

Summary of the Korean Nationality Act - Nationalization & Reinstatement

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I. Naturalization and Acquisition of Nationality

- Naturalization: This is the process by which a foreign national applies to become a citizen, and the state grants them nationality.

- Foreign nationals who have never previously acquired Korean nationality can obtain Korean nationality with the permission of the Minister of Justice (Nationality Act, Article 4, Paragraph 1). However, if they had previously acquired Korean nationality, lost it, and now wish to regain it, they must obtain permission for nationality restoration rather than naturalization (Nationality Act, Article 9, Paragraph 1).

- Types of naturalization: ① General naturalization (Nationality Act, Article 5). ② Simplified naturalization (Nationality Act, Article 6). ③ Special naturalization (Nationality Act, Article 7).

- From 1991 to the end of 2017, a total of 178,087 foreign nationals naturalized, with simplified naturalization accounting for a significantly

higher proportion.

A. General Naturalization

Nationality Act Article 5 (Requirements for General Naturalization) An alien shall meet the following requirements in order to obtain permission for naturalization, except in cases falling under Article 6 or 7:

1. He or she shall have had a domicile in the Republic of Korea for at least five consecutive years;
- 1-2. He or she shall have qualification for permanent residence in the Republic of Korea;
2. He or she shall be an adult under the Civil Act of the Republic of Korea;
3. He or she shall meet the requirements regarding good conduct prescribed by Ordinance of the Ministry of Justice, such as complying with statutes;
4. He or she shall be able to support himself/herself, relying on his or her own assets, ability, or family he or she lives with;
5. He or she shall have basic knowledge as a national of the Republic of Korea, such as Korean language proficiency and understanding of Korean custom;
6. The Minister of Justice shall acknowledge that granting permission for naturalization to him or her does not compromise national security, maintenance of order, or public welfare.

1) Residence Period

- Must have had a residence in the Republic of Korea for at least 5 continuous years.

- If a person leaves Korea after obtaining re-entry permission before the end of their stay, and re-enters within the permitted period, or if they temporarily leave Korea due to reasons such as the impossibility of extending their stay, but re-enter within 1 month after obtaining an entry visa, or in cases deemed equivalent by the Minister of Justice, it is considered as continuous residence (Article 5 of the Enforcement Rule of the Nationality Act).

2) Residency Qualification

- From the end of 2018, the principle of prior residency for permanent residents has been implemented -> Only those with permanent residency (F-5) can apply for general naturalization.

3) Age

- Must be of legal age according to the Civil Act of Korea -> The age of majority is 19 years old (Article 4 of the Civil Act).

- Minors cannot independently apply for naturalization; they can only acquire it jointly with their parents when their parents apply for naturalization (Article 8 of the Nationality Act).

4) Character

- Must meet the standards of good conduct as prescribed by the Ministry of Justice, including compliance with laws and regulations.

Article 5-2 of the Enforcement Rule of the Nationality Act (Requirements for Good Conduct) The term "requirements for good conduct as prescribed by the Ministry of Justice, including compliance with laws and regulations" in Article 5(3) of the Act refers to the following cases:

- If the foreign national applying for naturalization does not fall into any of the following categories, and the Minister of Justice deems their conduct to be good based on the circumstances such as the nature and frequency of legal violations, the extent of harm to public interest, contributions to Korean society, humanitarian considerations, and national interest:

- a. If a person who has been sentenced to imprisonment or a heavier penalty has not completed 10 years since the execution of the sentence ended or was decided not to be executed.

- b. If a person who was sentenced to imprisonment or a heavier penalty and had the sentence suspended has not completed 7 years since the suspension period ended.

- c. If a person who has been fined has not completed 5 years since the fine was paid.

- d. If a person who received a suspension of sentence or indictment has not completed 2 years since the date of suspension.

- e. If a person who received a deportation order under Article 59(2) of the Immigration Control Act has not completed 10 years since leaving the country.

- f. If a person who received a departure order under Article 68(1) of the Immigra

tion Control Act has not completed 5 years since leaving the country.

g. If a person has not paid national taxes, customs duties, or local taxes.

h. If there are other reasons equivalent to the above subparagraphs that the Minister of Justice recognizes.

- Even if the foreign national falls into one of the above categories, the Minister of Justice may still recognize their conduct as good based on the circumstances of their violations, the extent of harm caused, contributions to Korean society, humanitarian considerations, and national interest.

5) Ability to Maintain Livelihood

- Must have the ability to maintain a livelihood either through personal assets or skills, or by relying on family members who share the livelihood.

Article 3 of the Enforcement Rule of the Nationality Act (Forms and Documents Required for Naturalization Application)

② The documents that must be attached to the naturalization application form under Article 3(1) of the Enforcement Decree are as follows:

- Documents proving that the applicant or family members who share their livelihood have the ability to maintain a livelihood, as specified in any of the following subparagraphs. However, this does not apply to those covered under Article 7(1) of the Nationality Act.

a. For general naturalization applicants under Article 5 of the Act, one of the following documents must be provided:

- Proof of income equal to or greater than the per capita Gross National Income (GNI) published by the Bank of Korea (issued by the head of the tax office).

- Documents proving financial assets (such as deposits, savings, securities, etc.) amounting to 60 million won or more.
- Documents proving ownership of real estate valued at 60 million won or more based on public valuation, actual transaction price, or market rate published by commercial banks, or a copy of a lease agreement for real estate with a security deposit of 60 million won or more.
- Other documents deemed equivalent to those in subparagraphs 1) through 3) by the Minister of Justice.

- Per Capita Gross National Income (GNI) for the Previous Year: As of 2023, 47,248,000 won.

6) Basic Qualifications as a Korean Citizen

- Must possess basic qualifications as a Korean citizen, including proficiency in the Korean language and understanding of Korean customs.
- Basic qualifications are assessed through the Comprehensive Evaluation for Naturalization (KINAT) as defined by the Immigration Control Act's social integration program, and through an interview process (Article 4-2(1) of the Enforcement Decree of the Nationality Act).

7) Not Harm National Security, Public Order, or Public Welfare

- The Minister of Justice must recognize that granting naturalization will not harm national security, public order, or public welfare.
- There are requirements for good conduct, which often overlap with this consideration.
- However, this regulation can be used in cases where an individual's conduct is otherwise good, but granting naturalization might lead to diplomatic issues or other concerns.

B. Simplified Naturalization

Nationality Act Article 6 (Requirements for Facilitated Naturalization) (1) Any of the following aliens who has had a domicile in the Republic of Korea for at least three consecutive years may obtain permission for naturalization, even without meeting the requirements under subparagraphs 1 and 1-2 of Article 5:

1. A person whose father or mother was a national of the Republic of Korea;
2. A person who was born in the Republic of Korea and whose father or mother was born in the Republic of Korea;
3. A person adopted by a national of the Republic of Korea who was an adult under the Civil Act of the Republic of Korea at the time of adoption.

(2) Where an alien whose spouse is a national of the Republic of Korea falls under any of the following subparagraphs, he or she may obtain permission for naturalization, even without meeting the requirements under subparagraphs 1 and 1-2 of Article 5:

1. A person who has had a domicile in the Republic of Korea for at least two consecutive years while being married to the said spouse;

2. A person for whom three years have lapsed, since he or she got married to the said spouse, having a domicile in the Republic of Korea for at least one year while being married to the said spouse;

3. A person who failed to fulfill the requirements for a period under subparagraph 1 or 2 for the reason that he or she was unable to sustain marriage due to death or disappearance of his or her spouse or other causes unattributable to him or her while having a domicile in the Republic of Korea and being married to the said spouse, but has fulfilled the requirements for the remaining period under subparagraph 1 or 2 and thus is considered a case reasonable by the Minister of Justice;

4. A person who failed to satisfy the requirements under subparagraph 1 or 2, but who is, or shall be, taking care of a minor born within the marriage relationship with the said spouse, and has met the domicile period requirements under subparagraph 1 or 2 and thus be considered a case reasonable by the Minister of Justice.

1) Simplified Naturalization for Certain Individuals

- Children of Korean Nationals: Individuals whose father or mother was as a Korean national.
- Children Born in Korea to Korean Nationals: Individuals born in Korea whose father or mother was also born in Korea.
- Adopted Children of Korean Nationals: Individuals adopted by a Korean national who was of legal age according to Korean Civil Law at the time of adoption.
- Eligibility: Individuals who do not meet the 5-year residence requirement.

ement (Article 5(1)) or the permanent residence requirement (Article 5(1)2) may still apply for simplified naturalization.

While all other requirements for general naturalization must be met, the requirement for the ability to maintain a livelihood is relaxed.

2) Naturalization through Marriage

- Two Years of Residence: Individuals married to a Korean national who have had a continuous residence in Korea for at least 2 years.
- Three Years of Marriage: Individuals married to a Korean national for at least 3 years who have had a continuous residence in Korea for at least 1 year.
- Inability to Continue Marriage: Individuals married to a Korean national who were unable to maintain normal marital life due to the spouse's death, disappearance, or other reasons beyond their control, and who have completed the remaining period under the first or second criteria, and whom the Minister of Justice deems suitable.
- Child Rearing: Individuals who are raising or must raise a minor child born from a marriage to a Korean national, and who have fulfilled the duration requirements under the first or second criteria, and whom the Minister of Justice deems suitable.
- Eligibility: Individuals who do not meet the 5-year residence requirement

ement (Article 5(1)) or the permanent residence requirement (Article 5(1)2) may still apply for simplified naturalization.

- While all other requirements for general naturalization must be met, the requirement for the ability to maintain a livelihood is relaxed.

3) Relaxation of Livelihood Maintenance Requirements

- Relaxation: For simplified naturalization, the requirements for maintaining a livelihood are relaxed as follows:

Article 3 of the Enforcement Rule of the Nationality Act (Forms and Documents Required for Naturalization Application) ② The documents that must be attached to the naturalization application form under Article 3(1) of the Enforcement Decree are as follows:

- Documents Proving Livelihood Maintenance Ability: Documents proving that the applicant or family members who share their livelihood have the ability to maintain a livelihood, as specified in any of the following subparagraphs. However, this does not apply to those covered under Article 7(1) of the Nationality Act.

b. For Simplified Naturalization Applicants under Article 6 of the Act:

- Documents proving financial assets (such as deposits, savings, securities, etc.) amounting to 30 million won or more.
- Documents proving ownership of real estate valued at 30 million won or more based on public valuation, actual transaction price, or market rate published by commercial banks, or a copy of a lease agreement for real estate with a security deposit of 30 million won or more.
- Employment certificate or proof of employment.
- Other documents deemed equivalent to those in subparagraphs 1) through 3) by the Minister of Justice.

C. Special Naturalization

Nationality Act Article 7 (Requirements for Special Naturalization) (1) Any of the following aliens who has a domicile in the Republic of Korea may obtain permission for naturalization, even without meeting the requirements under subparagraph h 1, 1-2, 2, or 4 of Article 5:

1. A person whose father or mother is a national of the Republic of Korea: Provided, That a person adopted as an adult under the Civil Act of the Republic of Korea shall be excluded;
2. A person who has contributed greatly to the Republic of Korea;
3. A person acknowledged to contribute to the national interests of the Republic of Korea who has very excellent ability in a specific field, such as science, economy, culture, and sport.

(2) The standards and procedures for determining a person falling under paragraph (1) 2 and 3 shall be prescribed by Presidential Decree.

1) Qualifications

- Parentage: Individuals whose father or mother is a Korean national.
- Special Contribution: Individuals who have made significant contributions to the Republic of Korea.

ENFORCEMENT DECREE OF THE NATIONALITY ACT Article 6 (Persons subject to Special Naturalization) (1) A person falling under Article 7 (1) 2 of the Act

means any of the following persons:

1. A person him or herself, his or her spouse, or lineal ascendants and descendants, falling under any of the following subparagraphs:

(a) A person who has contributed to the independence of the State under Article 4 of the Act on the Honorable Treatment of Persons of Distinguished Services to Independence;

(b) A person who has provided distinguished service to the State under Article 4 of the Act on the Honorable Treatment of and Support for Persons of Distinguished Services of the State, and who has been conferred any decoration, medal, or commendation by the Government of the Republic of Korea under relevant Acts in recognition of distinguished service to the State;

2. A person who has contributed to the national interests of the Republic of Korea in various sectors, such as national security, society, economy, education, or culture;

3. A person who is acknowledged by the Minister of Justice to have made a contribution similar to those under subparagraphs 1 and 2.

- Individuals with Exceptional Abilities: Individuals who possess outstanding abilities in specific fields such as science, economics, culture, or sports, and who are recognized as contributing to the national interest of the Republic of Korea.

ENFORCEMENT DECREE OF THE NATIONALITY ACT Article 6 (Persons subject

to Special Naturalization) (2) A person falling under Article 7 (1) 3 of the Act shall be the one appointed by the Minister of Justice after going through the deliberation of the Nationality Deliberation Committee under Article 22 from among the following persons:

1. A person recommended by the Secretary General of the National Assembly, t

the Minister of National Court Administration, the Secretary General of the Constitutional Court, or the head of a central administrative agency;

2. A person recommended by the head of a diplomatic mission abroad, the head of a local government (referring to the Special Metropolitan City, a Metropolitan City, Special Self-Governing City, Do and a Special Self-Governing Province), the president of a four-year course university or college, or the head of an agency or organization prescribed by the Minister of Justice and referred to deliberation by the Minister of Justice;

3. A person whose authority is internationally acknowledged for awards, research results, or career in the fields of science, economy, culture or sports and who is referred to deliberation by the Minister of Justice.

2) Exemptions from General Naturalization Requirements

- Exemptions: For special naturalization, the requirements for residence period, residency qualification, age, and ability to maintain a livelihood are exempted.

- Applicable Requirements: The requirements for good conduct, basic qualifications as a Korean citizen, and not harming national security, public order, or public welfare still apply.

D. Naturalization Process

1) Application for Naturalization

- Submission: The naturalization application form must be completed and submitted to the Immigration Office or its branch offices (Article 3(1) of the Enforcement Decree of the Nationality Act).
- Required Documents: Depending on the type of naturalization, relevant documents must be attached and submitted along with the application.
- No Limit on Applications: There is no limit to the number of times an application for naturalization can be submitted. Even if an application is denied, it can be re-applied for as many times as needed.

2) Examination of the Application

① Formal Requirements Examination: Receipt and Rejection of the Application

- Officials handling naturalization applications first check whether the applicant is a foreigner who has never acquired Korean nationality, if the application form is correctly completed according to the law, and if all necessary documents are attached. They assess basic formal requirements.

- If the formal requirements are not met, the official may reject the application and ask the applicant to correct and resubmit it.
- If the formal requirements are met, the application is accepted, and the substantive requirements, such as residence period, livelihood maintenance, and good conduct, are assessed after acceptance.
- If the application is rejected on grounds of failing to meet substantive requirements, such rejection is considered illegal according to the court (Seoul High Court, November 29, 2007, 2007Nu15928).

② Background Check, Criminal Record Check, and Residence Status Investigation

- Background checks, criminal record checks, and investigations into residence status are conducted. If the applicant does not meet the naturalization requirements, an immediate denial of naturalization may be issued without a comprehensive evaluation or interview (Article 4(5) of the Enforcement Decree).

③ Eligibility Examination for Naturalization

- A comprehensive evaluation and interview are conducted to assess

basic qualifications as a Korean citizen and good conduct.

- Comprehensive Evaluation: Assesses understanding of Korean language, culture, and society, both basic and advanced.
- Interview: Evaluates Korean language proficiency, attitude as a Korean citizen, and beliefs about the democratic order, as required for Korean citizens.

④ Processing Time

- The processing time varies depending on the type of naturalization but generally takes between 8 to 19 months (as of September 2024).
- The Ministry of Justice publishes a monthly guide called the "Nationality Work Processing Period," indicating the processing times for different types of naturalization.

3) Naturalization Approval or Denial

- Approval: The Minister of Justice will issue a naturalization approval if all requirements are met. If the requirements are not met, naturalization may be denied (Article 4(2) of the Nationality Act).

Discretionary Authority: Even if all requirements are met, if it is deemed

med inappropriate to grant naturalization, the Minister of Justice may still deny it.

- Legal Principle: "Nationality determines the status of a citizen. Granting nationality is a comprehensive act of establishing legal status as a citizen by conferring Korean nationality. No provisions in the Nationality Act or related laws grant foreigners an absolute right to acquire Korean nationality. Considering the format, wording, and characteristics of the naturalization approval provisions, the Minister of Justice has discretion over whether to grant naturalization even if the applicant meets the legal requirements" (Supreme Court, July 15, 2010, 2009Du19069).

4) Oath of Allegiance and Issuance of Naturalization Certificate

- Oath and Certificate: Individuals who receive naturalization approval must take an oath of allegiance before the Minister of Justice and receive a naturalization certificate to acquire Korean nationality (Article 4(3) of the Nationality Act).

- Oath Content: "I solemnly swear to uphold the Constitution and laws of the Republic of Korea and fulfill the responsibilities and duties of a citizen" (Article 4(5)(1) of the Enforcement Decree).

5) Renunciation of Former Nationality

- Renunciation Requirement: Individuals acquiring Korean nationality through naturalization must renounce their original nationality within one year (Article 10(1) of the Nationality Act). Failure to do so within the year results in the loss of Korean nationality acquired through naturalization (Article 10(3)).
- Exemption: Simplified naturalization applicants married to a Korean citizen or special naturalization applicants with special contributions or exceptional talents can be exempt from the renunciation requirement if they make a 'pledge not to exercise foreign nationality' (Article 10(2)). Such individuals can maintain dual nationality for life.

E. Legal Status of Naturalized Citizens

- Equal Rights and Duties: Naturalized citizens have the same rights and duties as regular citizens.
- Military Service: Naturalized citizens are not subject to compulsory military service or social service (Enforcement Decree of the Military Service Act, Article 136(1)2b). This is due to concerns from the Mini

stry of Defense and Military Manpower Administration about managing naturalized citizens in the military.

- Voluntary Service: Naturalized citizens may choose to serve in the military or social service if they wish. However, due to decreasing military resources caused by low birth rates and aging, there is growing opinion that naturalized citizens should be subject to compulsory service in the future.

- Resident Registration: Failure to renounce former nationality (or make a pledge if applicable) may result in issues with resident registration, affecting issuance of ID cards and passports (Article 14 of the Enforcement Decree), which could complicate entry or stay in Korea.

II. Acquisition of Nationality through Reinstatement

A. Requirements for Reinstatement of Nationality

Nationality Act Article 9 (Acquisition of Nationality through Recovery of Nationality) (1) An alien who was a national of the Republic of Korea may acquire the nationality of the Republic of Korea by obtaining permission to recover nationality from the Minister of Justice.

(2) The Minister of Justice shall not allow any of the following persons to recover his or her nationality, after screening a person who has applied for the recovery of nationality:

1. A person who has inflicted harm on the State or society;
2. A person whose conduct is disorderly;
3. A person who lost or renounced his or her nationality of the Republic of Korea in order to evade military service;
4. A person the recovery of whose nationality is deemed inappropriate by the Minister of Justice for the purposes of national security, maintenance of order, or public welfare.

1) Eligibility

- Eligibility for Nationality Reinstatement: Nationality reinstatement is only permitted for those who were previously Korean nationals but lost their nationality.
- For nationality reinstatement, Residence Period, Residency Status, A

bility to support Oneself, Age, Basic National Qualities are not required.

2) Negative Conditions

- Individuals with Harmful Actions: Those who have caused harm to the country or society are not eligible for nationality reinstatement.

- Unfit Conduct: Although specific details are not provided in the Nationality Act Enforcement Rules like they are for naturalization, the conduct requirements for nationality reinstatement are generally more relaxed compared to naturalization. For example, while naturalization requires a clean record for five years following a fine, the period for nationality reinstatement can be shorter, even if the person has received a fine.

- Avoiding Military Service: Individuals who lost or renounced Korean nationality to evade military service are disqualified from regaining Korean nationality. This means that cases like Yoo Seung-jun, who cannot regain Korean nationality after renouncing it to avoid military service, would not be eligible.

- Inappropriate for National Security, Order, or Public Welfare: The Minister of Justice may deem that reinstating nationality is not suitable

e if it could compromise national security, order, or public welfare.

B. Procedures for Nationality Restoration

1) Application for Nationality Restoration

- Submission of Application and Supporting Documents: To apply for nationality restoration, you must submit the following:

- Application for nationality restoration
- Documents proving foreign nationality (e.g., foreign passport)
- Documents proving that you were once a Korean national
- Documents proving that you acquired foreign nationality
- Documents proving that you lost Korean nationality

- Application Location: There is no residence requirement, so applications can also be submitted through Korean embassies or consulates if residing abroad. (Nationality Act Enforcement Decree Article 8(1), Nationality Act Enforcement Rule Article 6(2))

2) Review of Nationality Restoration Application

- Review Items: The review will involve identity checks, criminal rec

ord checks, and an investigation of residence trends to assess the applicant's moral character and whether there was any intention to evade military service. (Nationalities Act Enforcement Decree Article 9)

3) Decision on Nationality Restoration

- Approval or Denial: The Minister of Justice will grant nationality restoration if the requirements are met, or deny it if they are not. (Nationality Act Article 9(1))

- Negative Criteria: If the applicant falls into any of the negative criteria, the application must be denied. (Nationality Act Article 9(2))

4) Oath of Allegiance and Issuance of Nationality Restoration Certificate

- Oath and Certificate: Similar to naturalization, you must take an oath of allegiance and receive a nationality restoration certificate. You acquire Korean nationality upon receiving this certificate. (Nationality Act Article 9(3))

5) Renunciation of Previous Nationality

- Renunciation Obligation: After receiving the nationality restoration certificate, you must renounce your previous foreign nationality within one year. (Nationality Act Article 10(1))
- Failure to Renounce: If you do not renounce your foreign nationality within one year, your Korean nationality will be lost. (Nationality Act Article 10(3))
- Exceptions for Certain Individuals: Special contributors, outstanding talents, overseas adoptees, and individuals over 65 years old can maintain dual nationality by making a pledge not to exercise their foreign nationality. (Nationality Act Article 10(2))