Australian Citizenship Act 1948

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About this compilation

This is a compilation of the *Australian Citizenship Act 1948* that shows the text of the law as amended and in force on 1 July 2006 (the *compilation date*).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Presentational changes

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act relating to Australian Citizenship

RECOGNISING THAT:

Australian citizenship represents formal membership of the community of the Commonwealth of Australia; and

Australian citizenship is a common bond, involving reciprocal rights and obligations, uniting all Australians, while respecting their diversity; and

Persons granted Australian citizenship enjoy these rights and undertake to accept these obligations

by pledging loyalty to Australia and its people, and

by sharing their democratic beliefs, and

by respecting their rights and liberties, and

by upholding and obeying the laws of Australia:

Part I—Preliminary

1 Short title

This Act may be cited as the *Australian Citizenship Act 1948*.

2 Commencement

This Act shall come into operation on a date to be fixed by Proclamation.

3 Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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5 Interpretation

(1) In this Act, unless the contrary intention appears:

approved form means a form approved by the Minister by instrument in writing.

Australia, when used in a geographical sense, includes the external Territories.

Australian consulate means:

(a) the office of a diplomatic or consular officer of the Australian Government;

(b) an office in a country in which there is no office of a kind referred to in paragraph (a), being an office approved by the Minister; or

(c) an office of the Department, whether the office is situated in or outside Australia.

Australian reserve force means:

(a) the Naval Reserve; or

(b) the Army Reserve; or

(c) the Air Force Reserve;

and includes:

(d) any reserve force that is a predecessor (whether immediate or otherwise) of the Naval Reserve; and

(e) any reserve force that is a predecessor (whether immediate or otherwise) of the Army Reserve; and

(f) any reserve force that is a predecessor (whether immediate or otherwise) of the Air Force Reserve.

certificate of Australian citizenship means a certificate of Australian citizenship granted under this Act and includes a certificate of naturalization or a certificate of registration granted under the *Nationality and Citizenship Act 1948*, or under that Act as amended, before the commencement of section 22 of the *Citizenship Act 1969*.

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child includes an adopted child, a step-child and a child born out of wedlock.

electronic communication means:

(a) a communication of information in the form of data, text or images by means of guided and/or unguided electromagnetic energy; or

(b) a communication of information in the form of speech by means of guided and/or unguided electromagnetic energy, where the speech is processed at its destination by an automated voice recognition system.

illegal entrant means an illegal entrant within the meaning of the *Migration Act 1958* as in force immediately before 1 September 1994.

New Guinea has the same meaning as ***the Territory of New Guinea*** had in the *Papua New Guinea Act 1949* immediately before 16 September 1975.

Papua has the same meaning as ***the Territory of Papua*** had in the *Papua New Guinea Act 1949* immediately before 16 September 1975.

permanent visa has the same meaning as in the *Migration Act 1958*.

prescribed date means the day on which section 4 of the *Migration Legislation Amendment Act 1989* commences.

prescribed Territory means Norfolk Island or the Territory of Cocos (Keeling) Islands.

prison includes any custodial institution at which a person convicted of an offence may be required to serve the whole or a part of any sentence imposed upon the person by reason of that conviction.

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prohibited immigrant means a prohibited immigrant within the meaning of the *Migration Act 1958* as in force from time to time before 2 April 1984.

prohibited non-citizen means a prohibited non-citizen within the meaning of the *Migration Act 1958* as in force from time to time on or after 2 April 1984 but before the prescribed date.

psychiatric institution includes a psychiatric section of a hospital.

relevant defence service means:

(a) service in the permanent forces of the Commonwealth; or

(b) service by virtue of a notice under section 26 of the *National Service Act 1951* as in force at any time before 26 November 1964.

responsible parent has the meaning given by subsection (2).

return endorsement means a return endorsement issued under section 11A of the *Migration Act 1958* before the day on which the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1987* received the Royal Assent (being a return endorsement that has not expired or been cancelled), and includes a document or notation referred to in subsection 9(3) of the *Migration Amendment Act 1979.*

Secretary means the Secretary to the Department.

special category visa has the same meaning as in the *Migration Act 1958*.

special purpose visa has the same meaning as in the *Migration Act 1958*.

unlawful non-citizen has the same meaning as in the *Migration Act 1958*.

valid entry permit has the same meaning as in the *Migration Act 1958* as in force immediately before 1 September 1994.

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valid permanent entry permit has the same meaning as in the *Migration Act 1958* as in force immediately before 1 September 1994.

valid visa has the same meaning as in the *Migration Act 1958* as in force immediately before 1 September 1994.

visa has the same meaning as in the *Migration Act 1958*.

(2) For the purposes of this Act, a person is a ***responsible parent*** in relation to a child if:

(a) the person is a parent of the child except where, because of orders made under the *Family Law Act 1975*, the person no longer has any parental responsibility for the child; or

(b) under a parenting order the child is to live with the person (whether or not the person is a parent of the child); or

(c) under a parenting order the person has parental responsibility for the child's long-term or day-to-day care, welfare and development (whether or not the person is a parent of the child); or

(d) the person (whether or not a parent of the child) has guardianship or custody of the child, jointly or otherwise, under a law in force in a foreign country or a law of the Commonwealth, a State or a Territory, whether because of adoption, operation of law, an order of a court or otherwise.

(2A) Expressions used in paragraphs (2)(a), (b) and (c) have the same meaning as in the *Family Law Act 1975*.

(3) For the purposes of this Act:

(a) a person born on a registered ship or aircraft shall be deemed to have been born at the place at which the ship or aircraft was registered and a person born on an unregistered ship or aircraft belonging to the government of a country shall be deemed to have been born in that country;

(b) a person who, when a child, was found abandoned in Australia shall, unless and until the contrary is proved, be deemed:

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(i) to have been born in Australia;

(ii) if born on or after 26 January 1949 and before 6 May 1966—to have been, at the time of birth, a person to whom subsection 10(2) of this Act, as in force at that time, did not apply;

(iii) if born on or after 6 May 1966 and before the day on which the *Australian Citizenship Amendment Act 1986* comes into operation—to have been, at the time of birth, a person to whom subsections 10(2) and (3) of this Act, as in force at that time, did not apply; and

(iv) if born on or after the day on which the *Australian Citizenship Amendment Act 1986* comes into operation—to be, at the time of birth, a person to whom paragraph 10(2)(a) of this Act applies and to whom subsection 10(3) of this Act does not apply;

(c) a person shall be deemed not to have attained a specified age until the commencement of the relevant anniversary of the date of the person's birth; and

(e) a person shall be deemed to be ordinarily resident in a country if:

(i) the person has his or her home in that country; or

(ii) that country is the country of his or her permanent abode notwithstanding that he or she is temporarily absent therefrom;

but the person shall be deemed not to be so resident if the person resides in that country for a special or temporary purpose only.

(4) A reference in this Act (other than the definition of ***New Guinea*** in subsection (1)) to New Guinea shall, in relation to any time before the date on which the *Citizenship Act 1969* received the Royal Assent be read as including a reference to the Island of Nauru.

(5) For the purposes of this Act:

(a) a reference to a period during which a person is or has been confined in a prison includes a reference to a period:

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(i) during which the person is or has been an escapee from a prison; or

(ii) during which the person is or has been undergoing a sentence of periodic detention in a prison; and

(b) a reference to a period during which a person is or has been confined in a psychiatric institution by order of a court includes a reference to a period during which the person is or has been an escapee from the institution.

(6) A child born to a woman as a result of the carrying out, during the period in which the woman was married to a man, of a medical procedure in relation to that woman, being a child who is not biologically the child of that man, shall, for the purposes of this Act, be deemed to be a child of that man and of no other man if the medical procedure was carried out with the consent of that man.

(7) Subsection (6) applies in relation to a purported marriage that is void as if the purported marriage were a marriage and as if the parties to the purported marriage were husband and wife unless, at the time of the carrying out of the medical procedure referred to in subsection (6), neither party to the purported marriage believed on reasonable grounds that the purported marriage was valid.

(8) In subsection (6), ***medical procedure*** means artificial insemination or the implantation of an embryo in the body of a woman.

5A Certain non-citizens to be permanent residents for the purposes of Act

(1) A person who is not an Australian citizen shall be taken to be, or to have been, a permanent resident for the purposes of this Act:

(a) in relation to a period before 2 April 1984 during which the person was present in Australia (other than a prescribed Territory), if:

(i) the person's continued presence in Australia (other than a prescribed Territory) was not, during that period, subject to any limitation as to time imposed by law;

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(ii) the person was not, during that period, a prohibited immigrant; and

(iii) the person was not, during that period, a person who, if an event of the kind referred to in paragraph 8(3)(a), (b), (c) or (d) of the *Migration Act 1958* as in force from time to time during that period had occurred, would have become a prohibited immigrant by virtue of subsection 8(3) of that Act as so in force, or, in a case where he or she was such a person, he or she was, during that period, a person to whom a declaration in force under subsection (2) applies;

(b) in relation to a period on or after 2 April 1984 and before the prescribed date during which the person was present in Australia (other than a prescribed Territory), if:

(i) the person's continued presence in Australia (other than a prescribed Territory) was not, during that period, subject to any limitation as to time imposed by law;

(ii) the person was not, during that period, a prohibited non-citizen; and

(iii) the person was not, during that period, a person who, if an event of the kind referred to in paragraph 8(3)(a), (b), (c) or (d) of the *Migration Act 1958* as in force from time to time during that period had occurred, would have become a prohibited non-citizen by virtue of subsection 8(3) of that Act as so in force or, in a case where he or she was such a person, he or she was, during that period, a person to whom a declaration in force under subsection (2) applies;

(ba) in relation to a period on or after the prescribed date and before 1 September 1994 during which the person was present in Australia (other than a prescribed Territory), if:

(i) the person's continued presence in Australia (other than a prescribed Territory) was not during that period, subject to any limitation as to time imposed by law;

(ii) the person was not, during that period, an illegal entrant; and

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(iii) the person was not, during that period, a person who, if an event of the kind referred to in paragraph 9(a), (b), (c), (d), (e) or (g) of the *Migration Act 1958* as in force from time to time during that period had occurred, would have become an illegal entrant because of subsection 14(4) of that Act as so in force or, in a case where he or she was such a person, he or she was, during that period, a person to whom a declaration in force under subsection (2) applies;

(bb) in relation to a period on or after 1 September 1994 if:

(i) the person was present in Australia and held a permanent visa; or

(ii) a declaration under subsection (2) applied to the person;

(c) in relation to a period during which the person was present in a prescribed Territory, if:

(i) the person's continued presence in that Territory was not, during that period, subject to any limitation as to time imposed by law, or, in a case where the person's continued presence in that Territory was subject to such a limitation, he or she would have been a permanent resident for the purposes of this Act if he or she had been present in Australia (other than a prescribed Territory), or if he or she had been present in the other prescribed Territory, during that period; and

(ii) the person's presence in that Territory during that period was not in contravention of a law of that Territory; or

(d) in relation to a period during which the person was not present in Australia, if the person was, during that period:

(i) the holder of, or deemed to be included in:

(A) a valid visa that is in a class of visas prescribed for the purposes of this sub-subparagraph or a return endorsement that was in force; or

(B) a document or endorsement in force under a law of a prescribed Territory, being a document or endorsement that, under the regulations, is to be treated as, or having been during a specified

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period, the equivalent of a visa referred to in sub-subparagraph (A) or a return endorsement during that period; or

(ii) a person included in a class of persons declared by the regulations to be, or to have been during a specified period, permanent residents for the purposes of this Act, being persons who have, or have had, an association with a prescribed Territory.

(2) The Minister may, by instrument in writing, declare that persons included in a specified class of persons, being persons (other than Australian citizens) who:

(a) if an event of the kind referred to in paragraph 8(3)(d) of the *Migration Act 1958*, as in force from time to time before 2 April 1984, had occurred, would have become prohibited immigrants by virtue of subsection 8(3) of that Act as so in force;

(b) if an event of the kind referred to in paragraph 8(3)(d) of the *Migration Act 1958*, as in force from time to time on or after 2 April 1984 but before the prescribed date, had occurred, would have become prohibited non-citizens by virtue of subsection 8(3) of that Act as so in force; or

(c) if an event of the kind referred to in paragraph 9(e) of the *Migration Act 1958*, as in force from time to time on or after the prescribed date but before 1 September 1994, had occurred, would have become illegal entrants because of subsection 14(4) of that Act as so in force; or

(d) are the holders of special category visas or special purpose visas; or

(e) are, or have been, the holders of special category visas and who are either:

(i) ordinarily resident in Australia; or

(ii) the spouse, widow or widower of an Australian citizen;

shall be taken to be, or to have been during a specified period, persons to whom this subsection applies.

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(3) Regulations made by virtue of subsection (1) or a declaration under subsection (2) may be expressed to relate to a period commencing on a date earlier than the date on which those regulations were made or that declaration was made.

(4) A copy of an instrument under subsection (2) shall be published in the *Gazette*.

(5) Notwithstanding the preceding provisions of this section, where a person who has travelled to Australia by virtue of a statutory visitor's visa has entered into Australia, the person shall not be taken by virtue of this section to be a permanent resident for the purposes of this Act at any time when:

(a) the relevant certificate issued under that section is in force; and

(b) the person is not the holder of a valid permanent entry permit.

(5A) In spite of anything in this section, if a person who has travelled to Australia by virtue of a criminal justice visa has entered Australia, the person is not to be taken, under this section, to be a permanent resident for the purpose of this Act at any time when:

(a) the criminal justice visa is in effect; and

(b) the person is not the holder of a permanent visa.

(6) In this section:

criminal justice visa has the same meaning as in the *Migration Act 1958*.

statutory visitor's visa means:

(a) a visa granted before the prescribed date under section 11AB of the *Migration Act 1958* as in force from time to time before the prescribed date; or

(b) a visa granted on or after the prescribed date under section 51 of the *Migration Act 1958* as in force from time to time on or after the prescribed date and before 1 September 1994.

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6 Extension of Act to Territories

This Act shall extend to the Territories.

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Part III—Australian Citizenship

Division 1—Citizenship by Birth, Adoption or Descent

10 Citizenship by birth

(1) Subject to this section, a person born in Australia after the commencement of this Act shall be an Australian citizen.

(2) Subject to subsection (3), a person born in Australia after the commencement of the *Australian Citizenship Amendment Act 1986* shall be an Australian citizen by virtue of that birth if and only if:

(a) a parent of the person was, at the time of the person's birth, an Australian citizen or a permanent resident; or

(b) the person has, throughout the period of 10 years commencing on the day on which the person was born, been ordinarily resident in Australia.

(3) Subject to subsection (5), a person shall not be an Australian citizen by virtue of this section if, at the time of the person's birth, a parent of the person was an enemy alien and the birth occurred in a place then under occupation by the enemy.

(5) Subsection (3) does not apply in relation to a person if, at the time of the person's birth, a parent of the person:

(a) was an Australian citizen or a permanent resident; and

(b) was not an enemy alien.

(6) A reference in this section to a permanent resident does not include a reference to a person who is, for the purposes of the *Migration Act 1958*, an exempt non-citizen.

10A Citizenship by adoption

A person, not being an Australian citizen, who:

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(a) under a law in force in a State or Territory, is adopted by an Australian citizen or jointly by 2 persons at least one of whom is an Australian citizen; and

(b) at the time of the person's adoption is present in Australia as a permanent resident;

shall be an Australian citizen.

10B Citizenship by descent

(1) A person born outside Australia (in this subsection referred to as the ***relevant person***) is an Australian citizen if:

(a) the name of the relevant person is registered for the purposes of this section at an Australian consulate, and the registration is the result of an application made within 25 years of the person's birth to register the person's name for those purposes; and

(b) a person, being a parent of the relevant person at the time of the birth of the relevant person:

(i) was at that time an Australian citizen who had acquired Australian citizenship otherwise than by descent; or

(ii) was:

(A) at that time an Australian citizen who had acquired Australian citizenship by descent; and

(B) at any time before the registration of the name of the relevant person (including a time before the birth of the relevant person), present in Australia, otherwise than as a prohibited immigrant, as a prohibited non-citizen, as an illegal entrant, as an unlawful non-citizen, or in contravention of a law of a prescribed Territory, for a period of, or for periods amounting in the aggregate to, not less than 2 years.

Note: for the meaning of acquiring Australian citizenship by descent, see subsection (5).

(1A) If the relevant person referred to in subsection (1) has attained the age of 18 years, the name of the relevant person must not be

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registered for the purposes of this section unless the Minister is satisfied that the relevant person is of good character.

(2) Where, at the time of the birth of a child (in this subsection referred to as the ***relevant child***), one of the parents of the relevant child was not an Australian citizen, the name of the relevant child shall not be registered for the purposes of this section at an Australian consulate unless the person applying to register the name declares in writing to the person to whom the application is made, or otherwise satisfies that person, that:

(a) at least one person who is, at the time of the application, a responsible parent of the relevant child, was, at the time of the birth of the relevant child:

(i) a parent of the relevant child; and

(ii) an Australian citizen; or

(b) a person who was, at the time of the birth of the relevant child:

(i) a parent of the relevant child; and

(ii) an Australian citizen;

is dead.

(3) The validity of the registration at an Australian consulate of the name of a person is not affected by a failure to comply with subsection (2) in relation to that registration.

(4) A person born outside Australia is an Australian citizen if, before the commencement of the *Australian Citizenship Amendment Act 1990*:

(a) an application was made to register the person's name at an Australian consulate for the purposes of this section before the person turned 18; and

(b) the person's name was so registered even though the person had turned 18 at the time of registration.

(5) For the purposes of this section, a person acquires Australian citizenship by descent if the person acquires Australian citizenship under:

(a) this section; or

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(b) section 10C; or
(c) section 11 of this Act as in force at any time before or after the commencement of this section.

10C Citizenship by descent for a person aged 18 or over on 15 January 1992

(1) A person who is registered under this section is an Australian citizen.

(2) A person may apply to the Minister to be registered under this section.

(3) The application must be in accordance with the approved form.

(4) The Minister must register, in the prescribed manner, an applicant for registration under this section if:
(a) a natural parent of the applicant was an Australian citizen at the time of the birth of the applicant; and
(b) that parent:
(i) is an Australian citizen at the time an application under this section is made; or
(ii) is dead and at the time of his or her death was an Australian citizen; and
(c) the applicant:
(i) was born outside Australia on or after 26 January 1949; and
(ii) is aged 18 years or over on the day on which this section commences; and
(iii) failed for an acceptable reason to become registered as an Australian citizen under:
(A) section 10B; or
(B) section 11 of this Act as in force at any time before the commencement of section 10B; and
(d) the Minister is satisfied that the applicant is of good character.

Note: ***acceptable reason*** is defined in subsection (5).

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(5) For the purposes of subparagraph (4)(c)(iii), an applicant has an acceptable reason if and only if:

(a) an Australian passport has been issued to the applicant; or

(b) the applicant's name has been on an Electoral Roll under the *Commonwealth Electoral Act 1918*; or

(c) the applicant was unaware of the requirement of registration for the purposes of obtaining Australian citizenship by descent under section 10B or under section 11 of this Act as in force at any time before the commencement of section 10B; or

(d) the applicant has a reason for failing to become registered that is declared by the regulations to be an acceptable reason for the purposes of this section.

(6) If the Minister decides not to register an applicant under this section, the Minister must inform the applicant of that decision by written notice served personally, by post or by an electronic communication.

(7) A notice served on an applicant under subsection (6) must include:

(a) reasons for the decision; and

(b) notification of the applicant's entitlement to apply for review of the decision under section 52A.

11 Citizenship by descent through mother

(1) A person born outside Australia or New Guinea before 26 January 1949 may, within 5 years after the commencement of this section, apply to the Minister for his or her registration under this section as an Australian citizen if the person's natural mother became an Australian citizen on 26 January 1949 and, before that day:

(a) was born in Australia or New Guinea; or

(b) was naturalised in Australia.

(2) The application may include any natural child of the applicant, regardless of the child's age.

(2A) The application must be in accordance with the approved form.

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(3) The Minister must register, in the prescribed manner, the applicant as an Australian citizen where the Minister is satisfied that the applicant:

(a) was present in Australia for any time before 1 May 1987; and

(b) is of good character.

(4) The applicant, and any natural child of the applicant included in the application, becomes an Australian citizen on the day on which the applicant is registered as an Australian citizen.

(5) If the Minister makes a decision under subsection (3) and the applicant is not to be registered as an Australian citizen, the Minister must cause to be served on the applicant a notice in writing setting out that decision. The notice may be served personally, by post or by an electronic communication.

(6) A notice served on an applicant under subsection (5) must include:

(a) reasons for the decision; and

(b) notification of the applicant's entitlement to apply for review of the decision under section 52A.

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Division 2—Grant of Australian Citizenship

12 Application of Division

This Division does not apply to a person who is an Australian citizen.

13 Grant of Australian citizenship

(1) Subject to this section, the Minister may, in the Minister's discretion, upon application in accordance with the approved form, grant a certificate of Australian citizenship to a person who satisfies the Minister that:

(a) the person is a permanent resident;

(b) the person has attained the age of 18 years;

(c) the person understands the nature of the application;

(d) the person has been present in Australia as a permanent resident for a period of, or for periods amounting in the aggregate to, not less than one year during the period of 2 years immediately preceding the date of the furnishing of the application;

(e) the person has been present in Australia as a permanent resident for a period of, or for periods amounting in the aggregate to, not less than 2 years during the period of 5 years immediately preceding the date of the furnishing of the application;

(f) the person is of good character;

(g) the person possesses a basic knowledge of the English language;

(h) the person has an adequate knowledge of the responsibilities and privileges of Australian citizenship; and

(j) if granted a certificate of Australian citizenship, the person is likely to reside, or to continue to reside, in Australia, or to maintain a close and continuing association with Australia.

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(1A) The Minister shall not grant a certificate of Australian citizenship to a person under subsection (1) at a time when the person is not present in Australia unless:

(a) the person is a permanent resident; and

(b) the Minister considers that the person is engaged in activities outside Australia that are beneficial to the interests of Australia.

(2) Where, by reason of a physical or mental incapacity, not being a temporary incapacity, an applicant under subsection (1) is not capable of understanding the nature of that application, paragraphs (1)(c), (g) and (h) do not apply in relation to that person.

(3) Paragraphs (1)(d) and (e) do not apply in relation to:

(a) a person who has completed not less than 3 months' relevant defence service; or

(b) a person who has been discharged from relevant defence service, before completing 3 months of that service, as medically unfit for service or further service and who became medically unfit by reason of the person's relevant defence service.

(3A) Paragraphs (1)(d) and (e) do not apply in relation to:

(a) a person who has completed full-time service as a member of an Australian reserve force for a period of, or for periods amounting in the aggregate to, not less than 6 months; or

(b) a person who:

(i) has been discharged from service as a member of an Australian reserve force before completing full-time service as such a member for a period of, or for periods amounting in the aggregate to, 6 months; and

(ii) was so discharged as medically unfit for service or further service; and

(iii) was so discharged while undertaking full-time service as a member of the reserve force; and

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(iv) became medically unfit for service because of the person's service as a member of the reserve force.

(4) For the purposes of the application of subsection (1) in relation to an applicant for the grant of a certificate of Australian citizenship:

(a) the Minister shall not take into account, as a period during which the applicant has been present in Australia as a permanent resident, any period during which the applicant has been confined in a prison or has been confined in a psychiatric institution by order of a court made in connection with criminal proceedings against the person; and

(b) subject to paragraph (a), the Minister may, in the Minister's discretion:

(i) treat a period during which the applicant:

(A) was a permanent resident;

(B) was not present in Australia; and

(C) was engaged in activities that the Minister considers beneficial to the interests of Australia;

as a period during which the applicant was present in Australia as a permanent resident;

(ii) treat a period ending before the period of 5 years referred to in paragraph (1)(e), being a period during which the applicant was present in Australia as a permanent resident, as a period within that period of 5 years;

(iv) if the Minister considers that the applicant would suffer significant hardship or disadvantage if a certificate of Australian citizenship were not granted to the applicant—treat a period during which the applicant was present in Australia otherwise than as a prohibited immigrant, as a prohibited non-citizen, as an illegal entrant, as an unlawful non-citizen, or in contravention of a law of a prescribed Territory, as a period during which the applicant was present in Australia as a permanent resident; or

(v) if the Minister considers that an applicant who is a permanent resident was, by reason of an administrative

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error, not a permanent resident during a period during which the person was present in Australia—treat the period as a period during which the applicant was present in Australia as a permanent resident.

(5) Paragraph (1)(e) does not apply in relation to a person who was formerly an Australian citizen or who was born in Australia.

(6) Paragraphs (1)(g) and (h) do not apply in relation to a person who satisfies the Minister that the person is suffering (otherwise than temporarily) from a loss, or from a substantial impairment, of hearing, speech or sight.

(7) Paragraph (1)(g) does not apply to a person who has attained the age of 50 years.

(8) Paragraph (1)(h) does not apply to a person who has attained the age of 60 years.

(9) Subject to subsection (11), the Minister may, in the Minister's discretion, upon application in accordance with the approved form, grant a certificate of Australian citizenship to a person:

(a) who has not attained the age of 18 years;

(b) who:

(i) has attained the age of 18 years; and

(ii) has made the application before attaining that age;

(c) who is a permanent resident and is the spouse, widow or widower of an Australian citizen; or

(d) who:

(i) has attained the age of 16 years; and

(ii) is a permanent resident and the spouse of a person who has been granted a certificate of Australian citizenship but has not yet acquired Australian citizenship by virtue of the operation of section 15.

(9A) Subsection (9) does not apply to a person to whom subsection 5A(5) applies.

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(9B) Subject to subsection (11), the Minister may, in the Minister's discretion, on application in accordance with the approved form, grant a certificate of Australian citizenship to a child if:

(a) the child was under 16 at the time of the application; and

(b) the application is set out in the same document as an application made under subsection (1) by a responsible parent of the child for the grant of a certificate of Australian citizenship to the responsible parent.

(9C) The same form may be approved for the purposes of subsections (1) and (9B).

(9D) An application under subsection (9B) may be set out in the same document as an application under subsection (1) if the applicant under subsection (1) is a responsible parent of the applicant under subsection (9B).

(9E) Subject to subsection (11), the Minister may, in the Minister's discretion, on application in accordance with the approved form, grant a certificate of Australian citizenship to a child if, at the time of the application:

(a) the child was under 16; and

(b) a responsible parent of the child is an Australian citizen because of the operation of section 15.

(11) The Minister shall not grant a certificate of Australian citizenship to a person under subsection (1), (9), (9B) or (9E):

(a) during any period during which proceedings for an offence against a law of the Commonwealth, a State or a Territory (including proceedings by way of appeal or review) are pending in relation to the person; or

(b) during any period during which the person is confined to a prison in Australia; or

(c) during the period of 2 years after the expiration of any period during which the person has been confined in a prison in Australia by reason of the imposition on the person of:

(i) a sentence of death that has been commuted to a sentence of imprisonment; or

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(ii) a sentence of imprisonment for life or for a period of not less than 12 months; or

(ca) if the person is a serious repeat offender in relation to a sentence of imprisonment (within the meaning of subsection (11A))—during the period of 10 years after the end of any period during which the person has been confined in a prison in Australia because of the imposition on the person of that sentence; or

(d) if the person has been released from serving the whole or a part of a sentence of imprisonment on parole or upon licence to be at large—during any period during which action can be taken in respect of the person under a law of the Commonwealth, a State or a Territory by way of requiring the person to serve the whole of that sentence, or the whole or a part of the remainder of that sentence, as the case requires; or

(e) if the person has been released by a court from serving the whole or a part of a sentence of imprisonment upon the person's giving a relevant security—during any period during which action can be taken in respect of the person under a law of the Commonwealth, a State or a Territory by reason of a breach of a condition of that security; or

(f) during any period during which the person is confined in a psychiatric institution by order of a court made in connection with proceedings of the kind referred to in paragraph (a) in relation to the person; or

(g) if the person has ceased to be an Australian citizen—during the period of 12 months commencing on the day on which the person ceased, or last ceased, to be an Australian citizen.

(11A) For the purposes of paragraph (11)(ca), if:

(a) a serious prison sentence was imposed on a person; and

(b) the person was confined in a prison in Australia because of the imposition of that sentence; and

(c) another serious prison sentence was imposed on the person in relation to an offence committed by the person at a time after

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the person ceased to be confined in prison because of the imposition of the sentence mentioned in paragraph (a);

the person is a ***serious repeat offender*** in relation to the other sentence. For this purpose, a ***serious prison sentence*** is:

(d) a sentence of imprisonment for life; or

(e) a sentence of imprisonment for a period of not less than 12 months.

(12) Where the Minister makes a decision under this section refusing an application and the applicant is present in Australia, the Minister shall cause to be served on the applicant a notice in writing setting out that decision. The notice may be served personally, by post or by an electronic communication.

(13) Nothing in paragraph (4)(a) or subsection (11) shall be taken, by implication, to limit the generality of paragraph (1)(f).

(16) A reference in paragraph (4)(a) or (11)(c) to a period during which a person has been confined in a prison does not include a reference to a period during which the person has been so confined by reason only of the person's serving a sentence relating to a conviction that has subsequently been quashed.

(17) In paragraph (11)(e), ***relevant security*** means a security given by a person, with or without sureties, by recognizance or otherwise, that the person will comply with conditions relating to the person's behaviour.

14 Deferral of consideration of application under section 13

(1) Subject to subsection (2), where:

(a) an application is made to the Minister under section 13; and

(b) it appears to the Minister at a particular time that:

(i) if the Minister were to complete consideration of the application at that time, the Minister would be likely to refuse the application (otherwise than by reason of the operation of paragraph 13(1)(d) or (e)); and

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(ii) having regard to the effluxion of time, or to the likelihood of a change in circumstances, the Minister would be likely to grant the application if consideration of the application were deferred for such period as the Minister determines;

the Minister may, in the Minister's discretion, defer consideration of the application until the expiration of that period.

(2) The Minister shall not defer consideration of an application made under section 13 for a period that exceeds, or for periods that, in the aggregate, exceed, 12 months.

(3) Where, in accordance with subsection (1), the Minister decides to defer consideration of an application until the expiration of a period:

(a) if the applicant is present in Australia, the Minister shall cause to be served on the applicant a notice in writing setting out that decision; and

(b) section 13 and subsection (1) of this section apply in relation to the application as if it had been furnished immediately before the expiration of that period.

A notice under paragraph (a) may be served personally, by post or by an electronic communication.

(4) Nothing in this section prevents:

(a) an applicant under section 13 from withdrawing the application; or

(b) a person whose application under section 13 has been refused from making a further application or applications under that section.

14A Deferral of consideration of application under section 13—visa liable to cancellation

(1) If:

(a) an application is made to the Minister under section 13; and

(b) it appears to the Minister that:

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(i) a visa held by the applicant may be cancelled under a provision of the *Migration Act 1958* (whether or not the person has been given any notice to that effect); or

(ii) the person has been charged, or may be charged, with an offence under a law of the Commonwealth, a State or a Territory;

the Minister may defer consideration of the application until the end of a period determined by the Minister. (2) The Minister must not defer consideration of an application for a period that exceeds, or for periods that in total exceed, 12 months.

(3) If:

(a) the Minister decides to defer consideration of an application; and

(b) the applicant is present in Australia;

the Minister must give the applicant written notice setting out the decision. The notice may be served personally, by post or by an electronic communication.

(4) If the Minister decides to defer consideration of an application, section 13 and subsection (1) of this section apply in relation to the application as if it had been furnished immediately before the end of that period.

(5) Nothing in this section prevents:

(a) an applicant from withdrawing the application; or

(b) a person whose application under section 13 has been refused from making a further application or applications under that section.

14B Revocation of grant of certificate of Australian citizenship before conferral of citizenship

(1) If:

(a) a certificate of Australian citizenship has been granted to a person under this Division after the commencement of this section; and

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(b) the person has not become an Australian citizen under section 15; and

(c) either:

(i) if it were assumed that the certificate had not been granted and the person were to make a fresh application for the certificate, the Minister would be required to make a decision under section 13 refusing the application; or

(ii) the person has failed to make a pledge of commitment within 12 months after the day on which the person was notified of the Minister's decision under section 13 to grant the certificate, and the person does not have an acceptable reason for the failure;

the Minister may, in the Minister's discretion, revoke the grant of the certificate.

(2) For the purposes of the application of subparagraph (1)(c)(i) to a person to whom a certificate of Australian citizenship has been granted as a result of an application under subsection 13(1) (the ***actual application***):

(a) paragraphs 13(1)(d) and (e) and subsection 13(4) apply as if the date of the furnishing of the fresh application were the same as the date of the furnishing of the actual application; and

(b) the remaining provisions of section 13 apply as if the fresh application had been made on the day before the day on which the Minister makes a decision under subsection (1) of this section whether to revoke the grant of the certificate.

(3) For the purposes of the application of subparagraph (1)(c)(i) to a person to whom a certificate of Australian citizenship has been granted as a result of an application under subsection 13(9) (the ***actual application***):

(a) paragraph 13(9)(b) applies as if the fresh application were made on the same day as the actual application; and

(b) the remaining provisions of section 13 apply as if the fresh application had been made on the day before the day on

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which the Minister makes a decision under subsection (1) of this section whether to revoke the grant of the certificate.

(4) For the purposes of subparagraph (1)(c)(ii), a reason is an ***acceptable reason*** if, and only if, the reason is declared by the regulations to be an acceptable reason for the purposes of this section.

(5) If the Minister revokes the grant of a certificate, the Minister must give the person concerned a written notice of the revocation. The notice may be served personally, by post or by an electronic communication.

(6) If the Minister revokes the grant of a certificate (whether or not notice has been given under subsection (5)), the person concerned is taken not to be a person to whom a certificate of Australian citizenship has been granted under this Division.

14C Deferral of conferral of Australian citizenship

(1) If:

(a) a certificate of Australian citizenship has been granted to a person under this Division after the commencement of this section; and

(b) the person has not become an Australian citizen under section 15; and

(c) it appears to the Minister that:

(i) a visa held by the person may be cancelled under a provision of the *Migration Act 1958* (whether or not the person has been given any notice to that effect); or

(ii) the person has been charged, or may be charged, with an offence under a law of the Commonwealth, a State or a Territory;

the Minister may, in the Minister's discretion, defer the conferral of Australian citizenship on the person until the end of a period determined by the Minister.

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(2) The Minister must not defer the conferral of Australian citizenship on a person for a period that exceeds, or for periods that in total exceed, 12 months.

(3) If:

(a) the Minister decides to defer the conferral of Australian citizenship on a person; and

(b) the person is present in Australia;

the Minister must give the person a written notice setting out the decision. The notice may be served personally, by post or by an electronic communication.

(4) If the Minister decides to defer the conferral of Australian citizenship on a person until the end of a particular period, the person must not make a pledge of commitment before the end of that period.

15 Effect of grant of certificate of Australian citizenship

(1) A person to whom a certificate of Australian citizenship has been granted under this Division (other than subsection 13(9B) or (9E)) shall be an Australian citizen:

(a) in the case of a person:

(i) who, at any time after lodging an application for a certificate of Australian citizenship (including a time after the grant of the certificate), makes a pledge of commitment in the manner provided by this section and in accordance with either of the forms set out in Schedule 2; and

(ii) to whom paragraph (b) does not apply:

on and after the day on which the certificate is granted or on which the person makes such a pledge of commitment, whichever last occurs; or

(b) in the case of a person:

(i) who has not attained the age of 16 years; or

(ii) to whom subsection 13(2) applies:

on and after the day on which the certificate is granted.

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(2) A pledge of commitment shall:

(a) be made before any of the following persons:

(i) the Minister;

(ii) a Judge of a federal court (other than the Federal Magistrates Court), being a Judge who is an Australian citizen;

(iia) a Federal Magistrate who is an Australian citizen;

(iii) a Judge or Magistrate holding office under a law of a State or Territory, being a Judge or Magistrate who is an Australian citizen;

(iv) a person, or a person included in a class of persons, approved in writing by the Minister for the purposes of this subparagraph, being a person who is an Australian citizen; and

(b) if the Minister has made arrangements under section 41 for it to be made in public, be made in accordance with those arrangements unless the Minister otherwise permits in writing.

(3) A person who has been granted a certificate of Australian citizenship under subsection 13(9) by virtue of being the spouse of a person referred to in subparagraph 13(9)(d)(ii) shall not make a pledge of commitment before the last-mentioned person has made such a pledge.

(4A) The validity of an acquisition of Australian citizenship is not affected by reason only that a pledge of commitment was not made before an Australian citizen.

(5) A reference in subsection (1) to a person to whom a certificate of Australian citizenship has been granted under this Division shall be read as including a reference to a person to whom a certificate of Australian citizenship has been granted under section 15 of the *Citizenship Act 1948* or of that Act as amended but who was not an Australian citizen immediately before the commencement of this section.

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(6) A person to whom a certificate of Australian citizenship has been granted under subsection 13(9B) is an Australian citizen on and after:

(a) the day on which the responsible parent mentioned in that subsection becomes an Australian citizen under section 15; or

(b) if the certificate is granted after the responsible parent becomes an Australian citizen under section 15—the day on which the certificate is granted.

(7) A person to whom a certificate of Australian citizenship has been granted under subsection 13(9E) is an Australian citizen on and after the day on which the certificate is granted.

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Division 4—Loss of Citizenship

18 Renunciation of citizenship

(1) Where a person is an Australian citizen and:

(a) has attained the age of 18 years and is a national or citizen of a foreign country; or

(b) was born, or is ordinarily resident, in a foreign country and is not entitled, under the law of that country, to acquire the nationality or citizenship of that country by reason that the person is an Australian citizen;

the person may lodge with the Minister a declaration in the prescribed form renouncing the person's Australian citizenship.

(4) Subject to subsections (5), (5A) and (6), the Minister shall register a declaration made under this section and thereupon the person making the declaration shall cease to be an Australian citizen.

(5) Where, during a war in which Australia is engaged, a declaration is made under this section by a person who is a national or citizen of a foreign country, the Minister may refuse to register the declaration.

(5A) The Minister shall not register a declaration made under this section if the Minister considers that it would not be in the interests of Australia to do so.

(6) The Minister shall not register a declaration made under this section unless the Minister is satisfied that the person who made the declaration:

(a) is a national or citizen of a foreign country; or

(b) will, if the declaration is registered, become a national or citizen of such a country immediately after the registration.

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19 Loss of citizenship by reason of service in armed forces of an enemy country

An Australian citizen who, under the law of a foreign country, is a national or citizen of that country and serves in the armed forces of a country at war with Australia shall, upon commencing so to serve, cease to be an Australian citizen.

21 Deprivation of citizenship

(1) Where:

(a) a person who is an Australian citizen by virtue of a certificate of Australian citizenship:

(i) has been convicted of an offence against section 50 in relation to the application for the certificate of Australian citizenship; or

(ii) has, at any time after furnishing the application for the certificate of Australian citizenship (including a time after the grant of the certificate), been convicted of an offence against a law in force in a foreign country or against a law of the Commonwealth, a State or Territory for which the person has been sentenced to death or to imprisonment for life or for a period of not less than 12 months, being an offence committed at any time before the grant of the certificate (including a time before the furnishing of the application); or

(iii) in respect of a person who was granted the certificate of Australian citizenship as a result of an application for the certificate made after the commencement of this subparagraph—obtained the certificate as a result of migration-related fraud; and

(b) the Minister is satisfied that it would be contrary to the public interest for the person to continue to be an Australian citizen;

the Minister may, in the Minister's discretion, by order, deprive the person of his or her Australian citizenship, and the person shall, upon the making of the order, cease to be an Australian citizen.

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Note: If a person is convicted of a "people smuggling" offence against section 232A, 233 or 233A of the *Migration Act 1958*, and is sentenced to imprisonment for a period of not less than 12 months, the person may be liable to deprivation of citizenship—see subparagraph (1)(a)(ii) of this section.

(1A) For the purposes of subparagraph (1)(a)(iii), a person is taken to have obtained a certificate of Australian citizenship as a result of migration-related fraud if, and only if:

(a) at any time (including a time after the grant of the certificate) the person was convicted of an offence against section 234, 236, 243 or 244 of the *Migration Act 1958*, or section 134.1, 134.2, 135.1, 135.2, 135.4 or 136.1 of the *Criminal Code*, that was committed at any time before the grant of the certificate (including a time before the making of the application); and

(b) the act or omission that constituted the offence was connected with the person's entry into Australia or the grant to the person of a visa or of a permission to enter and remain in Australia.

(1B) Subsection (1A) does not apply to a person in respect of an offence if the Minister is satisfied that the act or omission that constituted that offence was not in any way (whether directly or indirectly) material to the person becoming a permanent resident.

(2) A reference in subsection (1) to a conviction of an offence includes a reference to the making of an order under subsection 19B(1) of the *Crimes Act 1914* or the corresponding provision of a law in force in a foreign country or of a law of a State or Territory in relation to the offence.

(3) Where the Minister makes an order under subsection (1) depriving a person of Australian citizenship, the Minister shall, if the person is present in Australia, cause to be served on the person a copy of that order. The copy of that order may be served personally, by post or by an electronic communication.

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23 Children of persons who lose or are deprived of citizenship

(1) Subject to subsection (3), where:

(a) a responsible parent of a child, being a child who has not attained the age of 18 years, ceases to be an Australian citizen under section 18 or 19; and

(b) that child is, under the law of a foreign country, a national or citizen of that country immediately after the time when that responsible parent ceases to be an Australian citizen;

that child shall cease to be an Australian citizen from that time.

(2) Subject to subsection (3), where a person is deprived of Australian citizenship under section 21, the Minister may, in the Minister's discretion, by order, direct that all or any of the children of whom that person is a responsible parent and who have not attained the age of 18 years shall cease to be Australian citizens, and the children in respect of whom the order is made shall, upon the making of the order, cease to be Australian citizens.

(3) Where, but for this subsection:

(a) a child would cease to be an Australian citizen under subsection (1) as a consequence of a responsible parent of the child ceasing to be an Australian citizen; or

(b) the Minister would be empowered under subsection (2) to direct that a child should cease to be an Australian citizen as a consequence of a responsible parent of the child being deprived of Australian citizenship;

and at the time the child would cease to be an Australian citizen or the Minister would become so empowered, as the case may be, another responsible parent of the child is an Australian citizen, subsection (1) or (2), as the case may be, does not apply in relation to the child:

(c) until there ceases to be a responsible parent of the child (whether or not that other responsible parent), being a responsible parent who is an Australian citizen; or

(d) if the cessation referred to in paragraph (c) is by reason of the death of the responsible parent—at any time after that death.

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(4) Where the Minister makes an order under subsection (2) directing that all or any of the children of a person shall cease to be Australian citizens, the Minister shall, if the person is present in Australia, cause to be served on the person a copy of that order. The copy of that order may be served personally, by post or by an electronic communication.

23AA Persons may resume citizenship lost in certain circumstances

(1) Where:

(a) a person:

(i) has done a voluntary and formal act, other than marriage, by virtue of which the person acquired the nationality or citizenship of a country other than Australia; or

(ii) has done any act or thing:

(A) the sole or dominant purpose of which; and

(B) the effect of which;

was or is to acquire the nationality or citizenship of a foreign country;

being an act or thing that resulted in the person ceasing to be an Australian citizen;

(b) the person furnishes to the Minister a statement, in writing, to the effect that:

(i) if the person had not done the act or thing, the person would have suffered significant hardship or detriment; or

(ii) at the time when the person did the act or thing the person did not know that he or she would, as a consequence of doing the act or thing, cease to be an Australian citizen;

and also stating that the person:

(iii) has been present in Australia (otherwise than as a prohibited immigrant, as a prohibited non-citizen, as an illegal entrant, as an unlawful non-citizen, or in contravention of a law of a prescribed territory) for a

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period of, or for periods amounting in the aggregate to, not less than 2 years;

(iv) intends that:

(A) if the person again becomes an Australian citizen and is residing in Australia at the time when the person so becomes an Australian citizen, the person will continue to reside in Australia after so becoming an Australian citizen; or

(B) if the person again becomes an Australian citizen and is not residing in Australia at the time when the person so becomes an Australian citizen, the person will commence to reside in Australia after so becoming an Australian citizen and before the expiration of the period of 3 years commencing on the day on which the statement is made; and

(v) has maintained a close and continuing association with Australia; and

(c) the person furnishes to the Minister together with the statement a declaration in the prescribed form that the person wishes to resume Australian citizenship;

the Minister may, in the Minister's discretion, if the Minister is satisfied:

(d) as to the truth of the matters contained in the statement; and

(e) in a case where the person has claimed that, if the person had not done the act or thing that resulted in the person ceasing to be an Australian citizen, the person would have suffered hardship or detriment of an economic nature—that the person's circumstances were such as to compel the person to do that act or thing; and

(f) that the person is of good character;

register the declaration in the prescribed manner and, upon the registration of the declaration, the person making the declaration again becomes an Australian citizen.

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(2) The Minister may, in the Minister's discretion, upon application in accordance with the approved form, include in a declaration registered under subsection (1), either at the time of registering the declaration or by later amending the declaration, the name of a child:

(a) who has not attained the age of 18 years;

(b) of whom the person who made the declaration is a responsible parent; and

(c) who ceased to be an Australian citizen by reason of the person who made the declaration ceasing to be an Australian citizen;

and, upon the inclusion of the name of the child in the declaration, the child again becomes an Australian citizen.

23AB Persons may resume citizenship lost under section 18

(1) If:

(a) a person has ceased to be an Australian citizen because of section 18 (which deals with renunciation of citizenship); and

(b) the person has not attained the age of 25 years; and

(c) the person gives the Minister a written statement that complies with subsection (2); and

(d) the person gives the Minister, together with the statement, a declaration in the prescribed form that the person wishes to resume Australian citizenship;

the Minister may, in the Minister's discretion, if the Minister is satisfied:

(e) as to the truth of the matters contained in the statement; and

(f) in a case where the person has claimed that, if the person had not renounced his or her Australian citizenship, the person would have suffered hardship or detriment of an economic nature—that the person's circumstances were such as to compel the person to renounce his or her Australian citizenship; and

(g) that the person is of good character;

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register the declaration in the prescribed manner and, on the registration of the declaration, the person making the declaration again becomes an Australian citizen.

(2) A statement made by a person under paragraph (1)(c) complies with this subsection if the statement is to the effect that:

(a) the person renounced his or her Australian citizenship in order to retain the nationality or citizenship of a foreign country; and

(b) if the person had not renounced his or her Australian citizenship, the person would have suffered significant hardship or detriment;

and the statement also states that the person:

(c) has been present in Australia (otherwise than as a prohibited immigrant, as a prohibited non-citizen, as an illegal entrant, as an unlawful non-citizen, or in contravention of a law of a prescribed Territory) for a period of, or for periods amounting in the aggregate to, not less than 2 years; and

(d) intends that:

(i) if the person again becomes an Australian citizen and is residing in Australia at the time when the person so becomes an Australian citizen, the person will continue to reside in Australia after so becoming an Australian citizen; or

(ii) if the person again becomes an Australian citizen and is not residing in Australia at the time when the person so becomes an Australian citizen, the person will begin to reside in Australia after so becoming an Australian citizen and before the end of the period of 3 years beginning on the day on which the statement is made; and

(e) has maintained a close and continuing association with Australia.

(3) The Minister may, in the Minister's discretion, on application in accordance with the approved form, include in a declaration registered under subsection (1), either at the time of registering the

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declaration or by later amending the declaration, the name of a child:

(a) who has not attained the age of 18 years; and

(b) of whom the person who made the declaration is a responsible parent; and

(c) who ceased to be an Australian citizen by reason of the person who made the declaration ceasing to be an Australian citizen;

and, on the inclusion of the name of the child in the declaration, the child again becomes an Australian citizen.

23A Persons may resume citizenship lost under section 20

(1) A person who, under section 20 of the *Nationality and Citizenship Act 1948*, ceased to be an Australian citizen may, within one year after the date of commencement of this section or the date on which the person attains the age of 18 years, whichever is the later, or within such further period as the Minister, in special circumstances, allows, make and furnish to the Secretary or to a person authorized by the Secretary by instrument in writing for the purposes of this section a declaration in accordance with the prescribed form that the person wishes to resume Australian citizenship.

(2) A person to whom a declaration is furnished under subsection (1) shall register the declaration in the prescribed manner and, upon the registration of the declaration, the person making the declaration again becomes an Australian citizen.

23B Persons may resume citizenship lost under section 23

(1) A person who, under section 23, has ceased or ceases to be an Australian citizen may, within one year after attaining the age of 18 years or within such further period as the Minister, in special circumstances, allows, make and furnish to the Secretary or to a person authorized by the Secretary by instrument in writing for the purposes of this section a declaration in accordance with the

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prescribed form that the person wishes to resume Australian citizenship.

(1A) To avoid doubt, the reference in subsection (1) to section 23 includes a reference to section 23 as in force at any time before the repeal of section 17 by the *Australian Citizenship Legislation Amendment Act 2002*.

(2) If:

(a) a person makes a declaration under subsection (1); and

(b) the Minister is satisfied that the person is of good character;

the person to whom the declaration is given must register the declaration in the prescribed manner and, on the registration of the declaration, the person making the declaration again becomes an Australian citizen.

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Division 5—General

23C Statements by Australian citizens as to national status

An Australian citizen who is required to state or declare his or her national status may state or declare himself or herself to be an Australian citizen and his or her statement or declaration to that effect is a sufficient compliance with the requirement.

23D Special provisions to prevent persons being stateless

(1) The Minister shall, upon application made in accordance with the approved form for the grant of Australian citizenship to a person under this subsection and if the Minister is satisfied that the person:

(a) was born in Australia;

(b) is not, and has never been, a citizen of any country; and

(c) is not, and has never been, entitled to acquire the citizenship of a foreign country;

register that person as prescribed as an Australian citizen, and the person is an Australian citizen as from the date upon which the registration is effected.

(1A) Where the Minister is satisfied that a person has or had reasonable prospects, at a particular time, of acquiring the citizenship of a foreign country if the person were to apply, or to have applied, at that time for the grant of such citizenship, the person shall be taken, for the purposes of subsection (1), to be or to have been entitled to acquire the citizenship of that country at that time.

(2) Where the Minister makes a decision under subsection (1) refusing an application and the applicant is present in Australia, the Minister shall cause to be served on the applicant a notice in writing setting out that decision. The notice may be served personally, by post or by an electronic communication.

(3) Where:

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(a) but for this subsection, section 10B would prevent the acquisition of Australian citizenship by a person by reason only of all or any of the following matters:

(i) that more than 25 years have elapsed since the birth of the person;

(ii) that the requirement set out in sub-subparagraph 10B(1)(b)(ii)(B) is not fulfilled by either of the persons who were the parents of the first-mentioned person at the time of his or her birth;

(iii) the operation of subsection 10B(2); and

(b) the first-mentioned person is not, and has never been, a citizen of any country;

then:

(c) the name of the first-mentioned person may be registered for the purposes of section 10B; and

(d) the matter or matters referred to in paragraph (a) does not or do not prevent the acquisition of Australian citizenship by the person under section 10B.

(3A) Where, but for this subsection, a person to whom subparagraph 21(1)(a)(ii) applies would, if the Minister were to make an order under subsection 21(1) in relation to that person, become a person who is not a citizen of any country, subsection 21(1) does not apply in relation to that person.

(4) Subsection 23(2) does not apply in relation to a child who would, if the Minister were to make an order under that subsection in respect of the child, become a person who is not a citizen of any country.

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Part V—Miscellaneous

31 Application to be dealt with only if on approved form and fee paid

The Minister must not consider, or otherwise deal with, an application under this Act unless:

(a) the application is on an approved form and in accordance with the regulations; and

(b) any fee payable in respect of the application is paid.

32 Certificate of registration or naturalization in case of doubt

(1) Notwithstanding anything contained in this Act, the Minister may, in the Minister's discretion, upon application in accordance with the approved form, grant a certificate of Australian citizenship to a person with respect to whose status as an Australian citizen a doubt exists.

(2) Before granting the certificate, the Minister may require that person to comply with such provisions of this Act as the Minister specifies.

(3) A certificate granted under this section shall, unless it is proved that it was obtained by means of fraud, a false representation or the concealment of some material fact, be conclusive evidence that the person was an Australian citizen on the date of the certificate but without prejudice to any evidence that the person was an Australian citizen at an earlier date.

33 Citizenship by incorporation of territory

(1) If any territory becomes a part of Australia, the Governor-General may, by order published in the *Gazette*, declare that the persons included in such classes of persons as are specified in the order

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shall, as from such date as is so specified, become Australian citizens by reason of their connexion with that territory.

(2) A person included in any such class shall, as from the date so specified, become an Australian citizen.

34 Posthumous children

(1) A reference in this Act to the status or description of a parent of a person at the time of the person's birth shall, in the case of a parent who died before the birth of the person, be read as a reference to the status or description of the parent at the time of the parent's death.

(2) Where the death of a parent of a person occurred prior to, and the birth of the person occurred after, the commencement of this section, the status or description that would have been applicable to the parent by virtue of subsection (1) if the parent had died after the commencement of the section shall be deemed to be the status or description applicable to the parent at the time of the death of the parent.

36 Statement in support of application for certificate of Australian citizenship

(1) Subject to this section, an applicant for a certificate of Australian citizenship shall furnish, in support of the application, a statement in accordance with the approved form, setting out:

(a) the applicant's name, address and occupation;

(b) the date and place of the applicant's birth; and

(c) such other matters as are prescribed.

(2) Where a matter required by subsection (1) to be set out in a statement by an applicant is not known to the applicant and cannot reasonably be ascertained by the applicant, that matter shall be taken to be sufficiently set out in the statement if the statement contains such information with respect to that matter as is known to the applicant.

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36A Minister may arrange for use of computer programs to make decisions etc.

(1) The Minister may arrange for the use, under the Minister's control, of computer programs for any purposes for which the Minister may, or must, under this Act or the regulations:

(a) make a decision; or

(b) exercise any power, or comply with any obligation; or

(c) do anything else related to making a decision, exercising a power, or complying with an obligation.

(2) The Minister is taken to have:

(a) made a decision; or

(b) exercised a power, or complied with an obligation; or

(c) done something else related to the making of a decision, the exercise of a power, or the compliance with an obligation;

that was made, exercised, complied with, or done (as the case requires) by the operation of a computer program under an arrangement made under subsection (1).

36B Minister may substitute more favourable decisions for certain computer-based decisions

(1) The Minister may substitute a decision (the ***substituted decision***) for a decision (the ***initial decision***) made by the operation of a computer program under an arrangement made under subsection 36A(1) if:

(a) a certificate under section 46B relates to the computer program and to the initial decision; and

(b) the certificate states that the computer program was not functioning correctly; and

(c) the substituted decision could have been made under the same provision of this Act or the regulations as the initial decision; and

(d) the substituted decision is more favourable to the applicant.

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(2) The Minister does not have a duty to consider whether to exercise the power under subsection (1) in respect of any decision, whether he or she is requested to do so by the applicant or by any other person, or in any other circumstances.

(3) Subsection (1) has effect despite:

(a) any law of the Commonwealth; or

(b) any rule of common law;

to the contrary effect.

37 Delegation

(1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Minister, delegate to a person (including the Secretary) all or any of the Minister's powers under this Act or the regulations, other than this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act or the regulations, be deemed to have been exercised by the Minister.

(3) A delegation under this section does not prevent the exercise of a power by the Minister.

41 Formalities regarding pledge of commitment

The Minister may make arrangements for a pledge of commitment referred to in section 15 to be made in public and to be accompanied by proceedings designed to impress upon applicants the responsibilities and privileges of Australian citizenship.

42 Cancellation of certificates, returns of certificates etc.

The Minister shall:

(a) cancel all certificates of Australian citizenship the holders of which have been deprived of Australian citizenship;

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(b) cause to be made indexes of certificates of Australian citizenship; and

(d) cause to be laid before both Houses of the Parliament as soon as practicable after 30 June in each year a return showing the number of persons who have, in the year ending on that 30 June, become Australian citizens by reason of the grant of certificates of Australian citizenship, their former nationality or citizenship, and the countries in which they ordinarily resided immediately before entering Australia.

43 Evidence of declarations

A declaration made under this Act or under any other Act which was at any time in force in relation to nationality or naturalization may be proved in legal proceedings by the production of a copy of the original declaration certified by the Minister or by a person thereto authorized in writing by the Minister to be a true copy, and the production of the declaration or copy shall be *prima facie* evidence that the person therein named as declarant made the declaration on the date therein mentioned.

44 Evidence of entries in registers

An entry in a register made under this Act or under any other Act which was at any time in force in relation to nationality or naturalization may be proved by a copy certified by the Minister or by a person thereto authorized in writing by the Minister, to be a true copy of the entry, and the copy of the entry shall be *prima facie* evidence of any matters authorized by or under this Act or any other such Act to be inserted in the register.

44A Evidence of Australian citizenship

(1) In this section, unless the contrary intention appears:

authorized officer means an officer authorized by the Secretary to issue certificates under this section.

prescribed evidentiary certificate means:

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(a) a certificate issued under subsection (2); or

(b) a certificate that was issued before the commencement of this section under subsection 11C(3) of the *Citizenship Act 1948* or of that Act as amended.

(2) Where the Secretary is satisfied that a person referred to in section 11B of the *Citizenship Act 1948* had, before the commencement of this section, duly given a notice under section 11C of that Act or of that Act as amended and has not ceased to be an Australian citizen, the Secretary shall, on application by that person, cause an authorized officer to issue to that person an evidentiary certificate in relation to the Australian citizenship of that person.

(3) An evidentiary certificate under this section shall certify that the person specified in the certificate is an Australian citizen.

(4) Where the Secretary is satisfied that a person to whom a prescribed evidentiary certificate has been issued is not an Australian citizen, the Secretary may, by order in writing signed by the Secretary, revoke the certificate.

(5) A prescribed evidentiary certificate is, unless the certificate is shown to have been revoked either before or after the commencement of this section, *prima facie* evidence that the person specified in the certificate is an Australian citizen.

(6) The Secretary shall cancel all prescribed evidentiary certificates that are revoked after the commencement of this section.

(7) An order under subsection (4) may be proved in legal proceedings by the production of a copy of the order together with a certificate signed by an authorized officer certifying the copy to be a true copy.

(8) A prescribed evidentiary certificate, a certificate under subsection 11C(8) of the *Citizenship Act 1948* or of that Act as amended or a certificate referred to in subsection (7) of this section is admissible in evidence in legal proceedings without proof of the

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signature of the person signing it or of the fact that the person signing it was entitled to sign it.

45 Definition of certificate of naturalization for certain purposes

For the purposes of sections 46, 46A, 47, 47A, 48 and 49, ***certificate of Australian citizenship*** includes a certificate of naturalization issued under an Act repealed by this Act or by any other Act or under a State Act or under an Ordinance of a Territory.

46 Issue and proof of certificates of Australian citizenship

(1) A certificate of Australian citizenship granted under this Act may be issued by the Minister or by a person authorized in writing by the Minister to issue such certificates.

(2) A document purporting to be a certificate of Australian citizenship, and purporting to bear the printed or stamped signature of the Minister and to be issued by the Minister or a person by authority of the Minister, shall, unless the contrary is proved, be deemed to be a certificate of Australian citizenship granted under this Act.

46A Evidentiary certificates

(1) Where a person:

(a) applies to the Secretary for an evidentiary certificate in relation to a certificate of Australian citizenship that has at any time been granted to a person specified in the application;

(b) furnishes sufficient information to enable the Secretary to identify the official records relating to the grant of the certificate of Australian citizenship; and

(c) pays the prescribed fee;

the Secretary shall, subject to subsection (1A), cause an authorized officer to issue to the applicant, so far as official records permit, an evidentiary certificate, in accordance with this section, in relation to the certificate of Australian citizenship.

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(1A) An applicant under subsection (1) is not entitled to be issued with an evidentiary certificate in relation to a certificate of Australian citizenship granted to a person specified in the application unless:

(a) the applicant is, or is acting on behalf of:

(i) the person so specified; or

(ii) a person whose name was included in the certificate of Australian citizenship;

(b) the evidentiary certificate is required by the applicant for purposes in connection with the operation of a law in force in a foreign country or a law of the Commonwealth, a State or a Territory, including, but without limiting the generality of the foregoing, purposes in connection with an action or proceeding before a court, tribunal or authority; or

(c) the authorized officer is satisfied that the applicant has some other legitimate reason for requiring the evidentiary certificate.

(2) Subject to subsection (5), an evidentiary certificate under this section shall:

(a) certify that a certificate of Australian citizenship was, on the date and under the law specified in the evidentiary certificate, granted to the person whose name is specified in the evidentiary certificate;

(b) where the name of any other person was included in the certificate of Australian citizenship, certify accordingly;

(c) contain such further particulars as appear from official records to have been contained in the certificate of Australian citizenship, and certify that, according to official records, it appears that the certificate of Australian citizenship included those particulars;

(d) where it is appropriate to do so, certify that official records show that the person to whom a certificate of Australian citizenship was granted duly took an oath, or made an affirmation, of allegiance, on a specified date, in accordance with the law under which that certificate was granted; and

(e) if it is appropriate to do so, certify that official records show that the person to whom a certificate of Australian citizenship

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was granted duly made a pledge of commitment on a specified date in accordance with the law under which that certificate was granted.

(3) An authorized officer may include in an evidentiary certificate issued under this section a statement, in accordance with official records, relating to any amendment or cancellation of the certificate of Australian citizenship, or the making or registration of any order or declaration, either under this Act or a previous law of the Commonwealth, affecting the nationality or citizenship of a person referred to in the certificate of Australian citizenship.

(4) An evidentiary certificate under this section is *prima facie* evidence:

(a) of the matters certified in accordance with paragraphs (2)(a) and (b);

(b) of the fact that the particulars set out in accordance with paragraph (2)(c) were contained in the certificate of Australian citizenship;

(c) of any matter certified in accordance with paragraph (2)(d) and of the correctness of the official records relating to the oath or affirmation;

(ca) of any matter certified in accordance with paragraph (2)(e) and of the correctness of the official records relating to the pledge of commitment; and

(d) of any matter stated in the certificate in accordance with subsection (3).

(5) Particulars referred to in paragraph (2)(c), other than particulars relating to the former nationality or citizenship of the person to whom the certificate of Australian citizenship was granted, shall not be included in an evidentiary certificate under this section unless the authorized officer is satisfied that:

(a) the evidentiary certificate is required by the person to whom the certificate of Australian citizenship was granted, or a person whose name was included in the certificate of Australian citizenship;

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(b) the evidentiary certificate is required for the purpose of pending legal proceedings in which evidence of the grant of the certificate of Australian citizenship will be relevant and the inclusion of those particulars is necessary for the purpose of those proceedings; or

(c) there are other special circumstances that justify the inclusion of those particulars.

(6) An order under this Act may be proved in legal proceedings by the production of a copy of the order, together with a certificate signed by an authorized officer certifying the copy to be a true copy.

(7) An evidentiary certificate under this section or a certificate under subsection (6) is admissible in evidence in legal proceedings without proof of the signature of the person signing it or of the fact that he or she was an authorized officer.

(8) In this section, ***authorized officer*** means an officer authorized, in writing, by the Secretary to issue certificates under this section.

46B Evidence of whether computer program is functioning correctly

(1) In citizenship proceedings, a certificate signed by an officer stating whether or not a specified computer program was functioning correctly:

(a) at a specified time or during a specified period; and

(b) in relation to specified outcomes from the operation of that program under an arrangement made under subsection 36A(1);

is prima facie evidence of the matters stated in the certificate.

(2) For the purposes of this section, a computer program is ***functioning correctly*** if:

(a) outcomes from its operation comply with this Act and the regulations; and

(b) those outcomes would be valid if they were made by the Minister otherwise than by the operation of the computer program.

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(3) In this section:

citizenship proceedings means:

(a) proceedings in a court (including criminal proceedings) that relate to this Act (including an offence against this Act); or

(b) proceedings that relate to an application for review under section 52A.

officer means:

(a) an officer of the Department; or

(b) a person authorised in writing by the Minister to issue certificates under this section; or

(c) any person who is included in a class of persons authorised in writing by the Minister to issue certificates under this section, including a person who becomes a member of the class after the authorisation is given.

47 Amendment of certificates

(1) Where the Minister is satisfied that it is desirable for any reason that a certificate of Australian citizenship should be amended, the Minister may amend the certificate.

(2) A certificate that has been amended in pursuance of this section shall be of effect as so amended.

47A Replacement certificates

Where the Minister proposes to amend a certificate of Australian citizenship (in this section referred to as the ***original certificate***) under section 47, not being an amendment including the name of a person in, or omitting the name of a person from, the original certificate, the Minister may, in the Minister's discretion, in lieu of so amending the original certificate, upon surrender of the original certificate to the Minister, grant and issue a further certificate of Australian citizenship (in this section referred to as the ***replacement certificate***) in which that amendment has been incorporated and thereupon the replacement certificate has effect

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for all purposes of this Act as if it had been granted and issued at the same time as the original certificate and the original certificate had not been granted.

48 Surrender of certificates

(1) Where an order is made under this Act depriving a person of Australian citizenship:

(a) if that person is an Australian citizen by virtue of a certificate of Australian citizenship granted to that person—that person shall, upon demand in writing by the Minister, surrender that certificate to the Minister for cancellation; and

(b) if that person is an Australian citizen by reason of the inclusion of his or her name in a certificate of Australian citizenship granted to another person—that other person shall, upon demand in writing by the Minister, surrender that certificate to the Minister to enable the Minister to amend that certificate under section 47.

(2) Where an order is made under subsection 44A(4) revoking an evidentiary certificate issued to a person under section 44A, the person shall, upon demand in writing by the Secretary, surrender the certificate to the Secretary for cancellation.

(3) A person who, without reasonable excuse, contravenes subsection (1) or (2) is guilty of an offence punishable on conviction by a fine not exceeding $1,000.

49 Offence to alter certificate

A person shall not alter, or cause or permit to be altered, a certificate of Australian citizenship.

Penalty: $2,000 or imprisonment for 12 months, or both.

50 False representations etc.

(1) A person shall not, for a purpose of or in relation to this Act:

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(a) make, or cause or permit to be made, a representation or statement that is, to the knowledge of the person, false or misleading in a material particular; or

(b) conceal, or cause or permit to be concealed, a material circumstance.

Penalty: 12 months imprisonment.

52 Provisions of this Act to be exclusive of State laws

The provisions of this Act shall apply to the exclusion of any provisions, providing for Australian citizenship, of any law of a State, whether the law was passed or made before or after the commencement of this section.

52A Review of decisions

(1) Applications may be made to the Administrative Appeals Tribunal for review of the following decisions:

(aaaa) decisions of the Minister under subsection 10B(1A) that the Minister is not satisfied that a person is of good character;

(aaa) decisions of the Minister under section 10C refusing an application for registration;

(aa) decisions of the Minister that the Minister is not satisfied as to the matters referred to in subsection 11(3);

(a) decisions of the Minister under section 13 or subsection 23D(1) refusing an application;

(ab) decisions of the Minister under section 14B revoking the grant of a certificate;

(b) decisions of the Minister under section 18 other than decisions under subsection 18(5);

(c) decisions of the Minister under subsection 21(1) or 23(2) or section 47;

(d) decisions of the Minister, the Secretary, or a person authorized by the Secretary for the purposes of section 23A or 23B, under that section;

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(e) decisions of the Minister under subsection 23AA(1) refusing to register a declaration or under subsection 23AA(2) refusing to include the name of a child in a declaration;

(ea) decisions of the Minister under subsection 23AB(1) refusing to register a declaration or under subsection 23AB(3) refusing to include the name of a child in a declaration;

(f) decisions of the Minister that the Minister is satisfied as to the matters referred to in subsection 23D(1A).

(2) A person is not entitled to make an application under subsection (1) for review of a decision under section 13 (other than paragraph 13(9)(a) or (b)) unless the person is a permanent resident.

(3) In this section, ***decision*** has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

52B Statement to accompany notification of decisions

(1) Where the Minister or a delegate of a Minister makes a decision of the kind referred to in section 52A and gives, or causes to be given, to a person or persons whose interests are affected by the decision notice in writing of the decision, that notice shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975* and to subsection 52A(2) of this Act, application may be made to the Administrative Appeals Tribunal for review of the decision to which the notice relates by or on behalf of a person or persons whose interests are affected by the decision.

(2) Any failure to comply with the requirements of subsection (1) in relation to a decision does not affect the validity of the decision.

53 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to

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be prescribed for carrying out or giving effect to this Act, and, in particular, for or in relation to:

(a) the time within which anything required or authorized to be done under this Act shall be done;

(b) the registration of anything required or authorized under this Act to be registered;

(c) the making of a pledge of commitment for the purposes of this Act;

(d) the giving of any notice which under this Act is required or authorized to be given to any person;

(f) the imposition and recovery of fees in respect of:

(i) any application under this Act;

(ii) any registration, the making of any declaration, the grant of any certificate or the making of a pledge of commitment authorized to be made or granted under this Act; and

(iii) the supplying of a certified or other copy of any declaration, certificate or oath made, granted or taken under this Act;

(fa) the remission, refund or waiver of fees of a kind referred to in paragraph (f) or the exemption of persons from the payment of such fees;

(g) the issue of certificates declaratory of the Australian citizenship of persons who are Australian citizens;

(h) the conditions upon which persons may render, for reward, services in respect of applications under this Act including the charges which may be made in respect of any such service;

(j) the imposition of penalties not exceeding a fine of $1,000 for any offence against the regulations; and

(k) the investing of any court of a State with federal jurisdiction to order reparation for loss suffered by reason of any offence against this Act or the regulations.

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Schedule 2—Pledge of commitment as a citizen of the Commonwealth of Australia

Section 15

FORM OF PLEDGE NO. 1

From this time forward, under God,
I pledge my loyalty to Australia and its people,
whose democratic beliefs I share,
whose rights and liberties I respect, and
whose laws I will uphold and obey.

FORM OF PLEDGE NO. 2

From this time forward,
I pledge my loyalty to Australia and its people,
whose democratic beliefs I share,
whose rights and liberties I respect, and
whose laws I will uphold and obey.

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Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

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Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and "(md not incorp)" is added to the amendment history.

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Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

underlining = whole or part not commenced or to be commenced

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Nationality and Citizenship Act 1948	83, 1948	21 Dec 1948	26 Jan 1949 (s 2 and gaz 1949, p 197)	
Nationality and Citizenship Act 1950	58, 1950	14 Dec 1950	14 Dec 1950 (s 2)	—
Nationality and Citizenship Act 1952	70, 1952	1 Nov 1952	29 Nov 1952	—
Nationality and Citizenship Act 1953	85, 1953	11 Dec 1953	8 Jan 1954	s 7(2)
Nationality and Citizenship Act 1955	1, 1955	11 May 1955	s 8(1): 26 Jan 1949 (s 8(2)) Remainder: 11 May 1955 (s 2)	s 5(2) and 8(2)
Nationality and Citizenship Act 1958	63, 1958	8 Oct 1958	s 9: 1 June 1959 (s 2(2) and gaz 1959 p 1831) Remainder: 8 Oct 1958 (s 2(1))	s 4(2)
Nationality and Citizenship Act 1959	79, 1959	1 Dec 1959	1 Dec 1959 (s 2)	s 4(2)
Nationality and Citizenship Act 1960	82, 1960	13 Dec 1960	13 Dec 1960 (s 2)	—
Nationality and Citizenship Act 1966	11, 1966	6 May 1966	6 May 1966 (s 2)	s 3(2) and 4(2)
Nationality and Citizenship Act 1967	11, 1967	26 Apr 1967	24 May 1967	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Citizenship Act 1969	22, 1969	4 June 1969	s 3, 4(a), 5(a), (b), 6, 15-17 and 21: 20 Feb 1973 (s 2(2) and gaz No 20, 1973) s 4(b), 7, 8, 12(b), 18, 19, 22 and The Sch: 1 May 1970 (s 2(2) and gaz 1970, p 2756) Remainder: 4 June 1969 (s 2(1))	s 16(2), 17(2), (3) and 23
Australian Citizenship Act 1973	99, 1973	17 Sept 1973	s 3(1), 7, 14, 15(2) and 17: 1 June 1974 (s 2(2)) s 22: 17 Sept 1973 Remainder: 1 Dec 1973 (s 2(3) and gaz 1973, No 140)	s 21 and 22
Statute Law Revision Act 1973	216, 1973	19 Dec 1973	Sch 1: 31 Dec 1973	—
as amended by				
Statute Law Revision Act 1974	20, 1974	25 July 1974	Sch 1: 31 Dec 1973	—
Administrative Changes (Consequential Provisions) Act 1976	91, 1976	20 Sept 1976	Sch: 22 Dec 1975 (s 2(7))	—
Statute Law Revision Act 1991	61, 1981	12 June 1981	Sch 1: 12 June 1981 (s 2(1))	—
Statute Law (Miscellaneous Amendments) Act (No. 2) 1982	80, 1982	22 Sept 1982	s 280(2), (3), Sch 12: 22 Sept 1982 (s 2(1))	s 280(2), (3)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Migration (Miscellaneous Amendments) Act 1983	84, 1983	14 Nov 1983	s 4: 2 Apr 1984 (s 2(1))	—
Australian Citizenship Amendment Act 1984	129, 1984	25 Oct 1984	s 3, 4(2), 7, 22, 33, 34 and 37: 1 May 1987 (s 2(2) and gaz 1987 No S68) Remainder: 22 Nov 1984 (s 2(1))	s 26(2) and 39
as amended by				
Statute Law (Miscellaneous Provisions) Act (No. 1) 1985	65, 1985	5 June 1985	Sch 1: 22 Nov 1984 (s 2(6))	—
Statute Law (Miscellaneous Provisions) Act (No. 1) 1985	65, 1985	5 June 1985	Sch 1: 3 July 1985 (s 2(1))	—
Australian Citizenship Amendment Act 1986	70, 1986	24 June 1986	20 Aug 1986 (s 2 and gaz 1986, No S401)	—
Mutual Assistance in Criminal Matters (Consequential Amendments) Act 1987	86, 1987	5 June 1987	Sch: 1 Aug 1988 (s 2(2) and gaz 1988, No S225)	—
Statute Law (Miscellaneous Provisions) Act 1987	141, 1987	18 Dec 1987	s 5(1) and Sch 1: 18 Dec 1987 (s 2(1))	s 5(1)
Migration Legislation Amendment Act 1989	59, 1989	19 June 1989	Sch 6: 19 Dec 1989 (s 2(5))	—
Australian Citizenship Amendment Act 1990	105, 1990	18 Dec 1990	18 June 1991 (s 2(2))	—
Australian Citizenship Amendment Act 1991	195, 1991	18 Dec 1991	15 Jan 1992	—
Australian Citizenship Amendment Act 1993	71, 1993	25 Nov 1993	24 Jan 1994 (s 2)	s 9, 10

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Migration Legislation Amendment Act 1994	60, 1994	9 Apr 1994	Sch 3 (items 1-20): 1 Sep 1994 (s 2(3))	—
Family Law Reform (Consequential Amendments) Act 1995	140, 1995	12 Dec 1995	Sch 1 (items 1, 2): 11 June 1996 (s 2(2))	—
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 2 (item 17): 1 Sep 1994 (s 2(2)) Sch 5 (items 20, 21): 25 Oct 1996 (s 2(1))	—
Migration Legislation Amendment Act (No. 1) 1997	27, 1997	10 Apr 1997	Sch 4 (items 1-5): 10 Apr 1997 (s 2(3))	—
Migration Legislation Amendment Act (No. 1) 1998	113, 1998	11 Dec 1998	Sch 7: 1 Mar 1999 (s 2(2) and gaz 1999, No S51)	Sch 7 (item 3)
Federal Magistrates (Consequential Amendments) Act 1999	194, 1999	23 Dec 1999	Sch 6: 23 Dec 1999 (s 2(1))	—
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000	137, 2000	24 Nov 2000	Sch 2 (items 33, 418 and 419): 24 May 2001 (s 2(3))	Sch 2 (items 418 and 419)
Migration Legislation (Electronic Transactions and Methods of Notification) Act 2001	58, 2001	28 June 2001	Sch 1 (items 1-15) and Sch 2 (items 1 and 2): 10 Aug 2001 (s 2(1) and gaz 2001, No GN31)	—
Migration Legislation Amendment (Application of Criminal Code) Act 2001	97, 2001	22 Aug 2001	s 4 and Sch 2: 19 Sept 2001 (s 2(1))	s 4

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Australian Citizenship Legislation Amendment Act 2002	5, 2002	4 Apr 2002	Sch 1: 4 Apr 2002 (s 2(1) item 1) Sch 2: 1 July 2002 (s 2(2) item 3 and gaz 2002, No GN18)	Sch 1 (item 4) and Sch 2 (items 36-44)
Family Law Amendment (Shared Parental Responsibility) Act 2006	46, 2006	22 May 2006	Schedule 8 (item 1): 1 July 2006 ((s 2(1) item 7)	—

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Endnote 4—Amendment history

Provision affected	How affected
Preamble	ad No 71, 1993
Title	am No 22, 1969; No 129, 1984
Part 1	
s 1	am No 22, 1969; No 99, 1973
s 3	am No 99, 1973
	rep No 216, 1973
	ad No 97, 2001
s 4	rs No 63, 1958;
	am No 22, 1969; No 99, 1973
	rep No 216, 1973
s 5	am No 58, 1950; No 85, 1953; No 63, 1958; No 11, 1966; No 11, 1967; No 22, 1969; No 99, 1973; No 216, 1973 (as am by No 20, 1974); No 91, 1976; No 80, 1982; No 129, 1984; No 70, 1986; No 141, 1987; No 59, 1989; No 60, 1994; No 140, 1995; No 58, 2001; No 5, 2002; No 46, 2006
s 5A	ad No 129, 1984
	am No 70, 1986; No 86, 1987; No 141, 1987; No 59, 1989; No 195, 1991; No 60, 1994
s 6	am No 216, 1973
Part II	rs No 22, 1969
	rep No 129, 1984
s 7	am No 1, 1955; No 63, 1958; No 79, 1959
	rs No 22, 1969
	am No 99, 1973
	rep No 129, 1984
s 8	rs No 22, 1969
	am No 99, 1973; No 129, 1984
	rep No 129, 1984
s 8A	ad No 99, 1973

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Endnote 4—Amendment history

Provision affected	How affected
	rep No 129, 1984
s 9	rs No 22, 1969
	am No 99, 1973; No 129, 1984
	rep No 129, 1984
Part III	
Division 1	
Division 1 heading	am No 129, 1984
s 10	am No 11, 1966; No 129, 1984; No 59, 1989
s 10A	ad No 129, 1984
	am No 70, 1986
s 10B	ad No 129, 1984
	am No 70, 1986; No 59, 1989; No 105, 1990; No 195, 1991; No 60, 1994; No 5, 2002
s 10C	ad No 195, 1991
	am No 58, 2001; No 5, 2002
s 11	am No 79, 1959; No 11, 1966
	rs No 22, 1969
	am No 99, 1973
	rep No 129, 1984
	ad No 105, 1990
	am No 195, 1991; No 58, 2001
Division 1A	
Division 1A	ad No 22, 1969
	rep No 99, 1973
s 11A	ad No 22, 1969
	rep No 99, 1973
s 11B	ad No 22, 1969
	rep No 99, 1973
s 11C	ad No 22, 1969
	rep No 99, 1973

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Endnote 4—Amendment history

Provision affected	How affected
Division 2	
Division 2	rs No 99, 1973
s 12	am No 85, 1953; No 1, 1955; No 11, 1967; No 22, 1969
	rs No 99, 1973
s 13	am No 22, 1969
	rs No 99, 1973; No 129, 1984
	am No 70, 1986; No 86, 1987; No 59, 1989; No 105, 1990; No 60, 1994; No 43, 1996; No 58, 2001; No 5, 2002
Division 3	rep No 99, 1973
s 14	am No 58, 1950; No 85, 1953; No 22, 1969
	rs No 1, 1955; No 99, 1973; No 129, 1984
	am No 70, 1986; No 60, 1994; No 58, 2001
s 14A	ad No 60, 1994
	am No 58, 2001; No 5, 2002
s 14B	ad No 5, 2002
s 14C	ad No 5, 2002
s 15	am No 58, 1950; No. 70, 1952; No 85, 1953; No 1, 1955; No 79, 1959; No 11, 1966; No 11, 1967; No 22, 1969
	rs No 99, 1973
	am No 129, 1984; No 65, 1985; No 70, 1986; No 71, 1993; No 194, 1999; No 5, 2002
s 16	am No 70, 1952; No 85, 1953; No 11, 1966; No 22, 1969
	rep No 99, 1973
Division 4	
s 17	rs No 129, 1984
	rep No 5, 2002
s 18	am No 22, 1969; No 99, 1973; No 129, 1984; No 70, 1986
s 19	am No 129, 1984
s 20	rep No 63, 1958
s 21	rs No 63, 1958

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Endnote 4—Amendment history

Provision affected	How affected
	am No 22, 1969; No 99, 1973; No 129, 1984; No 70, 1986 (md); No 43, 1996; No 27, 1997; No 137, 2000; No 58, 2001; No 5, 2002
s 22	rep No 63, 1958
s 23	rs No 63, 1958
	am No 99, 1973; No 129, 1984; No 70, 1986; No 58, 2001; No 5, 2002
s 23AA	ad No 129, 1984
	rs No 70, 1986
	am No 59, 1989; No 60, 1994; No 5, 2002
s 23AB	ad No 5, 2002
s 23A	ad No 63, 1958
	am No 99, 1973; No 129, 1984; No 70, 1986
s 23B	ad No 63, 1958
	am No 99, 1973; No 129, 1984; No 70, 1986; No 5, 2002
Division 5	
Division 5	ad No 22, 1969
s 23C	ad No 22, 1969
	am No 70, 1986
s 23D	ad No 99, 1973
	am No 129, 1984; No 70, 1986; No 58, 2001; No 5, 2002
Part IV	rep No 129, 1984
s 24	rs No 22, 1969
	am No 99, 1973; No 129, 1984
	rep No 129, 1984
s 25	am No 85, 1953; No 1, 1955; No 63, 1958; No 11, 1966; No 22, 1969; No 99, 1973; No 84, 1983; No 129, 1984
	rep No 129, 1984
s 26	rs No 22, 1969
	am No 99, 1973; No 129, 1984
	rep No 129, 1984
s 26A	ad No 11, 1966

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Endnote 4—Amendment history

Provision affected	How affected
	rs No 22, 1969
	am No 99, 1973; No 129, 1984
	rep No 129, 1984
s 27	rep No 129, 1984
s 28	am No 99, 1973; No 129, 1984
	rep No 129, 1984
s 29	am No 1, 1955; No 99, 1973; No 129, 1984
	rep No 129, 1984
s 30	am No 63, 1958; No 22, 1969; No 99, 1973; No 129, 1984
	rep No 129, 1984
Part V	
s 31	rep No 1, 1955
	ad No 105, 1990
s 32	am No 85, 1953; No 22, 1969; No 129, 1984; No 70, 1986
s 34	am No 11, 1966
	rs No 129, 1984
s 35	rep No 129, 1984
s 36	am No 58, 1950; am No 70, 1952; No 1, 1955
	rs No 82,1960
	am No 22, 1969; No 129, 1984; No 70, 1986
s 36A	ad No 58, 2001
s 36B	ad No 58, 2001
s 37	am No 1, 1955; No 22, 1969
	rs No 129, 1984
	am No 70, 1986
s 38	am No 22, 1969
	rep No 129, 1984
s 39	rep No 129, 1984
s 40	rep No 129, 1984
s 40A	ad No 1, 1955
	rep No 129, 1984

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Endnote 4—Amendment history

Provision affected	How affected
s 41	rs No 85, 1953
	am No 99, 1973; No 61, 1981; No 71, 1993
s 42	am No 79, 1959; No 22, 1969; No 129, 1984
s 43	am No 99, 1973
s 44	am No 99, 1973
s 44A	ad No 99, 1973
	am No 129, 1984; No 70, 1986
s 45	am No 79, 1959; No 22, 1969; No 216, 1973; No 129, 1984
s 46	rs No 1, 1955
	am No 79, 1959; No 22, 1969; No 129, 1984
s 46A	ad No 79, 1959
	am No 22, 1969; No 99, 1973; No 129, 1984; No 71, 1993; No 43, 1996
s 46B	ad No 58, 2001
s 47	am No 79, 1959; No 22, 1969; No 70, 1986
s 47A	ad No 129, 1984
	am No 70, 1986
s 48	am No 70, 1952; No 11, 1966; No 22, 1969
	rs No 129, 1984
	am No 70, 1986
s 48A	ad No 22, 1969
	am No 99, 1973
	rep No 129, 1984
s 49	am No 11, 1966; No 22, 1969
	rs No 129, 1984
	am No 97, 2001
s 50	rs No 63, 1958
	am No 11, 1966; No 22, 1969; No 129, 1984; No 70, 1986; No 27, 1997; No 113, 1998
s 51	rs No 22, 1969
	am No 99, 1973

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Endnote 4—Amendment history

Provision affected	How affected
	rep No 129, 1984
s 52	am No 129, 1984
s 52A	ad No 129, 1984
	am No 70, 1986; No 105, 1990; No 195, 1991; No 60, 1994; No 5, 2002
s 52B	ad No 129, 1984
s 53	am No 85, 1953; No 11, 1966; No 129, 1984; No 70, 1986; No 71, 1993
The Schedules heading	rep No 216, 1973
First Schedule	rep No 216, 1973
Second Schedule	rs No 85, 1953; No 11, 1966
	rep No 99, 1973
Schedule 2	
Schedule 2	ad No 99, 1973
	am No 70, 1986
	rs No 71, 1993
Third Schedule	ad No 11, 1966
	rep No 99, 1973
Schedule 3	ad No 99, 1973
	rep No 129, 1984

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