official mission to the State.

Section 22 provides that a spouse's death or loss of citizenship shall not affect the citizenship of the other spouse or children.

Section 23 provides that a person who marries an alien in future shall not, merely by virtue of the marriage, cease to be an Irish citizen and that an Irish citizen who, prior to the passing of the Act, married an alien and thereby lost citizenship as a result of the provisions of section 16 of the Irish Nationality and Citizenship Act, 1935, shall be an Irish citizen notwithstanding the provisions of that section.

Section 24 provides, for the purpose of removing any possibility of doubt, that no person shall be deemed ever to have lost Irish citizenship under section 21 of the Irish Nationality and Citizenship Act, 1935, merely by operation of the law of another country whereby citizenship of that country was conferred on that person without any voluntary act on his part.

Section 25 repeats the provision of section 22 of the Irish Nationality and Citizenship Act, 1935, with respect to the preservation of prior obligations on cesser of citizenship.

PART V.

GENERAL.

This Part of the Bill contains a number of miscellaneous provisions with respect to the following matters, viz., mutual citizenship rights between the State and other countries, registration of births abroad, certificates of nationality, and the payment, collection and disposal of fees.

Section 26 provides for mutual citizenship rights between the State and other countries. The first subsection of this section combines the provisions of subsections (1) and (2) of section 23 of the Irish Nationality and Citizenship Act, 1935, but omits that part of subsection (1) of the said section of the Act of 1935 which provides in effect that the citizens of another country, with which the State has made a convention conferring mutual rights, shall by virtue of the convention alone, enjoy within the State the rights secured for them thereby. *Subsection (4)* re-enacts in a more compendious form the substance of subsection (5) of section 23 of the Act of 1935, and *subsection (6)* provides for the continuance in force of existing orders under the said section of the said Act.

Section 27 replaces the provisions of sections 24, 25, 26, 27 and 28 of the Irish Nationality and Citizenship Act, 1935. Provision is made for the keeping of a foreign births entry book in every Irish diplomatic mission and consular mission and a foreign births register in the Department of External Affairs for the registration of the births of children born abroad of a father or mother, who is, or was, an Irish citizen born abroad, with a view to the acquisition of Irish citizenship by such children in accordance with the provisions of subsection (3) (a) of section 7 of the Bill. Such registration may be effected either in any foreign births entry book or the foreign births register at the option of the person registering the birth.

Section 28 replaces the corresponding section (i.e. section 29) of the Irish Nationality and Citizenship Act, 1935, and provides for the issue without payment of certificates of nationality by the Minister for Justice (in place of the Minister for External Affairs) or any Irish diplomatic or consular officer, which certificates shall, until the contrary is proved, be evidence that the person named therein was, at the date thereof, an Irish citizen.

Sections 29 and 30 re-enact the provisions of the existing law in relation to the payment, collection and disposal of fees.

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Section 22 provides that a spouse's death or loss of citizenship shall not affect the citizenship of the other spouse or child.

Section 23 provides that a person who marries an alien in future shall not merely by virtue of the marriage cease to be an Irish citizen and that an Irish citizen who, prior to the passing of the Act, married an alien and thereby lost citizenship as a result of the provisions of section 16 of the Irish Nationality and Citizenship Act, 1935, shall be an Irish citizen notwithstanding the provisions of that section.

Section 24 provides for the purpose of removing any possibility of doubt that no person shall be deemed ever to have lost Irish citizenship under section 21 of the Irish Nationality and Citizenship Act, 1935, merely by operation of the law of another country whereby citizenship of that country was conferred on that person without any voluntary act on his part.

Section 25 repeats the provision of section 22 of the Irish Nationality and Citizenship Act, 1935, with respect to the preservation of prior obligations on account of citizenship.

Section 26 provides that a person who has been a citizen of the United Kingdom shall be deemed to be a citizen of the United Kingdom in relation to the provisions of the Act.

PART V

Section 27 provides for the purpose of removing any possibility of doubt that no person shall be deemed ever to have lost Irish citizenship under section 21 of the Irish Nationality and Citizenship Act, 1935, merely by operation of the law of another country whereby citizenship of that country was conferred on that person without any voluntary act on his part.

Section 28 provides for the purpose of removing any possibility of doubt that no person shall be deemed ever to have lost Irish citizenship under section 21 of the Irish Nationality and Citizenship Act, 1935, merely by operation of the law of another country whereby citizenship of that country was conferred on that person without any voluntary act on his part.

Section 29 provides for the purpose of removing any possibility of doubt that no person shall be deemed ever to have lost Irish citizenship under section 21 of the Irish Nationality and Citizenship Act, 1935, merely by operation of the law of another country whereby citizenship of that country was conferred on that person without any voluntary act on his part.

Section 30 provides for the purpose of removing any possibility of doubt that no person shall be deemed ever to have lost Irish citizenship under section 21 of the Irish Nationality and Citizenship Act, 1935, merely by operation of the law of another country whereby citizenship of that country was conferred on that person without any voluntary act on his part.

Section 31 provides for the purpose of removing any possibility of doubt that no person shall be deemed ever to have lost Irish citizenship under section 21 of the Irish Nationality and Citizenship Act, 1935, merely by operation of the law of another country whereby citizenship of that country was conferred on that person without any voluntary act on his part.

Section 32 provides for the purpose of removing any possibility of doubt that no person shall be deemed ever to have lost Irish citizenship under section 21 of the Irish Nationality and Citizenship Act, 1935, merely by operation of the law of another country whereby citizenship of that country was conferred on that person without any voluntary act on his part.

Section 33 provides for the purpose of removing any possibility of doubt that no person shall be deemed ever to have lost Irish citizenship under section 21 of the Irish Nationality and Citizenship Act, 1935, merely by operation of the law of another country whereby citizenship of that country was conferred on that person without any voluntary act on his part.

Section 34 provides for the purpose of removing any possibility of doubt that no person shall be deemed ever to have lost Irish citizenship under section 21 of the Irish Nationality and Citizenship Act, 1935, merely by operation of the law of another country whereby citizenship of that country was conferred on that person without any voluntary act on his part.

Revised Bill 1935