

Unit 8. Citizenship - Part II - (Articles 5-11)



Part II of the Constitution of India (Articles 5-11) deals with the Citizenship of India. Article 5 speaks about citizenship of India at the commencement of the Constitution (Nov 26, 1949). Article 11 gave powers to the Parliament of India to regulate the right of citizenship by law. Thus Citizenship Act 1955 was enacted by the Parliament. It is an act to provide for the acquisition and termination of Indian citizenship, and the same acts speaks about citizenship of India after the commencement of the Constitution.

Article 5 : Citizenship at the commencement of the Constitution

At the commencement of this Constitution, every person who has his domicile in the territory of India and –

- (a) who was born in the territory of India; or
- (b) either of whose parents was born in the territory of India; or
- (c) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement, shall be a citizen of India.

Article 6 : Rights of citizenship of certain persons who have migrated to India from Pakistan

Notwithstanding anything in article 5, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution if –

- (a) he or either of his parents or any of his grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted); and
- (b)(i) in the case where such person has so migrated before the nineteenth day of July, 1948, he has been ordinarily resident in the territory of India since the date of his migration, or
- (ii) in the case where such person has so migrated on or after the nineteenth day of July, 1948, he has been registered as a citizen of India by an officer appointed in that behalf by the Government of the Dominion of India on an application made by him therefor to such officer before the commencement of this Constitution in the form and

manner prescribed by that Government:

Provided that no person shall be so registered unless he has been resident in the territory of India for at least six months immediately preceding the date of his application.

Article 7 : Rights of citizenship of certain migrants to Pakistan

Notwithstanding anything in articles 5 and 6, a person who has after the first day of March, 1947, migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen of India:

Provided that nothing in this article shall apply to a person who, after having so migrated to the territory now included in Pakistan, has returned to the territory of India under a permit for resettlement or permanent return issued by or under the authority of any law and every such person shall for the purposes of clause (b) of article 6 be deemed to have migrated to the territory of India after the nineteenth day of July, 1948.

Article 8 : Rights of citizenship of certain persons of Indian origin residing outside India

Notwithstanding anything in article 5, any person who or either of whose parents or any of whose grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted), and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has been registered as a citizen of India by the diplomatic or consular representative of India in the country where he is for the time being residing on an application made by him therefor to such diplomatic or consular representative, whether before or after the commencement of this Constitution, in the form and manner prescribed by the Government of the Dominion of India or the Government of India.

Article 9 : Persons voluntarily acquiring citizenship of a foreign State not to be citizens

No person shall be a citizen of India by virtue of article 5, or be deemed to be a citizen of India by virtue of article 6 or article 8, if he has voluntarily acquired the citizenship of any foreign State.

Article 10 : Continuance of the rights of citizenship

Every person who is or is deemed to be a citizen of India under any of the foregoing provisions of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen.

Article 11 : Parliament to regulate the right of citizenship by law

Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

Info-bits related to Citizenship of India

1. The conferment of a person, as a citizen of India, is governed by Articles 5 to 11 (Part II) of Indian Constitution.
2. The legislation related to this matter is the Citizenship Act 1955, which has been amended by the Citizenship (Amendment) Act 1986, the Citizenship (Amendment) Act 1992, the Citizenship (Amendment) Act 2003, and the Citizenship (Amendment) Act, 2005.
3. Article 9 of Indian Constitution says that a person who voluntarily acquires citizenship of any other country is no longer an Indian citizen. Also, according to The Passports Act, a person has to surrender his Indian passport if he acquire citizenship of another country, it is a punishable offense under the act if he fails to surrender the passport.
4. Indian nationality law largely follows the jus sanguinis (citizenship by right of blood) as opposed to the jus soli (citizenship by right of birth within the territory).
5. The President of India is termed the first Citizen of India.
6. **Acquisition of Indian Citizenship as per Citizenship Act 1955:** Indian Citizenship can be acquired under the following ways : (1) Citizenship at the commencement of the constitution of India (2) Citizenship by birth : NB – This provision has different clauses for different periods (3) Citizenship by descent (4) Citizenship by registration (5) Citizenship by naturalization.
7. Persons domiciled in the territory of India as on 26 November 1949 automatically became Indian citizens by virtue of operation of the relevant provisions of the Indian Constitution coming into force. (Citizenship at the commencement of the constitution of India.)
8. Any person born in India on or after 26 January 1950, but prior to the commencement of the 1986 Act on 1 July 1987, is a citizen of India by birth. [Citizenship by birth]
9. A person born in India on or after 1 July 1987 is a citizen of India if either parent was a citizen of India at the time of the birth. [Citizenship by birth]
10. Those born in India on or after 3 December 2004 are considered citizens of India only if both of their parents are citizens of India or if one parent is a citizen of India and the other is not an illegal migrant at the time of their birth. [Citizenship by birth].
11. **Termination of Indian Citizenship as per Citizenship Act 1955:** One can lose citizenship of India in three ways – Renunciation, Termination and Deprivation.
12. **Persons of Indian Origin (PIO) Card :** A PIO card applicant has to be a person of Indian origin who is a citizen of any country, other than Pakistan, Bangladesh, Sri Lanka, Bhutan, Afghanistan, China and Nepal; or a person who has held an Indian passport at any time or is the spouse of an Indian citizen or a person of Indian origin;
13. **Overseas Citizen of India (OCI) card :** OCI Card is for foreign nationals who were eligible to become a citizen of India on 26.01.1950 or was a citizen of India on or after that date. Applications from citizens of Bangladesh and Pakistan are not allowed.
14. **Overseas Indian Card :** A new Bill is pending in Parliament [The Citizenship (Amendment) Bill], which seeks to do away with the existing overseas citizen of India (OCI) card and the person of Indian origin (PIO) card, and replace them with a new overseas Indian card,
15. While PIO card holders do not require a separate visa and can enter India with multiple entry facility for 15 years; the OCI card is a multiple entry, multi-purpose

lifelong visa for visiting India. OCI card-holders have parity with non-resident Indians in respect of economic, financial and educational matters except in acquiring agricultural land.

16. A PIO cardholder is required to register with local Police authorities for any stay exceeding 180 days in India on any single visit.

17. OCI is not dual citizenship. There are no voting rights for an OCI card holder.



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