

2016-2017

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Australian Citizenship Legislation  
Amendment (Strengthening the  
Requirements for Australian Citizenship  
and Other Measures) Bill 2017**

**No.     , 2017**

*(Immigration and Border Protection)*

**A Bill for an Act to amend the *Australian  
Citizenship Act 2007* and other legislation, and for  
related purposes**



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**A Bill for an Act to amend the *Australian  
Citizenship Act 2007* and other legislation, and for  
related purposes**

The Parliament of Australia enacts:

**1 Short title**

This Act is the *Australian Citizenship Legislation Amendment  
(Strengthening the Requirements for Australian Citizenship and  
Other Measures) Act 2017*.

**2 Commencement**

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with

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No. , 2017	<i>Australian Citizenship Legislation Amendment (Strengthening the Requirements for Australian Citizenship and Other Measures) Bill 2017</i>	1
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column 2 of the table. Any other statement in column 2 has effect according to its terms.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### **3 Schedules**

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments**

### **Part 1—Amendments**

#### *Australian Citizenship Act 2007*

##### **1 Paragraph (a) of the Preamble**

Omit “loyalty”, substitute “allegiance”.

##### **2 Paragraph (b) of the Preamble**

After “sharing their”, insert “values and”.

##### **3 Section 2A**

Omit:

The other way to become an Australian citizen is to apply to the Minister. This is covered by Division 2 of Part 2. There are 4 situations in which you can apply for citizenship.

substitute:

The other way to become an Australian citizen is to apply to the Minister. This is covered by Division 2 of Part 2. There are 4 situations in which you can apply for citizenship. In some cases, you may be required to make a pledge of allegiance before you become an Australian citizen.

##### **4 Section 2A**

Omit:

The third is citizenship by conferral. Generally, you would need to be a permanent resident and willing to make a pledge of commitment to apply for citizenship by conferral. You may need to successfully complete a citizenship test. There are some less

common circumstances in which you can apply for citizenship by conferral. Citizenship by conferral is covered by Subdivision B.

substitute:

The third is citizenship by conferral. Generally, you would need to be a permanent resident. You may need to successfully complete a citizenship test. There are some less common circumstances in which you can apply for citizenship by conferral. Citizenship by conferral is covered by Subdivision B.

## 5 Section 2A

Omit:

If you did not automatically become an Australian citizen, the Minister can revoke your citizenship in certain circumstances.

substitute:

If you did not automatically become an Australian citizen, the Minister can revoke your citizenship in certain circumstances (for example, where there has been fraud or misrepresentation or where you have committed certain offences).

## 6 Section 3

Before “In this Act”, insert “(1)”.

## 7 Section 3 (definition of *artificial conception procedure*)

Repeal the definition.

## 8 Section 3

Insert:

*competent English*: a person has *competent English* in the circumstances determined under paragraph 21(9)(a).



**9 Section 3 (definition of *de facto partner*)**

Omit “meaning given by the *Acts Interpretation Act 1901*”, substitute “same meaning as in the *Migration Act 1958*”.

**10 Section 3**

Insert:

*mental health care facility* includes a mental health care section of a hospital.

**11 Section 3 (at the end of the definition of *permanent visa*)**

Add:

Note: See also subsection (2).

**12 Section 3 (definition of *psychiatric institution*)**

Repeal the definition.

**13 Section 3**

Insert:

*residency period* has the meaning given by subsection 22(1A).

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

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

**14 At the end of section 3**

Add:

- (2) The Minister may, by legislative instrument, determine a kind of permanent visa for the purposes of subparagraph 21(5)(b)(ii) and paragraph 52(2A)(b).

**15 Subsection 6A(1)**

Omit “section 3”, substitute “subsection 3(1)”.

**16 Section 9 (heading)**

Repeal the heading, substitute:

**9 Confinement in prison or mental health care facility**

**17 Subsection 9(3)**

Repeal the subsection, substitute:

*Confinement in mental health care facility*

- (3) For the purposes of this Act, the period during which a person is confined in a mental health care facility by order of a court includes a period during which the person is an escapee from the facility.

**18 Section 11A**

Omit:

- |   |
|---|
| <ul style="list-style-type: none"><li>• citizenship for abandoned children: see section 14; and</li></ul> |
|---|

**19 Subsection 12(2) (heading)**

Repeal the heading, substitute:

*Exception—enemy occupation*

**20 At the end of section 12**

Add:

*Exception—parent entitled to privileges or immunities*

- (3) Paragraph (1)(b) does not apply to a person born in Australia if, at any time during the 10-year period referred to in that paragraph, a parent of the person was entitled to any privileges or immunities under any of the following Acts:
- (a) the *Diplomatic Privileges and Immunities Act 1967*;
  - (b) the *Consular Privileges and Immunities Act 1972*;

- (c) the *International Organisations (Privileges and Immunities) Act 1963*;
- (d) the *Overseas Missions (Privileges and Immunities) Act 1995*.

*Exception—unlawful non-citizen*

- (4) Paragraph (1)(b) does not apply to a person born in Australia if, at any time during the 10-year period referred to in that paragraph, the person was present in Australia as an unlawful non-citizen.

*Exception—no visa*

- (5) Paragraph (1)(b) does not apply to a person born in Australia if, at any time during the 10-year period referred to in that paragraph, the person was outside Australia and, at that time, the person did not hold a visa permitting the person to travel to, enter and remain in Australia.
- (6) Subsection (5) does not apply in relation to a person if the person was a New Zealand citizen when the person left Australia and the person was a New Zealand citizen throughout the period of the person's absence from Australia.

*Exception—status of parent*

- (7) Paragraph (1)(b) does not apply to a person born in Australia if:
  - (a) a parent of the person did not hold a substantive visa at the time of the person's birth; and
  - (b) that parent has entered Australia on one or more occasions before the person's birth; and
  - (c) at any time during the period beginning on the day that parent last entered Australia and ending on the day of the person's birth, that parent was present in Australia as an unlawful non-citizen.

*Abandoned children*

- (8) A person found abandoned in Australia as a child:
  - (a) is taken to have been born in Australia; and

(b) is taken to be a person in relation to whom paragraph (1)(a) applies.

(9) Subsection (8) applies unless and until it is proved:

- (a) the person was outside Australia at any time before the person was found abandoned in Australia as a child; or
- (b) the person is not a person in relation to whom paragraph (1)(a) applies.

## **21 Paragraph 13(a)**

After “Territory”, insert “, where the adoption process began when the person was aged under 18”.

## **22 Section 14**

Repeal the section.

## **23 Section 15A**

After:

- |  |
|--|
| <ul style="list-style-type: none"><li>• national security: see subsections 17(4) to (4B); or</li></ul> |
|--|

insert:

- |   |
|---|
| <ul style="list-style-type: none"><li>• offences: see subsection 17(4C); or</li></ul> |
|---|

## **24 Section 15A**

Omit:

<p>You will be registered if the Minister approves you becoming an Australian citizen.</p> <p>You do not become an Australian citizen, even if the Minister approves you becoming an Australian citizen, unless a parent of yours was an Australian citizen at a particular time: see section 19A.</p>
--

substitute:

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You may be required to make a pledge of allegiance before you become an Australian citizen.

## **25 After section 15A**

Insert:

### **15B Requirements for becoming a citizen**

A person becomes an Australian citizen under this Subdivision if:

- (a) the Minister decides under subsection 17(1) to approve the person becoming an Australian citizen; and
- (b) if the person is required to make a pledge of allegiance to become an Australian citizen—the person makes that pledge.

Note: Sections 16 to 17A deal with the Minister approving the person becoming an Australian citizen. Subdivision D deals with the making of a pledge of allegiance and the day citizenship begins.

## **26 Paragraph 16(2)(c)**

Omit “, and the person is aged 18 or over at the time the person made the application”.

## **27 After subsection 17(4B)**

Insert:

### *Offences*

- (4C) The Minister must not approve the person becoming an Australian citizen at a time:
- (a) when proceedings for an offence against an Australian law (including proceedings by way of appeal or review) are pending in relation to the person; or
  - (b) when the person is confined to a prison in Australia; or
  - (c) during the period of 2 years after the end of any period during which the person has been confined to a prison in Australia because of the imposition on the person of a serious prison sentence; or

- (d) if the person is a serious repeat offender in relation to a serious prison sentence—during the period of 10 years after the end of any period during which the person has been confined to a prison in Australia because of the imposition of that sentence; or
  - (e) if the person has been released from serving the whole or a part of a sentence of imprisonment on parole or licence—during any period during which action can be taken under an Australian law to require the person to serve the whole or a part of that sentence; or
  - (f) if the person:
    - (i) has been released by a court from serving the whole or a part of a sentence of imprisonment; and
    - (ii) has been so released subject to conditions relating to the person’s behaviour;  
during any period during which action can be taken against the person under an Australian law because of a breach of any of those conditions; or
  - (g) if, in respect of proceedings for an offence against an Australian law in relation to the person, a court releases the person subject to conditions relating to the person’s behaviour—during any period during which action can be taken against the person under an Australian law because of a breach of any of those conditions; or
  - (h) during any period during which the person is confined in a mental health care facility by order of a court made in connection with proceedings for an offence against an Australian law in relation to the person; or
  - (i) when the person is subject to an order of a court for home detention, where the order was made in connection with proceedings for an offence against an Australian law in relation to the person; or
  - (j) when the person is subject to an order of a court requiring the person to participate in:
    - (i) a residential drug rehabilitation scheme; or
    - (ii) a residential program for persons with a mental illness;  
or
    - (iii) any other residential scheme or program;
-

where the order was made in connection with proceedings for an offence against an Australian law in relation to the person.

## **28 After section 17**

Insert:

### **17A Cancellation of section 17 approval by Minister**

#### *Mandatory cancellation*

- (1) The Minister must, by writing, cancel an approval given to a person under section 17 if:
  - (a) the person has not become an Australian citizen under section 32AD; and
  - (b) assuming that the Minister were considering the person's application to become an Australian citizen at the time of the proposed cancellation, the Minister is satisfied that the person would not be given an approval under section 17 because of subsection 17(3), (4) or (4A).

#### *Discretionary cancellation—person would no longer be given approval*

- (2) The Minister may, by writing, cancel an approval given to a person under section 17 if:
  - (a) the person has not become an Australian citizen under section 32AD; and
  - (b) assuming that the Minister were considering the person's application to become an Australian citizen at the time of the proposed cancellation, the Minister is satisfied that the person would not be given an approval under section 17 (other than because of subsection 17(3), (4) or (4A)).

#### *Discretionary cancellation—failure to make a pledge of allegiance*

- (3) The Minister may, by writing, cancel an approval given to a person under section 17 if:
  - (a) the person has not become an Australian citizen under section 32AD; and

(b) the person has failed to make a pledge of allegiance within 12 months after the day on which the person received notice of the approval; and

(c) the person's reason for the failure is not one that is prescribed by the regulations for the purposes of this paragraph.

**29 Sections 18 and 19**

Repeal the sections.

**30 Section 19A**

Repeal the section.

**31 Section 19B**

After:

- national security: see subsections 19D(5) to (7A); or

insert:

- offences: see subsection 19D(7B); or

**32 Section 19B**

Omit:

You will be registered if the Minister approves you becoming an Australian citizen.

substitute:

You may be required to make a pledge of allegiance before you become an Australian citizen.

**33 After section 19B**

Insert:

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### **19BA Requirements for becoming a citizen**

A person becomes an Australian citizen under this Subdivision if:

- (a) the Minister decides under subsection 19D(1) to approve the person becoming an Australian citizen; and
- (b) if the person is required to make a pledge of allegiance to become an Australian citizen—the person makes that pledge.

Note: Sections 19C to 19DA deal with the Minister approving the person becoming an Australian citizen. Subdivision D deals with the making of a pledge of allegiance and the day citizenship begins.

### **34 Paragraph 19C(2)(g)**

Omit “if the applicant is aged 18 or over at the time the applicant made the application—”.

### **35 After subsection 19D(7A)**

Insert:

#### *Offences*

- (7B) The Minister must not approve the person becoming an Australian citizen at a time:
- (a) when proceedings for an offence against an Australian law (including proceedings by way of appeal or review) are pending in relation to the person; or
  - (b) when the person is confined to a prison in Australia; or
  - (c) during the period of 2 years after the end of any period during which the person has been confined to a prison in Australia because of the imposition on the person of a serious prison sentence; or
  - (d) if the person is a serious repeat offender in relation to a serious prison sentence—during the period of 10 years after the end of any period during which the person has been confined to a prison in Australia because of the imposition of that sentence; or
  - (e) if the person has been released from serving the whole or a part of a sentence of imprisonment on parole or licence—during any period during which action can be taken under an

Australian law to require the person to serve the whole or a part of that sentence; or

- (f) if the person:
  - (i) has been released by a court from serving the whole or a part of a sentence of imprisonment; and
  - (ii) has been so released subject to conditions relating to the person's behaviour;  
during any period during which action can be taken against the person under an Australian law because of a breach of any of those conditions; or
- (g) if, in respect of proceedings for an offence against an Australian law in relation to the person, a court releases the person subject to conditions relating to the person's behaviour—during any period during which action can be taken against the person under an Australian law because of a breach of any of those conditions; or
- (h) during any period during which the person is confined in a mental health care facility by order of a court made in connection with proceedings for an offence against an Australian law in relation to the person; or
- (i) when the person is subject to an order of a court for home detention, where the order was made in connection with proceedings for an offence against an Australian law in relation to the person; or
- (j) when the person is subject to an order of a court requiring the person to participate in:
  - (i) a residential drug rehabilitation scheme; or
  - (ii) a residential program for persons with a mental illness;  
or
  - (iii) any other residential scheme or program;  
where the order was made in connection with proceedings for an offence against an Australian law in relation to the person.

### **36 After section 19D**

Insert:

## **19DA Cancellation of section 19D approval by Minister**

### *Mandatory cancellation*

- (1) The Minister must, by writing, cancel an approval given to a person under section 19D if:
  - (a) the person has not become an Australian citizen under section 32AD; and
  - (b) assuming that the Minister were considering the person's application to become an Australian citizen at the time of the proposed cancellation, the Minister is satisfied that the person would not be given an approval under section 19D because of subsection 19D(4), (5) or (6).

### *Discretionary cancellation—person would no longer be given approval*

- (2) The Minister may, by writing, cancel an approval given to a person under section 19D if:
  - (a) the person has not become an Australian citizen under section 32AD; and
  - (b) assuming that the Minister were considering the person's application to become an Australian citizen at the time of the proposed cancellation, the Minister is satisfied that the person would not be given an approval under section 19D (other than because of subsection 19D(4), (5) or (6)).

### *Discretionary cancellation—failure to make a pledge of allegiance*

- (3) The Minister may, by writing, cancel an approval given to a person under section 19D if:
  - (a) the person has not become an Australian citizen under section 32AD; and
  - (b) the person has failed to make a pledge of allegiance within 12 months after the day on which the person received notice of the approval; and
  - (c) the person's reason for the failure is not one that is prescribed by the regulations for the purposes of this paragraph.

**37 Sections 19E and 19F**

Repeal the sections.

**38 Section 19G**

Omit:

You may need to make a pledge of commitment to become an Australian citizen.

substitute:

You may need to make a pledge of allegiance to become an Australian citizen.

**39 Paragraph 20(b)**

Omit “commitment”, substitute “allegiance”.

**40 Section 20 (note)**

Repeal the note, substitute:

Note: Sections 21 to 25 deal with the Minister approving the person becoming an Australian citizen. Subdivision D deals with the making of a pledge of allegiance and the day citizenship begins.

**41 Paragraph 21(2)(e)**

Repeal the paragraph, substitute:

(e) has competent English (see paragraph (9)(a)); and

**42 Paragraph 21(2)(f)**

Omit “of Australia and of”, substitute “of Australia, Australia’s values, and”.

**43 After paragraph 21(2)(f)**

Insert:

(fa) has integrated into the Australian community (see also paragraph (9)(e)); and

**44 At the end of subsection 21(2)**

Add:

Note: A person may be taken to satisfy the general residence requirement under section 22AA.

**45 Subsection 21(2A)**

Omit “, (e)”.

**46 Subparagraph 21(3)(d)(ii)**

Repeal the subparagraph, substitute:

(ii) is not capable of having competent English at that time (see paragraph (9)(a)); or

**47 Subparagraph 21(3)(d)(iii)**

Omit “of Australia and of”, substitute “of Australia, Australia’s values, and”.

**48 At the end of subsections 21(3) and (4)**

Add:

Note: A person may be taken to satisfy the general residence requirement under section 22AA.

**49 Subsection 21(5)**

Omit “satisfied that the person”, substitute “satisfied that”.

**50 Paragraph 21(5)(a)**

Before “is”, insert “the person”.

**51 Paragraph 21(5)(b)**

Repeal the paragraph, substitute:

(b) at the time the person made the application and at the time of the Minister’s decision on the application:

(i) the person is a permanent resident; or

(ii) the person holds a permanent visa of a kind determined in an instrument under subsection 3(2), the person has

- not entered Australia as the holder of that visa and a parent of the person is an Australian citizen; and
- (c) the person is of good character at the time of the Minister's decision on the application; and
  - (d) if the person is aged 16 or over at the time the person made the application—the person has competent English (see paragraph (9)(a)).

**52 Paragraph 21(6)(d)**

Omit “if the person is aged 18 or over at the time the person made the application—”.

**53 At the end of section 21**

Add:

*Determination*

- (9) The Minister may, by legislative instrument, determine any one or more of the following:
  - (a) the circumstances in which a person has competent English;
  - (b) without limiting subsection 33(3A) of the *Acts Interpretation Act 1901*, information, or a document (which may or may not be lodged electronically), relating to a person having competent English that must accompany an application or a kind of application;
  - (c) any requirements relating to information or a document determined under paragraph (b) of this subsection;
  - (d) that an application is invalid under subsection 46(1B) if information or a document determined under paragraph (b) of this subsection does not accompany the application in accordance with the determination;
  - (e) matters that the Minister may or must have regard to when determining whether a person has integrated into the Australian community.

**54 Paragraphs 22(1)(a) to (c)**

Repeal the paragraphs, substitute:

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- (a) the person was present in Australia as a permanent resident throughout the person's residency period immediately before the day the person makes the application; and
- (b) the person was not present in Australia as an unlawful non-citizen at any time during that period.

**55 At the end of subsection 22(1)**

Add:

Note: A different version of this section applies in relation to certain New Zealand citizens (see subsection (11)).

**56 After subsection 22(1)**

Insert:

*Meaning of residency period*

(1A) A person's *residency period* is a period of 4 years.

**57 Subsections 22(1A) and (1B)**

Repeal the subsections, substitute:

*Overseas absences*

(1B) If:

- (a) the person was absent from Australia for a part of the person's residency period immediately before the day the person made the application; and
- (b) the total period of the absence or absences was not more than 365 days; and
- (c) the person was a permanent resident during each period of absence;

then, for the purposes of this section, the person is taken to have been present in Australia as a permanent resident during each period of absence.

**58 Subsection 22(1C) (heading)**

Repeal the heading, substitute:

*Confinement in prison or mental health care facility*

**59 Subsection 22(1C)**

Omit “the 4 year period mentioned in that paragraph”, substitute “the person’s residency period”.

**60 Paragraph 22(1C)(b)**

Omit “psychiatric institution”, substitute “mental health care facility”.

**61 Subsection 22(2)**

Repeal the subsection.

**62 After subsection 22(2)**

Insert:

*Ministerial discretion—legislative instrument*

- (3) For the purposes of paragraph (1)(b), the Minister may treat a period as one in which the person was not present in Australia as an unlawful non-citizen if the Minister is satisfied that the circumstances determined in an instrument under subsection (4) exist in relation to the person.
- (4) The Minister may, by legislative instrument, determine circumstances for the purposes of subsection (3).

**63 Before subsection 22(4A)**

Insert:

- (4AA) For the purposes of paragraph (1)(a), the Minister may treat a period as one in which the person was present in Australia as a permanent resident if the Minister considers the person was present in Australia during that period but, because of an administrative error, was not a permanent resident during that period.

**64 Subsection 22(5)**

Repeal the subsection.



**65 Subsection 22(5A) (heading)**

Repeal the heading, substitute:

*Ministerial discretion—confinement in prison or mental health care facility*

**66 Subsection 22(6)**

Omit “paragraph (1)(c)”, substitute “paragraph (1)(a)”.

**67 Subsections 22(9) to (11)**

Repeal the subsections, substitute:

*Ministerial discretion—spouse, de facto partner or surviving spouse or de facto partner of Australian citizen*

- (9) If the person is the spouse, de facto partner or surviving spouse or de facto partner of an Australian citizen at the time the person made the application, for the purposes of paragraph (1)(a), the Minister may treat a period as one in which the person was present in Australia as a permanent resident, if:
- (a) the person was a spouse or de facto partner of that Australian citizen throughout that period; and
  - (b) the person was not present in Australia throughout that period; and
  - (c) the person was a permanent resident throughout that period; and
  - (d) the Minister is satisfied that the person had a close and continuing association with Australia throughout that period; and
  - (e) during the person’s residency period, the person was present in Australia for a total of at least 365 days.

Note: For *surviving spouse or de facto partner*, see subsection (13).

- (10) Paragraph (9)(e) does not apply to the person if, throughout the period referred to in paragraph (9)(a), the Australian citizen referred to in paragraph (9)(a) was working outside Australia as a Commonwealth officer or a State or Territory officer.

*Certain New Zealand citizens*

- (11) Despite the amendments of this section made by Schedule 1 to the *Australian Citizenship Legislation Amendment (Strengthening the Requirements for Australian Citizenship and Other Measures) Act 2017*:
- (a) this section, as in force immediately before those amendments commenced; and
  - (b) subsection 24(5), as in force at that time;
- continue to apply in relation a person who is a New Zealand citizen in a class determined under subsection (12).
- (12) The Minister may, by legislative instrument, determine one or more classes of New Zealand citizens for the purposes of subsection (11).

*Definitions*

- (13) In this section:

***Commonwealth officer*** means:

- (a) a person who is in the employment of the Commonwealth, other than a person who is engaged outside Australia to perform duties outside Australia as an employee; or
- (b) a person who holds or performs the duties of any office or position established by or under a law of the Commonwealth; or
- (c) a member of the Australian Defence Force; or
- (d) the Commissioner of the Australian Federal Police, a Deputy Commissioner of the Australian Federal Police, an AFP employee, a special member or a special protective service officer (all within the meaning of the *Australian Federal Police Act 1979*).

***State or Territory officer*** means:

- (a) a person who is in the employment of a State or Territory, other than a person who is engaged outside Australia to perform duties outside Australia as an employee; or

- (b) a person who holds or performs the duties of any office or position established by or under a law of a State or Territory;  
or
- (c) a member of the police force or police service of a State or Territory.

*surviving spouse or de facto partner* of a person who has died means a person who was the person's spouse or de facto partner immediately before the person died and who has not later become the spouse or de facto partner of another person.

## **68 After section 22**

Insert:

### **22AA Minister may waive general residence requirement**

- (1) To the extent that paragraph 21(2)(c), (3)(c) or (4)(d) relates to the general residence requirement (see section 22), the Minister may, by writing, determine that that paragraph does not apply in relation to a person (the *applicant*) if the Minister is satisfied that:
  - (a) both of the following apply:
    - (i) because of an administrative error by or on behalf of the Commonwealth, the applicant believed that he or she was an Australian citizen;
    - (ii) the error contributed to the applicant not being able to satisfy the general residence requirement; or
  - (b) it is in the public interest for the Minister to make the determination in relation to the applicant.
- (2) If the Minister exercises the power under subsection (1) in relation to the applicant, then, for the purposes of section 21, the applicant is taken to satisfy the *general residence requirement*.

*Rules relating to power under subsection (1)*

- (3) The power under subsection (1) may only be exercised by the Minister personally.
- (4) The Minister does not have a duty to consider whether to exercise the power under subsection (1), whether he or she is requested to

do so by the applicant or by any other person, or in any other circumstances.

- (5) If the applicant becomes an Australian citizen in circumstances where the Minister exercised the power under subsection (1), the Minister must cause to be tabled in each House of the Parliament, within 15 sitting days of that House after the day the applicant becomes an Australian citizen, a statement that:
- (a) states that the Minister has exercised the power under subsection (1); and
  - (b) sets out the reasons for the Minister’s exercise of that power.
- (6) However, a statement under subsection (5) is not to include the name of the applicant.
- (7) A determination under subsection (1) is not a legislative instrument.

**69 Subparagraph 22A(1A)(b)(i)**

After “(f),” insert “(fa),”.

**70 Paragraph 22A(1)(f)**

Omit “for”, substitute “throughout”.

**71 Subsection 22A(2) (heading)**

Repeal the heading, substitute:

*Confinement in prison or mental health care facility*

**72 Paragraph 22A(2)(b)**

Omit “psychiatric institution”, substitute “mental health care facility”.

**73 After subsection 22A(5)**

Insert:

*Ministerial discretion—legislative instrument*

- (5A) For the purposes of paragraph (1)(g), the Minister may treat a period as one in which the person was not present in Australia as

an unlawful non-citizen if the Minister is satisfied that the circumstances determined in an instrument under subsection 22C(2A) exist in relation to the person.

**74 Paragraph 22B(1)(f)**

Omit “for”, substitute “throughout”.

**75 Subparagraph 22B(1A)(c)(i)**

After “(f),”, insert “(fa),”.

**76 Subsection 22B(2) (heading)**

Repeal the heading, substitute:

*Confinement in prison or mental health care facility*

**77 Paragraph 22B(2)(d)**

Omit “psychiatric institution”, substitute “mental health care facility”.

**78 After subsection 22B(5)**

Insert:

*Ministerial discretion—legislative instrument*

- (5A) For the purposes of paragraph (1)(g), the Minister may treat a period as one in which the person was not present in Australia as an unlawful non-citizen if the Minister is satisfied that the circumstances determined in an instrument under subsection 22C(4) exist in relation to the person.

**79 After subsection 22C(2)**

Insert:

- (2A) The Minister may, by legislative instrument, determine circumstances for the purposes of subsection 22A(5A).

**80 At the end of section 22C**

Add:

- (4) The Minister may, by legislative instrument, determine circumstances for the purposes of subsection 22B(5A).

**81 Subsection 23A(1) (note)**

Omit “, (e)”.

**82 After subsection 23A(3)**

Insert:

- (3A) Without limiting subsection (3), the eligibility criteria may relate to the fact that a person:
- (a) has previously failed the test; or
  - (b) did not comply with one or more rules of conduct relating to the test; or
  - (c) was found to have cheated during the test.

**83 Subsection 24(1) (note)**

Repeal the note, substitute:

Note: For cancellation of an approval by the Minister, see section 25.

**84 Subsection 24(2A)**

After “power under subsection”, insert “22AA(1),”.

**85 Paragraph 24(5)(c)**

Repeal the paragraph, substitute:

- (c) the Minister did not exercise the power under subsection 22AA(1) in relation to the person;

**86 Paragraphs 24(6)(f) and (g)**

Repeal the paragraphs, substitute:

- (f) if the person:
- (i) has been released by a court from serving the whole or a part of a sentence of imprisonment; and
  - (ii) has been so released subject to conditions relating to the person’s behaviour;

during any period during which action can be taken against the person under an Australian law because of a breach of any of those conditions; or

- (g) if, in respect of proceedings for an offence against an Australian law in relation to the person, a court releases the person subject to conditions relating to the person's behaviour—during any period during which action can be taken against the person under an Australian law because of a breach of any of those conditions; or

**87 Paragraph 24(6)(h)**

Omit “psychiatric institution”, substitute “mental health care facility”.

**88 At the end of subsection 24(6)**

Add:

- ; or (i) when the person is subject to an order of a court for home detention, where the order was made in connection with proceedings for an offence against an Australian law in relation to the person; or
- (j) when the person is subject to an order of a court requiring the person to participate in:
- (i) a residential drug rehabilitation scheme; or
  - (ii) a residential program for persons with a mental illness; or
  - (iii) any other residential scheme or program;
- where the order was made in connection with proceedings for an offence against an Australian law in relation to the person.

**89 Section 25 (heading)**

Repeal the heading, substitute:

**25 Cancellation of section 24 approval by Minister**

**90 Before subsection 25(1)**

Insert:

*Mandatory cancellation*

- (1A) The Minister must, by writing, cancel an approval given to a person under section 24 if:
- (a) the person has not become an Australian citizen under section 32AD; and
  - (b) the approval was given on the basis of subsection 21(2), (4) or (5) applying to the person; and
  - (c) assuming that the Minister were considering the person's application to become an Australian citizen at the time of the proposed cancellation, the Minister is satisfied that the person would not be given an approval under section 24 because of subsection 24(3), (4) or (4A).

*Discretionary cancellation*

**91 Paragraph 25(1)(a)**

Omit "section 28", substitute "section 32AD".

**92 Paragraph 25(1)(b)**

Repeal the paragraph, substitute:

- (b) subsection (2) or (3) applies.

**93 Subsection 25(2)**

Repeal the subsection, substitute:

- (2) This subsection applies if:
  - (a) the approval was given on the basis of subsection 21(2), (4) or (5) applying to the person; and
  - (b) assuming that the Minister were considering the person's application to become an Australian citizen at the time of the proposed cancellation, the Minister is satisfied that the person would not be given an approval under section 24 (other than because of subsection 24(3), (4), (4A) or (5)).

**94 Subsection 25(3) (heading)**

Repeal the heading.



**95 Subsection 25(3)**

Omit “The second situation”, substitute “This subsection”.

**96 Paragraph 25(3)(a)**

Omit “commitment”, substitute “allegiance”.

**97 Sections 26 to 28**

Repeal the sections.

**98 Section 28A**

Omit:

- national security: see subsections 30(4) to (7).

You will be registered if the Minister approves you becoming an Australian citizen again.

substitute:

- national security: see subsections 30(4) to (7); or
- offences: see subsection 30(8); or
- the timing of cessation of citizenship: see subsection 30(9).

You may be required to make a pledge of allegiance before you become an Australian citizen.

**99 After section 28A**

Insert:

**28B Requirements for becoming a citizen**

A person becomes an Australian citizen under this Subdivision if:

- (a) the Minister decides under subsection 30(1) to approve the person becoming an Australian citizen; and

- (b) if the person is required to make a pledge of allegiance to become an Australian citizen—the person makes that pledge.

Note: Sections 30 and 30A deal with the Minister approving the person becoming an Australian citizen. Subdivision D deals with the making of a pledge of allegiance and the day citizenship begins.

**100 Paragraph 29(2)(b)**

Omit “if the person is aged 18 or over at the time the person made the application—”.

**101 Subsection 29(2) (note 2)**

Omit “section 34, 34A or 35”, substitute “section 33A, 34, 34AA or 34A”.

**102 Paragraph 29(3)(b)**

Omit “if the person is aged 18 or over at the time the person made the application—”.

**103 At the end of section 30**

Add:

*Offences*

- (8) The Minister must not approve the person becoming an Australian citizen again at a time:
- (a) when proceedings for an offence against an Australian law (including proceedings by way of appeal or review) are pending in relation to the person; or
  - (b) when the person is confined to a prison in Australia; or
  - (c) during the period of 2 years after the end of any period during which the person has been confined to a prison in Australia because of the imposition on the person of a serious prison sentence; or
  - (d) if the person is a serious repeat offender in relation to a serious prison sentence—during the period of 10 years after the end of any period during which the person has been confined to a prison in Australia because of the imposition of that sentence; or

- (e) if the person has been released from serving the whole or a part of a sentence of imprisonment on parole or licence—during any period during which action can be taken under an Australian law to require the person to serve the whole or a part of that sentence; or
- (f) if the person:
  - (i) has been released by a court from serving the whole or a part of a sentence of imprisonment; and
  - (ii) has been so released subject to conditions relating to the person's behaviour;during any period during which action can be taken against the person under an Australian law because of a breach of any of those conditions; or
- (g) if, in respect of proceedings for an offence against an Australian law in relation to the person, a court releases the person subject to conditions relating to the person's behaviour—during any period during which action can be taken against the person under an Australian law because of a breach of any of those conditions; or
- (h) during any period during which the person is confined in a mental health care facility by order of a court made in connection with proceedings for an offence against an Australian law in relation to the person; or
- (i) when the person is subject to an order of a court for home detention, where the order was made in connection with proceedings for an offence against an Australian law in relation to the person; or
- (j) when the person is subject to an order of a court requiring the person to participate in:
  - (i) a residential drug rehabilitation scheme; or
  - (ii) a residential program for persons with a mental illness; or
  - (iii) any other residential scheme or program;where the order was made in connection with proceedings for an offence against an Australian law in relation to the person.

*Cessation of citizenship*

- (9) The Minister must not approve the person becoming an Australian citizen again during the period of 12 months starting on the day on which the person ceased, or last ceased, to be an Australian citizen.

**104 After section 30**

Insert:

**30A Cancellation of section 30 approval by Minister**

*Mandatory cancellation*

- (1) The Minister must, by writing, cancel an approval given to a person under section 30 if:
- (a) the person has not become an Australian citizen under section 32AD; and
  - (b) assuming that the Minister were considering the person's application to become an Australian citizen at the time of the proposed cancellation, the Minister is satisfied that the person would not be given an approval under section 30 because of subsection 30(3), (4) or (5).

*Discretionary cancellation—person would no longer be given approval*

- (2) The Minister may, by writing, cancel an approval given to a person under section 30 if:
- (a) the person has not become an Australian citizen under section 32AD; and
  - (b) assuming that the Minister were considering the person's application to become an Australian citizen at the time of the proposed cancellation, the Minister is satisfied that the person would not be given an approval under section 30 (other than because of subsection 30(3), (4) or (5)).

*Discretionary cancellation—failure to make a pledge of allegiance*

- (3) The Minister may, by writing, cancel an approval given to a person under section 30 if:

- (a) the person has not become an Australian citizen under section 32AD; and
- (b) the person has failed to make a pledge of allegiance within 12 months after the day on which the person received notice of the approval; and
- (c) the person's reason for the failure is not one that is prescribed by the regulations for the purposes of this paragraph.

**105 Section 31**

Repeal the section.

**106 Section 32 (heading)**

Repeal the heading, substitute:

**32 Same kind of citizenship**

**107 Subsection 32(1)**

Repeal the subsection.

**108 At the end of Division 2 of Part 2**

Add:

**Subdivision D—Pledge of allegiance and day citizenship begins for certain persons**

**32AA Simplified outline**

Generally, persons aged 16 or more must make a pledge of allegiance to become an Australian citizen under this Division.

This Subdivision sets out the rules relating to pledges of allegiance and the day citizenship begins for persons under this Division.

**32AB Pledge of allegiance must be made**

- (1) A person must make a pledge of allegiance to become an Australian citizen under this Division unless the person:

- (a) is aged under 16 at the time the person made the application to become an Australian citizen; or
- (b) has a permanent or enduring physical or mental incapacity that means that the person is not capable of making the pledge in accordance with section 32AC.

Note: See section 32AC for how the pledge is to be made.

- (2) A person must not make a pledge of allegiance before the Minister approves the person's application to become an Australian citizen. A pledge of allegiance made by the person before that time is of no effect.

*Delayed making of pledge*

- (3) If the person is required to make a pledge of allegiance and has not done so, the Minister may determine, in writing, that the person cannot make the pledge until the end of a specified period if:
  - (a) the Minister is satisfied that a visa held by the person may be cancelled under the *Migration Act 1958* (whether or not the person has been given any notice to that effect); or
  - (b) the Minister is satisfied that the person has been or may be charged with an offence under an Australian law; or
  - (c) the Minister is considering cancelling the approval given to the person under this Division and the Minister is considering doing so under:
    - (i) subsection 17A(1), 19DA(1), 25(1A) or 30A(1); or
    - (ii) subsection 17A(2), 19DA(2), 30A(2), or subsection 25(1) because of the application of subsection 25(2).
- (4) The Minister must not specify a period that exceeds, or periods that in total exceed, 2 years.
- (5) The Minister may, by writing, revoke a determination.
- (6) If a determination is in force in relation to a person, the person must not make a pledge of allegiance before the end of the period specified in the determination. A pledge of allegiance made by the person before that time is of no effect.

### **32AC How pledge of allegiance is to be made**

#### *Form of pledge*

- (1) A pledge of allegiance must be made in accordance with either of the forms set out in Schedule 1.

#### *Prescribed arrangements*

- (2) A pledge of allegiance must be made in accordance with the arrangements prescribed by the regulations.

Note: The regulations may provide for a pledge of allegiance to be made in public.

#### *Persons who may receive pledge*

- (3) A pledge of allegiance must be made before:
  - (a) the Minister; or
  - (b) a person authorised under subsection (4); or
  - (c) a person who is included in a class of persons authorised under subsection (5).
- (4) The Minister may, by writing, authorise a person for the purposes of paragraph (3)(b).
- (5) The Minister may, by legislative instrument, authorise a class of persons for the purposes of paragraph (3)(c).

### **32AD Day citizenship begins etc.**

#### *Persons required to make pledge of allegiance*

- (1) A person required under section 32AB to make a pledge of allegiance becomes an Australian citizen under the relevant Subdivision on the day on which the person makes the pledge in accordance with the arrangements (if any) prescribed for the purposes of subsection 32AC(2).

*Persons not required to make pledge of allegiance*

- (2) Subject to subsection (3), a person not required to make a pledge of allegiance under section 32AB becomes an Australian citizen under the relevant Subdivision on the day on which the Minister approves the person becoming an Australian citizen.

*Applications made at the same time by child and responsible parents*

- (3) Subsection (2) does not apply to a child aged under 16 at the time the child made the application under the relevant Subdivision to become an Australian citizen if:
- (a) one or more responsible parents of the child made applications under the Subdivision at that time; and
  - (b) the Minister decided under the Subdivision to approve the child and one or more of the responsible parents becoming Australian citizens.
- (4) If one or more of the responsible parents of the child become Australian citizens under this section, the child becomes an Australian citizen on the first day on which a responsible parent of the child becomes an Australian citizen.

**109 Section 32A**

Omit “5 ways”, substitute “4 ways”.

**110 Section 32A**

Omit:

- if you did not automatically become an Australian citizen, the Minister can revoke your citizenship in circumstances involving offences or fraud: see section 34; or
- if you did not automatically become an Australian citizen and the Minister exercised the power under subsection 22A(1A) or 22B(1A), the Minister can revoke your citizenship in circumstances involving a failure to comply with special residence requirements: see section 34A; or



substitute:

- if you did not automatically become an Australian citizen, the Minister can revoke your citizenship in certain circumstances (for example, where there has been fraud or misrepresentation or where you have committed certain offences): see sections 33A to 34A; or

### **111 After section 33**

Insert:

#### **33A Revocation by Minister—approval should not have been given for citizenship by descent**

- (1) The Minister may, by writing, revoke a person's Australian citizenship if:
  - (a) the person is an Australian citizen under Subdivision A of Division 2 because of an approval under section 17; and
  - (b) the Minister is satisfied that the approval should not have been given.
- (2) However, the Minister must not decide under subsection (1) to revoke a person's Australian citizenship if the Minister is satisfied that the person would, if the Minister were to revoke the person's Australian citizenship, become a person who is not a national or citizen of any country.

*Time citizenship ceases*

- (3) If the Minister revokes a person's Australian citizenship, the person ceases to be an Australian citizen at the time of the revocation.

Note: A child of the person may also cease to be an Australian citizen: see section 36.

### **112 Section 34 (heading)**

Repeal the heading, substitute:

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**34 Revocation by Minister—convictions for fraud or misrepresentation etc.**

**113 After section 34**

Insert:

**34AA Revocation by Minister—other cases of fraud or misrepresentation**

- (1) The Minister may, by writing, revoke a person's Australian citizenship if:
  - (a) the person is an Australian citizen under Subdivision A, AA or B of Division 2 (including because of the operation of section 32); and
  - (b) the Minister is satisfied that the person obtained the Minister's approval to become an Australian citizen as a result of fraud, or misrepresentation, connected with:
    - (i) the Minister approving the person becoming an Australian citizen; or
    - (ii) the person's entry into Australia before the Minister gave the approval; or
    - (iii) the grant to the person, before the Minister gave the approval, of a visa or of a permission to enter and remain in Australia; and
  - (c) the Minister is satisfied that it would be contrary to the public interest for the person to remain an Australian citizen.
- (2) The fraud or misrepresentation:
  - (a) may have been committed by any person; and
  - (b) need not have constituted an offence, or part of an offence, by any person.
- (3) However, the fraud or misrepresentation must have occurred during the period of 10 years before the day of the revocation.
- (4) Without limiting subsection (1), the concealment of material circumstances constitutes a misrepresentation for the purposes of that subsection.

*Time citizenship ceases*

- (5) If the Minister revokes a person's Australian citizenship, the person ceases to be an Australian citizen at the time of the revocation.

Note: A child of the person may also cease to be an Australian citizen: see section 36.

**114 Paragraph 36(1)(a)**

Omit "section 33, 34 or 34A", substitute "section 33, 33A, 34, 34AA or 34A".

**115 Paragraph 38(1)(a)**

Omit "section 34 or 34A", substitute "section 33A, 34, 34AA, 34A or 36".

**116 At the end of subsection 46(1)**

Add:  
; and (e) be a valid application.

**117 Before subsection 46(1A)**

Insert:

*Fees for sitting tests*

**118 After subsection 46(1A)**

Insert:

*When an application is invalid*

- (1B) Without limiting when an application is invalid, an application made by a person is invalid:
- (a) if all of the following apply:
    - (i) the regulations or any other instrument made under this Act require information or a document to accompany an application;
    - (ii) the regulations or instrument determine that an application is invalid under this subsection if the

- information or document does not accompany the application in accordance with the regulations or instrument;
- (iii) the information or document does not accompany the application in accordance with the regulations or instrument; or
- (b) if an Australian Values Statement determined under subsection (5) does not accompany the application in accordance with the determination under that subsection; or
- (c) in any other circumstances prescribed by the regulations for the purposes of this paragraph.

**119 At the end of section 46**

Add:

*Required information or documents*

- (4) Without limiting paragraph (1)(c), the regulations may determine any one or more of the following:
- (a) without limiting subsection 33(3A) of the *Acts Interpretation Act 1901*, that information or a document prescribed for the purposes of paragraph (1)(c) must accompany all applications or applications of a particular kind;
- (b) any requirements relating to information or a document prescribed for the purposes of paragraph (1)(c);
- (c) that an application is invalid under subsection (1B) if information or a document prescribed for the purposes of paragraph (1)(c) does not accompany the application in accordance with the regulations.
- (5) The Minister may determine:
- (a) an Australian Values Statement; and
- (b) any requirements relating to the Australian Values Statement.
- (6) A determination made under subsection (5) is a legislative instrument, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to the determination.

**120 After subsection 47(3)**

Insert:

*Decisions made by the Minister personally*

- (3A) If the decision is made by the Minister personally, the notice may include a statement that the Minister is satisfied that the decision was made in the public interest.

**121 Paragraphs 52(1)(a) to (d)**

Repeal the paragraphs, substitute:

- (a) a decision under section 17, 19D, 24 or 30 to refuse to approve a person becoming an Australian citizen;
- (b) a decision under section 17A, 19DA, 25 or 30A to cancel an approval given to a person under Division 2 of Part 2;

**122 Paragraph 52(1)(f)**

Omit “section 34”, substitute “section 33A, 34 or 34AA”.

**123 After subsection 52(2)**

Insert:

- (2A) If the Minister makes a decision under section 24 to refuse to approve a person becoming an Australian citizen under subsection 21(5), the person cannot apply for review of that decision unless:
- (a) the person is a permanent resident; or
  - (b) the person holds a permanent visa of a kind determined in an instrument under subsection 3(2).

**124 Subsection 52(3)**

Omit “of a kind referred to in paragraph (1)(b)”, substitute “under section 24 to refuse to approve a person becoming an Australian citizen”.

**125 Paragraph 52(3)(a)**

After “power under subsection”, insert “22AA(1),”.

## 126 At the end of section 52

Add:

### *Decisions not reviewable*

- (4) Subsection (1) does not apply to a decision made by the Minister personally, where the notice under section 47 included a statement that the Minister is satisfied that the decision was made in the public interest.

Note: See also section 52B (about tabling a statement in Parliament).

## 127 After section 52

Insert:

### **52A Minister may in the public interest set aside certain decisions of the Administrative Appeals Tribunal**

- (1) If:
- (a) a delegate of the Minister makes one of the following decisions:
    - (i) a decision under section 17, 19D, 24 or 30 to refuse to approve a person becoming an Australian citizen;
    - (ii) a decision under section 17A, 19DA, 25 or 30A to cancel an approval given to a person under Division 2 of Part 2; and
  - (b) the delegate made the decision because the delegate was not satisfied that the person was of good character at the time of the decision or was not satisfied of the identity of the person; and
  - (c) the person applied to the Administrative Appeals Tribunal for review of the decision; and
  - (d) on that review the Tribunal made a decision of the kind referred to in paragraph 43(1)(c) of the *Administrative Appeals Tribunal Act 1975* (about setting aside the decision under review); and
  - (e) the person has not become an Australian citizen;
- then, if the Minister is satisfied that it is in the public interest to do so, the Minister may make a decision setting aside the Tribunal's

decision and make a decision of the kind referred to in paragraph (a).

Note: See also section 52B (about tabling a statement in Parliament).

- (2) The power under subsection (1) may only be exercised by the Minister personally.

## **52B Tabling statement in Parliament**

### *Decisions not reviewable by Administrative Appeals Tribunal*

- (1) If the Minister makes a decision that is not reviewable by the Administrative Appeals Tribunal because of subsection 52(4), the Minister must cause to be tabled in each House of the Parliament, within 15 sitting days of that House after the day the Minister makes the decision, a statement that:
  - (a) sets out the Minister's decision; and
  - (b) sets out the reasons for the Minister's decision.
- (2) However, a statement under subsection (1) is not to include the name of the person affected by the decision.

### *Decisions setting aside Administrative Appeals Tribunal decisions*

- (3) If the Minister makes a decision under subsection 52A(1) to set aside a decision of the Administrative Appeals Tribunal, the Minister must cause to be tabled in each House of the Parliament, within 15 sitting days of that House after the day the Minister makes the decision, a statement that:
  - (a) sets out the Tribunal's decision; and
  - (b) states that the Minister has set aside the Tribunal's decision; and
  - (c) sets out the decision made by the Minister in connection with the decision to set aside the Tribunal's decision; and
  - (d) sets out the reasons for the Minister's decision to set aside the Tribunal's decision.
- (4) However, a statement under subsection (3) is not to include the name of the person affected by the Minister's decisions.

## 128 After section 53

Insert:

### 53A Use and disclosure of personal information

#### *Use*

- (1) The Minister, the Secretary or an APS employee in the Department may use personal information obtained under the *Migration Act 1958*, or the regulations under that Act, for the purposes of this Act or the regulations under this Act.
- (2) A person to whom personal information is disclosed under subsection 488C(3) of the *Migration Act 1958* may use that information for the purposes of this Act or the regulations under this Act.

#### *Disclosure*

- (3) The Minister, the Secretary or an APS employee in the Department may disclose personal information obtained under this Act, or the regulations under this Act, to the Minister, the Secretary or an officer (within the meaning of the *Migration Act 1958*) for the purposes of that Act or the regulations under that Act.

#### *Definitions*

- (4) In this section:

*personal information* has the same meaning as in the *Privacy Act 1988*.

*Secretary* means the Secretary of the Department.

## 129 Section 54

Before “The”, insert “(1)”.

## 130 At the end of section 54

Add:

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- (2) Without limiting subsection (1), the regulations may confer on the Minister the power to make legislative instruments.

**131 Schedule 1 (heading)**

Repeal the heading, substitute:

**Schedule 1—Pledge of allegiance as a citizen  
of the Commonwealth of Australia**

**132 Schedule 1 (note to Schedule heading)**

Omit “section 27”, substitute “section 32AC”.

**133 Schedule 1**

Omit “loyalty to Australia and its people, whose” (wherever occurring), substitute “allegiance to Australia and its people, whose values and”.

***Migration Act 1958***

**134 After section 488B**

Insert:

**488C Use and disclosure of citizenship information**

*Use*

- (1) The Minister, the Secretary or an officer may use personal information obtained under the *Australian Citizenship Act 2007*, or the regulations under that Act, for the purposes of this Act or the regulations under this Act.
- (2) A person to whom personal information is disclosed under subsection 53A(3) of the *Australian Citizenship Act 2007* may use that information for the purposes of this Act or the regulations under this Act.

*Disclosure*

- (3) The Minister, the Secretary or an officer may disclose personal information obtained under this Act, or the regulations under this Act, to the Minister, the Secretary or an APS employee in the Department for the purposes of the *Australian Citizenship Act 2007* or the regulations under that Act.
- (4) However, subsection (3) does not override section 488.

Note: Section 488 prohibits the disclosure etc. of movement records except in limited circumstances.

## **Part 2—Application and transitional provisions**

### **135 Automatic acquisition of Australian citizenship**

#### *Parent entitled to privileges and immunities*

- (1) Subsection 12(3) of the *Australian Citizenship Act 2007*, as inserted by this Act, applies in relation to births that occur on or after the commencement of this item.

#### *Unlawful non-citizens and no visas*

- (2) Subsections 12(4), (5) and (6) of the *Australian Citizenship Act 2007*, as inserted by this Act, apply in relation to a 10-year period referred to in paragraph 12(1)(b) of that Act that ends on or after the commencement of this item (whether the birth occurred before, on or after that commencement).
- (3) To avoid doubt, for the purposes of subitem (2), in relation to a birth that occurs before the commencement of this item, subsections 12(4), (5) and (6) of the *Australian Citizenship Act 2007*, as inserted by this Act, apply in relation to any part of the 10-year period (whether that part occurs before, on or after that commencement).

#### *Status of parent*

- (4) Subsection 12(7) of the *Australian Citizenship Act 2007*, as inserted by this Act, applies in relation to births in, and entries into Australia, that occur on or after the commencement of this item.

#### *Abandoned children*

- (5) Subsections 12(8) and (9) of the *Australian Citizenship Act 2007*, as inserted by this Act, apply in relation to persons found abandoned in Australia as a child on or after the commencement of this item.

#### *Citizenship by adoption and abandoned children*

- (6) The amendment of section 13 of the *Australian Citizenship Act 2007* made by this Act applies in relation to adoption processes beginning on or after the commencement of this item.

- (7) The repeal of section 14 of the *Australian Citizenship Act 2007* by this Act applies in relation to persons found abandoned in Australia as a child on or after the commencement of this item.

### 136 Pledge of allegiance

- (1) The following apply (subject to subitem (2)) in relation to applications made under Division 2 of Part 2 of the *Australian Citizenship Act 2007* on or after 20 April 2017:
- (a) sections 15B, 19BA and 28B, subsections 17A(3), 19DA(3) and 30A(3), and Subdivision D of Division 2 of Part 2, of the *Australian Citizenship Act 2007*, as inserted by this Act;
  - (b) the repeal of sections 18, 19, 19E, 19F, 26 to 28 and 31, and subsection 32(1), of that Act by this Act;
  - (c) the amendments of Schedule 1 to that Act made by this Act.
- (2) To the extent that paragraph 32AB(3)(c) of the *Australian Citizenship Act 2007*, as inserted by this Act, applies to approvals given under section 24 of that Act, that paragraph applies in relation to approvals given before, on or after 20 April 2017.

#### *Transitional instruments*

- (3) An instrument that is in force immediately before the commencement of this item under a provision of the *Australian Citizenship Act 2007* mentioned in column 1 of any of the following table items is taken, after that commencement, to be in force under the provision mentioned in column 2 of that table item.

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#### Transitional instruments

Item	Column 1 Old provision of the <i>Australian Citizenship Act 2007</i>	Column 2 New provision of the <i>Australian Citizenship Act 2007</i>
1	Subsection 26(3)	Subsection 32AB(3)
2	Subsection 27(4)	Subsection 32AC(4)
3	Subsection 27(5)	Subsection 32AC(5)

- (4) A reference in the instrument to the pledge of commitment is taken, after that commencement, to be a reference to the pledge of allegiance.
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### **137 Acquisition of Australian citizenship by application**

#### *Descent*

- (1) The amendments of sections 16 and 17 of the *Australian Citizenship Act 2007* made by this Act apply in relation to applications made under section 16 of that Act on or after the commencement of this item.
- (2) The repeal of section 19A of the *Australian Citizenship Act 2007* by this Act, and section 33A of that Act as inserted by this Act, apply in relation to approvals given under section 17 of that Act on or after the commencement of this item.

#### *Hague Convention etc.*

- (3) The amendments of sections 19C and 19D of the *Australian Citizenship Act 2007* made by this Act apply in relation to applications made under section 19C of that Act on or after the commencement of this item.

#### *Citizenship by conferral*

- (4) The following apply in relation to applications made under section 21 of the *Australian Citizenship Act 2007* on or after the commencement of this item:
  - (a) the amendments of paragraphs 21(5)(b) and (c) and subsections 21(6), 22A(1) and 22B(1), and section 24 (except subsection 24(5)), of the *Australian Citizenship Act 2007* made by this Act;
  - (b) section 22AA of that Act, as inserted by this Act.
- (5) Subsections 22(3) and (4), 22A(5A) and 22B(5A) of the *Australian Citizenship Act 2007*, as inserted by this Act, apply in relation to:
  - (a) applications made under section 21 of that Act on or after the commencement of this item; and
  - (b) applications made under that section before that commencement and not decided by the Minister before that commencement.
- (6) The following apply in relation to applications made under section 21 of that Act on or after 20 April 2017:

## Schedule 1 Amendments

### Part 2 Application and transitional provisions

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- (a) the amendments of sections 21 (except paragraphs 21(5)(b) and (c) and subsection 21(6)), 22 (except subsections 22(3) and (4)) and 23A of the *Australian Citizenship Act 2007* made by this Act;
- (b) the amendments of subsections 22A(1A) and 22B(1A) and 24(5) of that Act made by this Act.

Note: Section 22 of the *Australian Citizenship Act 2007*, as in force immediately before the commencement of Part 1 of this Schedule, applies in relation to applications made by certain New Zealand citizens on or after 20 April 2017 (see subsection 22(11) of that Act).

#### *Cancellation of approval of citizenship*

- (7) The following apply in relation to approvals given under Division 2 of Part 2 of the *Australian Citizenship Act 2007* before, on or after the commencement of this item:
  - (a) amendments of sections 25 and 52 of that Act made by this Act;
  - (b) subsections 17A(1) and (2), 19DA(1) and (2) and 30A(1) and (2) of that Act, as inserted by this Act.

#### *Citizenship by resumption*

- (8) The amendments of sections 29 and 30 of the *Australian Citizenship Act 2007* made by this Act apply in relation to applications made under section 29 of that Act on or after the commencement of this item.

### **138 Revocation of citizenship**

Section 34AA of the *Australian Citizenship Act 2007*, as inserted by this Act, applies in relation to approvals to become an Australian citizen that are given on or after the commencement of this item, whether the fraud or misrepresentation occurred before, on or after that commencement.

### **139 Application requirements**

The amendments of section 46 of the *Australian Citizenship Act 2007* made by this Act apply in relation to applications made under that Act on or after 20 April 2017.

#### **140 Notification and review**

- (1) The amendments of sections 47 and 52 (except the amendment of subsection 52(1)) of the *Australian Citizenship Act 2007* made by this Act apply in relation to decisions made on or after the commencement of this item.
- (2) Section 52A of the *Australian Citizenship Act 2007*, as inserted by this Act, applies in relation to decisions made by the Administrative Appeals Tribunal on or after the commencement of this item (whether the decisions of the delegate of the Minister were made before, on or after that commencement).

#### **141 Personal information**

Subsections 53A(1) and (3) of the *Australian Citizenship Act 2007*, as inserted by this Act, apply in relation to personal information obtained before, on or after the commencement of this item.

#### **142 Saving of regulations**

Regulations in force under section 54 of the *Australian Citizenship Act 2007* immediately before the commencement of this item continue in force on and after that commencement as if they were regulations in force under subsection 54(1) of that Act.

#### **143 Amendments of the *Migration Act 1958***

Subsections 488C(1) and (3) of the *Migration Act 1958*, as inserted by this Act, apply in relation to personal information obtained before, on or after the commencement of this item.