

Sikkim Subjects Regulation 1961

(As amended vide Notification No. S/277/61 dated the 16th January, 1962, Notification No. S/252/65 dated the 26th July 1965 and Notification No. 790/H dated the 3rd December 1970).

HOME DEP DEPARMENT

NotificationNo.156/S-61

Dated Gangtok, the 3^m July 1961

(Published in the Sikkim Darbar Gazette, Extraordinary, dated the 3^m July 1961).

The following Proclamation of the Chogyal of Sikkim is hereby notified:

WHEREAS it is expedient to define clearly the status of Sikkim subjects and to make provision for acquisition and loss of such aforesaid status:

NOW, THEREFORE, The Chogyal of Sikkim has been pleased to make and promulgate the following Regulation.

1. Short title and extent-

- (i) This Regulation may be called the SIKKIM SUBJECTS REGULATION, 1961.
- (ii) It shall extend throughout the territory of Sikkim.

2. Commencement-

This Regulation shall come into force on such date as may be appointed for the purpose by the Chogyal of Sikkim.

3. Certain persons domiciled in Sikkim Territory at the commencement of the Regulation to be Sikkim subjects-

1. Every person who has his domicile in the territory of Sikkim immediately before the commencement of this Regulation shall be a Sikkim subject if he:
 - (a) Was born in the territory of Sikkim and is resident therein, or
 - (b) Has been ordinarily resident in the territory of Sikkim period not less than fifteen years immediately preceding such commencement; provided that in the said period of fifteen years any absence from the said territory on account of service under the Government of India shall be disregarded; or

(c) Is the wife or minor child of a person mentioned in clause (a) or clause (b):

Provided that a person shall not be a Sikkim subject under this section unless he makes a declaration to the effect that he is not a citizen of any other country at the time of inclusion of his name in the register of Sikkim subjects to be maintained under this Regulation:

Provided further that in the case of a minor or a person of unsound mind, such declaration may be made by his guardian.

Explanation: no person shall be deemed to have his domicile in the territory of Sikkim unless:

(i) He is a person who has made Sikkim his permanent home and has severed his connections with the country of his origin such as by parting with his property in that country or acquiring immovable property in Sikkim.

Provided that a person shall not be deemed to have a permanent home in Sikkim if he indicates an intention of returning to his country of origin, by keeping a live interest therein even though he might have parted with his property in his country of origin and the mere parting of such property will not be regarded as proof of a person's having acquired a permanent home in Sikkim.

(ii) The wife and minor children of a person having his domicile in Sikkim shall also be deemed to have domicile in Sikkim for the purpose of this section.

(ii) In any case of doubt as to whether a person has his domicile within the territory of Sikkim under this section, the matter shall be decided by the Chogyal with the assistance of a Board consisting of persons to be appointed in accordance with the rules made under this Regulation.

4. Certain persons, though not domiciled in Sikkim, to be Sikkim Subject-

Any person, who has not voluntarily acquired the citizenship of any other country, though not domiciled in Sikkim, may, on an application made to the authority prescribed by the rules made under this Regulation by registered as a Sikkim subject if he is a person whose ancestors were deemed to be Sikkim subject prior to the year 1850.

5. Sikkim Subject by Descent:

Every person born after the commencement of this Regulation shall be a Sikkim Subject if at the time of his birth his father is a Sikkim subject under this Regulation, whether or not the birth takes place in the territory of Sikkim.

6. Status of women married to Sikkim subjects:

A woman of foreign nationality who is married to a Sikkim subject after the commencement of this Regulation shall ordinarily be eligible to be registered as a Sikkim subject, on making application therefore to the Government of the Chogyal in the manner provided by rules under this Regulation,

and after announcing her former nationality and on taking oath of allegiance.

Provided that the Government of the Chogyal after giving a reasonable opportunity to the person of making a representation may refuse such application.

7. Certain persons not to be Sikkim subjects:

- (a) Any person who renounces his status as a Sikkim subject, or voluntarily acquires the citizenship of any other country, or takes an oath of allegiance to a foreign country or Ruler thereof without the consent of the Chogyal's Government; or
- (b) Any Sikkimese woman who marries a person who is not a Sikkim subject; or
- (c) Any person, other than a person referred to in section 4, who severs his connection with Sikkim such as by parting with his property in Sikkim and migrates to a place outside Sikkim and India after the commencement of this Regulation, or has not been ordinarily resident in Sikkim for a continuous period of seven years, shall thereupon cease to be a Sikkim subject.

8. Naturalised subjects:

- (i) The Government of the Chogyal may, if application is made to them in the manner provided by rules under this Regulation by any person of full age and capacity who at the date of the commencement of this Regulation is a national of another state but otherwise fulfills the requirements of section 3 of this Regulation to be a Sikkim subject, grant to him a certificate of naturalization if he renounces his former nationality,; and the person to whom such certificate is grand shall on taking oath of allegiance, and on his name being entered in the Register to be maintained under this regulation, be a Sikkim subject by naturalization from the date on which the certificate is grand
- (ii) If a certificate is granted to any person under the fast forgoing sub-section his wife after renouncing her former nationality and taking oath of allegiance be granted certificate of naturalization.
- (iii) The Government to the-Chogyal shall also have the power to naturalise a person upon application made therefore in the manner prescribed by the rules, provided that the Government of the Chogyal are satisfied that;
 - (a) He has been in the service of the Government of Sikkim for a period of not less than ten years immediately preceding the date of his application, or
 - (b) He has rendered meritorious service to the state; and the person to whom such a certificate is granted shall, on taking oath of allegiance, and upon his name being entered in the Register of Subjects, be a naturalized Sikkim subject from the date on which the certificate was granted;
- (iv) The Government of the Chogyal may at the same time naturalise the wife and minor children of a person who is granted a certificate of naturalization if application thereof is made.

9. Loss and deprivation of Nationality- Loss of status of Naturalised Subjects:

A naturalized subject shall lose his status as a Sikkim subject if he ceases to reside ordinarily in the territory of Sikkim or fails to comply with any of the conditions subject to which the certificate of naturalization may have been granted to him and thereupon his name shall be removed from the Register of Sikkim Subjects.

10. Deprivation of status of Subjects:

Subject to the provisions of this section, the Government of the Chogyal may by order deprive any Sikkim subject who is such by registration under section 4 or by naturalization under section 8 of this Regulation of his status if the Government are satisfied that such, a subject:

- (i) During any war in which the Chogyal or the government of India are engaged, unlawfully traded or communicated with an enemy or communicated with an enemy or has been engaged in or associated with business-that was to his knowledge carried on in such a manner as to assist an enemy in that war; or
- (ii) Shown himself by act or speech to be guilty of disaffection or disloyalty towards the Chogyal or
- (iii) Obtained the certificate of naturalization by fraud, raise representation or concealment of material facts;
- (iv) Within five years of naturalization has been convicted of any offence in any country and has been sentenced to imprisonment for a term of not less than twelve months; and such a person shall cease to be a Sikkim subject with effect from the date on which such order of deprivation is passed;

Provided that a person shall be afforded a reasonable opportunity of making a representation before an order of deprivation is made.

MISCELLANEOUS

11. Offence and Punishment:

Any person who for the purpose of procuring anything to be done or not to be done under this Regulation makes any statement which he knows to be false in material particulars or recklessly makes any statement which is false in material particulars, shall be liable in summary conviction to imprisonment for a term not exceeding two years.

12. Evidence of Status as Sikkim Subject:

The Government of the Chogyal shall prepare and maintain a Register of Sikkim Subjects in

accordance with rules to be framed under this Act and the entry of a person's name in such a register shall be prima facie evidence of the person's status as a Sikkim Subject.

Provide that a person's name may be removed from the aforesaid Register of Sikkim Subjects and any certificate of status as a Sikkim Subject granted to him may be cancelled with effect from the date of the original grant when the Bard constituted under section 3(3) of Sikkim Subject Regulation is satisfied that the said person's name had been wrongly entered in the Register at any time and submits a finding to that effect to the Government of Sikkim.

Provided further that an appeal shall lie to the Chogyal against any such finding by the aforesaid Board.

13. Power to make Rules:

The Government of the Chogyal may make and promulgate such rules as may be necessary for carrying out the provisions of this Regulations.

14. Repeal:

All rules, regulations, orders and instructions hitherto in force in Sikkim territory in relation to the definition, acquisition and loss or deprivation of the status of Sikkim subjects are hereby repealed.

**TASHI NAMGYAL,
MAHARAJA OF SIKKIM**

By Order

Sd .D. DAHDUL Chief Secretary,

Government of Sikkim