



**OFFICE OF THE OMBUDSMAN**

**PUBLIC REPORT**

**ON THE UNLAWFUL DECISION OF THE  
CITIZENSHIP COMMISSION TO GRANT  
CITIZENSHIP TO A LATVIAN NATIONAL**

Date: 13 April 2012



**REPUBLIC OF VANUATU**

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Top Floor, Pilioko House  
Tel: +678 27200 Fax: +678 27140

PMB 9081 Port Vila, Vanuatu  
Email: [ombud.vt@vanuatu.com.vu](mailto:ombud.vt@vanuatu.com.vu)

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## **PUBLIC REPORT ON THE UNLAWFUL DECISION OF THE CITIZENSHIP COMMISSION TO GRANT CITIZENSHIP TO A LATVIAN NATIONAL**

### **SUMMARY**

The Ombudsman issues this report to expose the corrupt activities and actions of Members of the Citizenship Commission in granting citizenship to Mr Juris Gulbis, a Latvian citizen who has only resided in Vanuatu for less than a year.

It is sad and appalling to see that people who are appointed into high offices of the government continue to disregard the laws that clearly express how the affairs of this country should be run. Of such are the members of the Citizenship Commission who miserably failed and breached the supreme law of this country to grant naturalized citizenship to Mr Gulbis who was not even eligible to apply for one. The Citizenship Act [CAP 112] does not recognize adult adoption but yet, Mr Gulbis' application was granted based on documents indicating that he was adopted by the Nagriamel Movement in Vanuatu and was given the name Juris GULBIS SAKEN. Other grounds for such approval include his occupation as a lawyer, and an investor.

According to Article 12 of the Constitution of the Republic of Vanuatu, a national of a foreign state may apply to be naturalized citizen of Vanuatu if he has lived continuously in Vanuatu for at least 10 years immediately before the date of the application. Mr Gulbis became a Vanuatu resident in December 2009. On 5 November 2010, he was granted naturalized citizenship.

The Ombudsman recommends that the Citizenship Act be amended if not repealed and replaced. Any amendment should include penalizing individual members of the Commission who makes decisions outside established laws of Vanuatu. Adult adoption should not be recognized as a ground for which naturalized citizenship will be granted because it is open to being abused. In addition, legal advice must always be sought from the State Law Office before a final decision is made on a certain applicant's file as clearly seen in this case where no advice was sought and the Commission's decision breached the Constitution and the Citizenship Act. Moreover, it is recommended that the Prime Minister terminate the current members of the Citizenship Commission and appoint new members as their unlawful decision to grant Mr Gulbis citizenship already indicated the level of corruption in that institution.

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## 1. JURISDICTION

1.1 The Constitution and the Ombudsman Act allow the Ombudsman to look into the conduct of government, related bodies, and Leaders. This includes the conduct of the members of the Citizenship Commission. The Ombudsman can also look into defects in laws and administrative practices, including the grounds on which a person is granted Vanuatu citizenship according to the provisions of the Constitution and the Citizenship Act [CAP112].

## 2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED

2.1 The purpose of this report is to present the Ombudsman's findings as required by the Constitution, the Ombudsman Act and the Leadership Code Act.

2.1.1 The scope of this investigation is to establish the facts about the grounds on which the Citizenship Commission granted Vanuatu citizenship to Mr Juris Lvovich Gulbis on 5 November 2010 and to determine whether the precedent and practice by which the Citizenship Commission has been granting citizenship on the ground of adult adoption is defective and/or unconstitutional.

2.1.2 Furthermore, it would also examine the quick process by which a Citizenship Certificate was issued before the expected time frame on which Mr Gulbis was to renounce his former nationality.

2.1.3 This Office collects information and documents by informal request, summons, letters, interviews and research.

## 3. RELEVANT LAWS

Relevant parts of the following laws are reproduced in **Appendix N**.

**Constitution of the Republic of Vanuatu**  
**Citizenship Act [CAP 112]**  
**Leadership Code Act [CAP 240]**  
**Interpretation Act [CAP 132]**

## 4. OUTLINE OF EVENTS

4.1 The Ombudsman received a complaint that the Citizenship Commission granted Vanuatu citizenship to a Mr Juris Lvovich GULBIS on 5 November 2010 which was unconstitutional and thus in breach of Article 12 of the Constitution and sections 11 and 12 of the Citizenship Act [CAP 112], which requires that a person must have lived continuously in Vanuatu for at least 10 years immediately before the date of his application for citizenship. Mr Gulbis applied for a Vanuatu Passport in accordance with his Citizenship Certificate, however, there were concerns that Mr Gulbis has not fulfilled the requirements as stipulated in Article 12 of the Constitution and the Citizenship Act [CAP 112].

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- 4.2 Mr Gulbis was born on 01 September 1981 in Kazakhstan and his previous nationality was Latvian. **See Appendix A.**
- 4.3 On 12 October 2008, he was adopted into the family of Tari BULUK in Fanafo and accordingly was given the name Juris, GULBIS SAKEN. **See Appendix B.**
- 4.4 Mr Gulbis has travelled to and from Vanuatu since 2008. In 2009, he obtained a residence permit No. JG801/12/09 dated 07 December 2009 which expired on 06 December 2010. His residence permit stated him to be an investor. **See Appendix C.**
- 4.5 On 25 November 2009, Mr Gulbis obtained an *Approval Certificate Permitting A Foreign Investor to Carry On Business in Vanuatu* from VIPA concerning HIRAM GROUP (VANUATU) LIMITED. **See Appendix D.**
- 4.6 On 01 January 2010, Mr Gulbis obtained a Business Licence Certificate valid for 2010 for Hiram Group (Vanuatu) Ltd, a company which he operated. **See Appendix E.**
- 4.7 On 27 October 2010, Mr Gulbis lodged an Application for Vanuatu Citizenship with the Citizenship Office and deliberation by the Citizenship Commission.
- 4.8 In his Application Form, he stated that the date of his arrival in Vanuatu was 2008. Refer to copy of Application For Vanuatu Citizenship Form A, Section C(1)(b) on Page 4 of the Form. **See Appendix F.**
- 4.9 The Citizenship Commission at that time had five (5) members, namely, Joseph Joemelson (Chairman) Michael Liu (member), David Bong (member), Maliwan Robert (member) and Thomas Naditawae (member).
- 4.10 On 05 November 2010, the Citizenship Commission deliberated and along with other matters approved Mr Gulbis' citizenship. The Citizenship Commission approved Mr Gulbis' citizenship on the grounds that he has an adoption letter from the Nagriamel Movement (**Appendix B**), and the President of the SHEFA Provincial Council (**see Appendix G1**), including that he has a business in Vanuatu. In addition, their approval included that he has a residence permit, a VIPA licence and that he is a lawyer by profession. **See Appendix G2.**
- 4.11 He was then issued a Citizenship Certificate referenced NC – 0056/10. **See Appendix H**
- 4.12 On the same day (05 November 2010), the Secretary General of the Citizenship Commission wrote to Mr Gulbis asking him to send his passport to the Head Quarters of his present nationality (Latvian) to have it cancelled. He expressly stated that Citizenship Regulations require him three (3) months to

have his Latvian nationality renounced before the Citizenship Office consider issuing his Vanuatu Citizenship Certificate. **See Appendix I.**

4.13 On 11 November 2010, the Secretary of the Citizenship Commission wrote to the Principal Passport Officer and confirmed that the Citizenship Commission approved Mr Juris Gulbis SAKEN as a naturalised citizen on 05 November 2010 and that his Vanuatu Certificate of Citizenship NC-0056/10 has been signed. **See Appendix J.**

4.14 On 18 November 2010, Mr Gulbis applied for a Vanuatu passport.

4.15 After the Ombudsman enquired with the Citizenship Commission and the Citizenship Office, a response was received explaining the grounds on which the Citizenship Commission approved the matter. According to the Secretary General of the Citizenship Commission, the decision to award naturalised citizenship to Mr Gulbis by the Citizenship Commission was justified on the grounds of:

- a) Full and complete Application form with a supporting letter of adoption
- b) Adoption of an adult is in line with the traditional/customary practices of Vanuatu
- c) Took into consideration the remarks or observations during the last 2010 meeting of the Council of Ministers (CoM) requesting the consideration of any request (of citizenship) be on the basis of customary adoption by virtue of the culture of Vanuatu
- d) Took into account that there was previously a similar file that was dealt with in the same manner, i.e adult adoption although not expressly stated in the Citizenship Act
- e) That Mr Gulbis has a complete and convincing case as a law-abiding person.
- f) An investor or businessman responsible for the Hiram Group.

4.16 The members of the Citizenship Commission who deliberated on the matter were Joseph Joemelson (Chairman), Michael Liu (member), David Bong (member). Members Maliwan Robert and Thomas Neditawae were absent during this meeting.

4.17 On 17 January 2011, confirmation was received from the Secretary to the Council of Ministers, Mrs Nadine Alatoa that there was no such decision taken on this matter as referred to in paragraph 4.15(c) above. **See Appendix K.**

4.18 Normally, under Section 11 of the Citizenship Act, only children (persons under 18 years old) can be adopted and become citizens of Vanuatu. There is no reference at all to adult adoption under section 11. **Refer to Appendix N.**

4.19 The general criteria for naturalised citizenship are provided for in section 12(1) and (2) of the Citizenship Act [CAP112] which states that:

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## 12. Application for, and granting of, citizenship by naturalization

(1) A person of full age and capacity may apply in the prescribed manner to the Commission to be naturalized as a citizen.

(2) Where on an application made pursuant to subsection (1) and as a result of such inquiries as the Commission may cause to be made, the Commission is satisfied that the person making the application –

(a) is, on the date of application, and has been during a period of 10 years immediately prior to that date, ordinarily resident in Vanuatu;

(b) intends to continue to reside in Vanuatu;

(c) is of good character;

(d) unless prevented by physical or mental disability, is able to speak and understand sufficiently for normal conversational purposes, Bislama, English, French or a vernacular of Vanuatu;

(e) has a respect for the culture and the ways of life of Vanuatu;

(f) is not or is unlikely to become a charge on public funds;

(g) has a reasonable knowledge and understanding of the rights, privileges, responsibilities and duties of citizens;

(h) has renounced or agreed to renounce any citizenship which he may possess; and

(i) has taken and subscribed to an oath of allegiance or made a solemn affirmation in the form set out in Schedule 1;

(j) the Commission may grant the application, but otherwise shall refuse it.

4.20 Pursuant to section 12(2)(j), it is within the discretion of the Citizenship Commission to grant or refuse an application for naturalised citizenship.

4.21 Along with other naturalised citizens, Mr Gulbis name was published in the Official Gazette No.18 of 2011 dated 3 May 2011, through an Order signed by Joemelson Joesph, Chairman of the Citizenship Commission. **See Appendix L.**

## 5. RESPONSES BY THOSE WITH FINDINGS AGAINST THEM

- 5.1 Before starting this enquiry, the Ombudsman notified all people or bodies complained of and gave them the right to reply. Also, a working paper was provided prior to preparation of this public report to give the individuals mentioned in this report another opportunity to respond. The Working Paper was sent to Joemelson Joseph, David Bong, Michael Liu, Robert Maliwan, Thomas Niditawae, Eloi Leye, Nadine Alatoa, Juris Gulbis, Honourable Sato Kilman Livtunvanu and Henry Tamashiro.
- 5.2 Responses were received from the following:  
Eloi Leye, Secretary General to the Citizenship Commission.
- 5.2.1 Mr Leye made a general statement that in many cases the Chairman of the Citizenship Commission and the members already have prior contact with the intended applicants before they apply for citizenship and sometimes pretend during meetings to have seen an application from such individuals for the first time.
- 5.2.2 Granting naturalised citizenship to Mr Gulbis on the ground of adult adoption may be unconstitutional and ultra vires but a precedent has already been set where the people of Paama adopted a Korean and he was granted naturalised citizenship based on adult adoption.<sup>1</sup> Mr Leye provided a copy of an advice from the State Law Office (SLO) to Mr Henry Tamashiro on the status of Mr Gulbis Application for Vanuatu Passport. **Appendix M** is a copy of the relevant paragraphs of the advice from the Attorney General. This said advice is very clear in that under section 11 and section 12 of the Citizenship Act, Mr Gulbis is not eligible to be granted naturalised citizenship by the Citizenship Commission.
- 5.2.3 He thinks the process of granting naturalised citizenship is not neutral. The members of the Commission have many outside interests that intervene in their decisions thus contributing to the breaches of the Citizenship Act and other related laws.
- 5.2.4 The annual budget for the Citizenship Office is not enough to do awareness or a review of the Citizenship Act, however, he has made contacts with the Law Commission to make amendments to the Citizenship Act.
- 5.2.5 There are six (6) types of citizenship that can be given to an applicant.
- i) Naturalised citizenship – Form A
  - ii) A woman who is married to a Ni-Vanuatu man – Form B
  - iii) Entitled persons (eg. Stateless persons) – Form C
  - iv) Automatic (Indigenous) – Form D
  - v) Given under section 19 of Citizenship Act by the Prime Minister
  - vi) Honorary citizenship given by the President.
- 5.2.6 Currently, the required fee for an application for naturalised citizenship is VT16,000. Under the review, it is anticipated that this amount may increase to VT350,000.

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<sup>1</sup> See Article 95(3) of the Constitution of the Republic of Vanuatu which states “Customary law shall continue to have effect as part of the law of the Republic of Vanuatu”. However, it is equally important by virtue of Article 2 of the Constitution that customary law does not conflict with the supremacy of the Constitution.



5.2.7 Under section 4(2) of the Citizenship Act, the President of the Republic of Vanuatu has the discretion to remove a member of the Commission.

5.28 On 13 March 2012, the Ombudsman re-issued this particular Working Paper as there were new Findings to the report. The re-issued Working Paper was distributed to Chairman and members of the Citizenship Commission implicated ( Joemelson Joseph, Thomas Niditawae, Robert Maliwan, Michael Liu, and David Bong), Hon. Sato Kilman, Carol Samuel, Acting Secretary of the Citizenship Commission, Eloi Leye Najap, Former Secretary General of the Citizenship Commission, Nadine Alatoa, Lami Sope, Juris Gulbis, Henry Tamashiro, and Paramount Cheif Te Moli Venaos Mol Saken Goiset.

5.29 There was only one response to the re-issued Working Paper from Former Secretary General of the Citizenship Commission, Mr Eloi Leye Najap.

5.30 Mr Leye made a comment that pursuant to the *Official Secrets Act* [CAP 111] the members of the Commission should not become aware of or make contact with potential applicants before discussions are made on such applicant files at the Commission meetings.

5.31 On 12 April 2012, an Ombudsman officer contacted the Citizenship Office to enquire if Mr Gulbis has renounced his former citizenship. Acting Secretary, Mrs Carol Samuel confirmed that Mr Gulbis renounced his former citizenship on 10 November 2010.

## 6. FINDINGS

### 6.1 **Finding 1: The Citizenship Commission breached Article 12 of the Constitution and as such erred in their decision in awarding Citizenship to Mr Gulbis.**

6.1.1 The Citizenship Commission has breached Article 12 of the Constitution which clearly states that

A national of a foreign state or a stateless person may apply to be naturalised as a citizen of Vanuatu if he has lived continuously in Vanuatu for at least 10 years immediately before the date of the application...

6.1.2 By application this means that counting back from the date of the Application for Citizenship, the applicant must have lived 10 years in Vanuatu. Mr Gulbis' Application for Citizenship Form was dated 27 October 2010 and approval was granted on 05 November 2010.

6.1.3 On his Application for Citizenship Form, Mr Gulbis arrived in Vanuatu in 2008, however, he was only given a residence permit on 07 December 2009 referenced JG801/12/09 which expired on 06 December 2010.

6.1.4 Even before his residency permit expired, Mr Gulbis was granted citizenship which means that he only lived in Vanuatu for less than a year (emphasis

added). Although he was a resident in Vanuatu during the time in which he applied for a Vanuatu citizenship, he failed to fulfil the 10 year requirement.

6.1.5 On the authority of Article 12 of the Constitution, Mr Gulbis is not eligible for citizenship and as such, the Citizenship Commission erred in granting him one.

6.1.6 Even though section 12(2) of the Citizenship Act provides for other grounds that approval might be obtained on, the Constitution is the supreme law<sup>2</sup> of this country (Vanuatu) and the Citizenship Commission should uphold this supremacy in considering all applications it has before it.

**6.2 Finding 2: The Citizenship Commission breached section 11 of the Citizenship Act [CAP 112] and as such erred in approving Mr Gulbis citizenship on the ground of adult adoption**

6.2.1 One of the grounds or reasons which the Citizenship Commission approved Mr Gulbis citizenship was by virtue of his adoption by the Nagriamel chiefs. They agree that this was in line with the traditional and customary practices of Vanuatu. This is nowhere stated to be a ground for approving citizenship in the Citizenship Act.

6.2.2 Section 11 of the Citizenship Act provides for the adoption of children. It is silent on the adoption of adults. A “child” under the Citizenship Act is defined as “a person who has not attained 18 years”.<sup>3</sup>

6.2.3 Mr Gulbis was born on 01 September 1981. He was 29 years old when he was granted naturalised Vanuatu citizenship. He is certainly not a child under section 11 thus does not qualify to be given citizenship in the criteria of adoption as approved by the Citizenship Commission on his application.

6.2.4 It would have been proper that his application was refused on the basis that he has not fulfilled the 10 years requirement as stipulated by Article 12 of the Constitution.

**6.3 Findings 3: The Chairman of the Citizenship Commission, Mr Joemelson Joesepp erred and worked inconsistently with the Secretary of the Commission.**

6.3.1 In his letter to Mr Gulbis dated 5 November 2010, Mr Leye Eloi Najap stated clearly that Mr Gulbis was required to renounce his Latvian nationality before his office considered issuing his Vanuatu Citizenship Certificate (**Refer to Appendix I**). He was given three [3] months to do so as stipulated in Article 13 of the Constitution of the Republic of Vanuatu.

6.3.2 However, on 11 November 2010, Mr Leye wrote to the Principal Passport Officer confirming that a Vanuatu Citizenship Certificate was already signed for Mr Gulbis.

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<sup>2</sup> Constitution of the Republic of Vanuatu, Article 2. The Interpretation Act [CAP 132] in Section 9 states that (1) Every Act shall be read and construed subject to the Constitution and where any provision of an Act conflicts with a provision of the Constitution the latter provision shall prevail.

(2) Where a provision in an Act conflicts with a provision in the Constitution the Act shall nevertheless be valid to the extent that it is not in conflict with the Constitution.

<sup>3</sup> Section 1(1).

6.3.3 Not surprisingly, it appeared that the Vanuatu Citizenship Certificate was signed the same day it was approved, by the Chairman of the Citizenship Commission, Mr Joemelson Joseph. This very action fell short of the three [3] months requirement stated by Mr Leye Eloi Najap. In addition, Mr Joemelson Joseph's action of signing the Citizenship Certificate the same day it was approved, was inconsistent with the procedures of the Citizenship Office. Mr Gulbis should have renounced his former citizenship before Mr Joemelson issued a Citizenship Certificate. This is a corrupt practice and should be discouraged.

**6.4 Finding 4: The Citizenship Commission erred in approving Mr Gulbis citizenship because they failed to make enquiries on his status and Application Form.**

6.4.1 Under section 12(2) of the Citizenship Act [CAP 112], the Commission must enquire and satisfy itself that the person making the application has fulfilled all the requirements stated in the Constitution and the Citizenship Act before they approve the person's citizenship. Not doing so would be seen to be a deliberate act of corruption and ignorance by a lawfully-appointed Commission.

6.4.2 Making enquiries should include seeking advice from the State Law Office on matters of law or other issues concerning an individual file. In this present case, there was no record that would suggest that the Commission consulted the State Law Office regarding Mr Gulbis' file.

6.4.3 In addition, it appears that enquiries were made after approval was already made in the Commission meeting. The Citizenship Commission Minutes of 05 November 2010 confirmed this when the Secretary General was asked to make further enquiries as to the shareholdings of the company Hiram Group (Vanuatu) Limited. This same meeting approved Mr Gulbis citizenship (**Refer to Appendix G2**).

**6.5 Finding 5: The members of the Citizenship Commission as leaders by virtue of section 5 (f) of the Leadership Code Act have breached Article 66 of the Constitution.**

6.5.1 Section 5 (f) of the Leadership Code Act [CAP 240], states that

In addition to the leaders referred to in Article 67 of the Constitution, the following are declared to be leaders: members and the chief executive officers (however described) of the boards and statutory authorities.

6.5.2 Section 3 of the Citizenship Act established the Citizenship Commission which qualifies it as a statutory authority and as such the members are subject to the Leadership Code Act.

6.5.3 By disregarding the 10 years requirement articulated in Article 12 of the Constitution and approving Mr Gulbis citizenship on adult adoption, the members of the Citizenship Commission have placed themselves in a position where the fair exercise of their official duties is compromised. They have ignorantly allowed their integrity to be called into question. In this way, they fail to show respect for the relevant laws and subsequently have endangered the integrity of the Government of the Republic of Vanuatu.

## 7. RECOMMENDATIONS

7.1. The Ombudsman makes the following recommendations on the basis of the above findings:

**Recommendation 1:** that the Citizenship Act [CAP 112] be reviewed especially section 12. Currently there are loopholes that make certain individuals by-pass the 10 year requirement under the Constitution and the Citizenship Act as clearly shown in this report. Any such amendments should include penalising individual members of the Commission who make decisions outside of established laws of Vanuatu.

**Recommendation 2:** that the Review anticipated sees to the repeal of sections 19 and 20 of the Citizenship Act. Allowing the Prime Minister and the President of the Republic of Vanuatu to respectively issue a Certificate of Citizenship Status and conferring an honorary citizenship leaves room for abuse and corruption. The repeal would ensure that all applications are processed through the Citizenship Commission instead of having some applications being processed by a Prime Minister and/or President of Vanuatu.

On the other hand, for the time being, in the event of wanting to confer an honorary citizenship to anyone the Prime Minister or President of the Republic of Vanuatu should liaise or consult the Citizenship Commission for appropriate scrutiny and analysis of the proposed applicants' information and documents against the set criteria. Furthermore, honorary citizenship should contain proper conditions as to privileges or exemptions, not just a citizenship status.

**Recommendation 3:** that the Prime Minister as Minister responsible for citizenship, terminate the members of the Citizenship Commission that made the decision to grant citizenship to Mr Gulbis and review their decisions and any other decisions they made in light of the findings made above. Alternatively, the President of the Republic of Vanuatu exercises his discretion under section 4(2) of the Citizenship Act to remove the Chairman of the current Commission.

**Recommendation 4:** that the Citizenship Commission relies on the set criteria for approving naturalised citizenship. In the event of uncertainty, the Commission should seek legal advice from the State Law Office and on the basis of such legal advice, will it be able to make a sound decision whether or not to approve naturalized citizenship to any applicant.

**Recommendation 5:** that Custom adoption should not be legally recognised as a criteria or ground for granting Vanuatu citizenship because this would defeat the 10 years requirement of continuous living in Vanuatu before lodging an application for citizenship. In addition, it would be broadly open to abuse as already shown in this report.

**Recommendation 6:** that the Prime Minister sees to it that there is less if not no political interference or interests in influencing the Citizenship Commission's decision on granting naturalised citizenship.

**Recommendation 7:** that the Prime Minister and the Citizenship Commission consider urgently to increase application fees for naturalised citizenship from VT16,000 to VT500.000.

Dated 1 July 2013

**Pasa TOSUSU**  
**OMBUDSMAN OF THE REPUBLIC OF VANUATU**

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## CONSTITUTION OF THE REPUBLIC OF VANUATU

### 12. Naturalisation

A national of a foreign state or a stateless person may apply to be naturalised as a citizen of Vanuatu if he has lived continuously in Vanuatu for at least 10 years immediately before the date of the application.

Parliament may prescribe further conditions of the eligibility to apply for naturalisation and shall provide for the machinery to review and decide on applications for naturalisation.

### 13. Avoidance of dual nationality

The Republic of Vanuatu does not recognise dual nationality. Any citizen of Vanuatu who is or becomes a citizen of another state shall cease to be a citizen of Vanuatu unless he renounces that other citizenship within 3 months of acquiring Vanuatu citizenship or that other citizenship, as the case may be, or such longer period as Parliament may prescribe, except that in the case of a person under the age of 18 years the period of renunciation shall be 3 months after he has reached the age of 18 years.

### 14. Further provision for citizenship

Parliament may make provision for the acquisition of citizenship of Vanuatu by persons not covered in the preceding Articles of this Chapter and may make provision for the deprivation and renunciation of citizenship of Vanuatu.

### Conduct of Leaders

66(1) Any person defined as a leader in Article 67 has a duty to conduct himself in such a way, both in his public and private life, so as not to—

- (a) place himself in a position in which he has or could have a conflict of interests or in which the fair exercise of his public or official duties might be compromised;
- (b) demean his office or position;
- (c) allow his integrity to be called into question; or
- (d) endanger or diminish respect for and confidence in the integrity of the Government of the Republic of Vanuatu.

66(2) In particular, a leader shall not use his office for personal gain or enter into any transaction or engage in any enterprise or activity that might be expected to give rise to doubt in the public mind as to whether he is carrying out or has carried out the duty imposed by sub article (1).

### Definition of a leader

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67 For the purposes of this Chapter, a leader means the President of the Republic, the Prime Minister and other Ministers, members of Parliament, and such public servants, officers of Government agencies and other officers as may be prescribed by law.

### **CITIZENSHIP ACT [CAP 112]**

#### **1. Interpretation**

(1) In this Act unless the context otherwise requires –

"Commission" means the Citizenship Commission established by section 2;

"child" means a person who has not attained 18 years;

"citizen" means a citizen of Vanuatu;

"Constitution" means the Constitution of Vanuatu;

"oath of allegiance" means the oath of allegiance prescribed in Schedule 1;

"Vanuatu" means the Republic of Vanuatu;

(2) For the purpose of this Act –

(a) a person is of age if he has attained the age of 18 years; and

(b) a person is not of full capacity if he is a mentally disordered or defective person, so found and not discharged as sane, under the provisions of any Act relating to mental treatment.

#### **4. Resignation and removal of members of the Commission**

(1) A member of the Commission may resign his office by notice in writing signed by him and delivered to the President.

(2) The President may remove a member of the Commission with effect from a date notified by him in the Vanuatu Gazette

#### **11. Adopted children**

A child adopted under the provisions of any Act relating to the adoption of children after the commencement of this Act and who is not a citizen on the day of adoption becomes a citizen on that day if the adopter or, in the case of a joint adoption the male adopter, is a citizen on that day.

#### **12. Application for, and granting of, citizenship by naturalization**

(1) A person of full age and capacity may apply in the prescribed manner to the Commission to be naturalized as a citizen.

(2) Where on an application made pursuant to subsection (1) and as a result of such inquiries as the Commission may cause to be made, the Commission is satisfied that the person making the application –

(a) is, on the date of application, and has been during a period of 10 years immediately prior to that date, ordinarily resident in Vanuatu;

(b) intends to continue to reside in Vanuatu;

(c) is of good character;



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- (d) unless prevented by physical or mental disability, is able to speak and understand sufficiently for normal conversational purposes, Bislama, English, French or a vernacular of Vanuatu;
- (e) has a respect for the culture and the ways of life of Vanuatu;
- (f) is not or is unlikely to become a charge on public funds;
- (g) has a reasonable knowledge and understanding of the rights, privileges, responsibilities and duties of citizens;
- (h) has renounced or agreed to renounce any citizenship which he may possess; and
- (i) has taken and subscribed to an oath of allegiance or made a solemn affirmation in the form set out in Schedule 1;
- (j) the Commission may grant the application, but otherwise shall refuse it.

(3) Subject to subsection (4) if a male applicant requests when applying for citizenship that –

- (a) his wife; or
  - (b) any child of his named in the application,
- becomes a citizen by naturalization, any such person named in the request shall become a citizen when the applicant becomes a citizen by naturalization.

(4) A wife shall not become a citizen in accordance with subsection (3) unless the application includes a statement by her that she wishes to become a citizen.

(5) When an application made pursuant to subsection (1) is granted the Commission shall register the applicant as a citizen, issue a certificate of naturalization in the form in Schedule 2 to the applicant and to any person who also becomes a citizen pursuant to subsection (3).

(6) A person to whom a certificate of naturalization is issued becomes naturalized as a citizen on the date stated in the certificate.

(7) For the purposes of this section, the date of an application is the date on which it is lodged with the Commission.

(8) For the purpose of determining the period of residence in Vanuatu of any person –

- (a) any period during which the person has been in custody awaiting deportation or removal from Vanuatu shall be disregarded; and
- (b) a period shall not be disregarded by reason only that the person resided in Vanuatu during that period without having complied with any law relating to immigration.

(9) For the purposes of subsection (2)(i) an oath of allegiance may be administered by, and a solemn affirmation may be made before –

- (a) any person authorised to administer oaths under the law; or
- (b) a secretary of a Local Government Council; or
- (c) a District Commissioner.

### **19. Certificate of citizenship status**

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(1) A person whose status or entitlement in relation to citizenship is, or may be, in doubt may apply to the Prime Minister for a certificate under this section.

(2) If the Prime Minister is satisfied that the applicant is, or is entitled to become, a citizen he may issue a certificate stating that the person is or may become a citizen by virtue of a provision specified in the certificate.

(3) A certificate given pursuant to this section shall be evidence that on the material date the person concerned was, is or may become a citizen in accordance with the terms of the certificate.

### **20. Honorary citizenship**

The President may on the advice of the Prime Minister confer honorary citizenship on any person with such privileges or exemptions as may be prescribed

## **INTERPRETATION ACT [CAP 132]**

### **9. Acts subordinate to the Constitution**

(1) Every Act shall be read and construed subject to the Constitution and where any provision of an Act conflicts with a provision of the Constitution the latter provision shall prevail.

(2) Where a provision in an Act conflicts with a provision in the Constitution the Act shall nevertheless be valid to the extent that it is not in conflict with the Constitution.

## **LEADERSHIP CODE ACT [CAP 240]**

### **LEADERS**

5. In addition to the leaders referred to in Article 67 of the Constitution, the following are declared to be leaders:

- (f) members and the chief executive officers (however described) of the boards and statutory authorities;