



# Australian Citizenship Regulations 2007<sup>1</sup>

**Select Legislative Instrument 2007 No. 164**

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I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Australian Citizenship Act 2007*.

Dated 21 June 2007

P. M. JEFFERY  
Governor-General

By His Excellency's Command

KEVIN ANDREWS  
Minister for Immigration and Citizenship

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### 1 Name of Regulations

These Regulations are the *Australian Citizenship Regulations 2007*.

### 2 Commencement

These Regulations commence at the same time as sections 2A to 54 of the *Australian Citizenship Act 2007*.

**3 Repeal**

The *Australian Citizenship Regulations 1960* are repealed.

**4 Definitions**

In these Regulations:

*Act* means the *Australian Citizenship Act 2007*.

*Australian mission overseas* means a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia.

*Centrelink* means the Commonwealth Services Delivery Agency established by the *Commonwealth Services Delivery Agency Act 1997*.

*Hague Convention on Intercountry Adoption* means the *Convention on Protection of Children and Co-operation in respect of Intercountry Adoption*, done at The Hague on 29 May 1993.

*pledge of commitment* has the meaning given by section 27 of the Act.

**5 Registration under section 18 of the Act**

For section 18 of the Act, a person is registered by the Minister:

- (a) making a record of the fact that the person is an Australian citizen by descent; and
- (b) including the record on a data storage system kept by the Department.

**6 Registration under section 19E of the Act**

For section 19E of the Act, a person is registered by the Minister:

- (a) making a record of the fact that the person is an Australian citizen by adoption in accordance with the Hague Convention on Intercountry Adoption; and
- (b) including the record on a data storage system kept by the Department.

**7 Prescribed reasons for failing to make pledge of commitment**

- (1) For subsection 25 (3) of the Act, this regulation prescribes reasons for failing to make a pledge of commitment.
- (2) A person has a prescribed reason for failing to make a pledge of commitment if:
  - (a) the person was prevented from making a pledge because the Minister has determined under subsection 26 (3) of the Act that the making of the pledge should be delayed for a specified period; and
  - (b) either:
    - (i) that specified period has not yet ended; or
    - (ii) the specified period has ended, but the person has not yet had a reasonable period since the end of the specified period in which to make a pledge.
- (3) Subject to subregulation (5), a person has a prescribed reason for failing to make a pledge of commitment if:
  - (a) the person could not make a pledge, either in Australia or at an Australian mission overseas, because during that period, the person was overseas:
    - (i) for medical treatment that was not available in Australia; or
    - (ii) for a purpose unrelated to medical treatment, and was unexpectedly hospitalised; or
    - (iii) to care for a person who was critically ill; or
    - (iv) for a funeral and other associated arrangements; and
  - (b) either:
    - (i) the person still cannot make a pledge for the reason mentioned in paragraph (a); or
    - (ii) the person is now able to make a pledge, but the person has not yet had a reasonable period in which to do so.

- (4) Subject to subregulation (5), a person has a prescribed reason for failing to make a pledge of commitment if:
  - (a) the person could not make a pledge because of an administrative error or omission made by:
    - (i) the Commonwealth, a State or Territory; or
    - (ii) an authority of the Commonwealth, a State or Territory; or
    - (iii) a local government authority; and
  - (b) either:
    - (i) the error or omission has not been rectified; or
    - (ii) the error or omission has been rectified, but the person has not yet had a reasonable period in which to make a pledge.
- (5) For subregulation (3) or (4), a person has a prescribed reason only if the person gives the Minister:
  - (a) a signed statement to support the claim that includes a description of any effort that the person made to make a pledge of commitment within the relevant period; and
  - (b) written evidence that supports the statement.

## **8 Arrangements for making pledge of commitment**

For subsection 27 (2) of the Act, the arrangements are:

- (a) the pledge of commitment must be made in public if it is reasonably practicable; and
- (b) the person before whom the pledge is made must read aloud the address specified in Schedule 1 to the person making the pledge.

*Note* The Department may notify additional arrangements for making a pledge of commitment, or conducting a ceremony, that are designed to impress upon applicants the responsibilities and privileges of Australian citizenship.

**9 Registration under section 31 of the Act**

For section 31 of the Act, a person is registered by the Minister:

- (a) making a record of the fact that the person is an Australian citizen by resumption of citizenship; and
- (b) including the record on a data storage system kept by the Department.

**10 Form of notice under subsection 37 (3) of the Act**

- (1) For subsection 37 (3) of the Act, a notice must be given in accordance with the form in Schedule 2.
- (2) The signature of the Minister on the notice may be a facsimile that is printed or stamped.

**11 Personal Identifiers**

For subsection 40 (2) of the Act, a request must inform the applicant of the following matters:

- (a) why a personal identifier must be provided;
- (b) how a personal identifier may be collected;
- (c) how a personal identifier may be used;
- (d) the circumstances in which a personal identifier may be disclosed to a third party;
- (e) that a personal identifier may be produced in evidence in a court or tribunal in relation to the applicant who provided the personal identifier;
- (f) that the *Privacy Act 1988* applies to a personal identifier, and that the applicant has a right to make a complaint to the Privacy Commissioner about the handling of personal information;
- (g) that the *Freedom of Information Act 1982* gives a person access to certain information and documents in the possession of the Government of the Commonwealth and of its agencies, and that the applicant has a right under that Act to seek access to that information or those documents under that Act, and to seek amendment of records

containing personal information that is incomplete, incorrect, out of date or misleading.

**12 Information, documents and fees to accompany applications**

- (1) For paragraph 46 (1) (c) of the Act, if information or a document accompanying an application for citizenship is not originally in English, the information or document must be accompanied by an official English translation.
- (2) For paragraph 46 (1) (d) of the Act, an application of the kind mentioned in an item in Schedule 3 must be accompanied by the fee mentioned in the item.

**13 Refund of fees under subsection 46 (3) of the Act**

- (1) The Minister may refund the whole or part of a fee that is payable under section 46 of the Act in relation to an application made under section 16, 19C, 21 or 29 of the Act in any of the following circumstances:
  - (a) a person has previously made an application under the same section and a decision on that application has not been made;
  - (b) a person has made an application as a result of incorrect advice given by the Department;
  - (c) a person is an Australian citizen;
  - (d) a person has paid an incorrect fee.
- (2) The Minister may refund the whole or part of a fee payable under section 46 of the Act in relation to an application made under section 33 of the Act in either of the following circumstances:
  - (a) a person has previously made an application under the same section and a decision on that application has not been made;
  - (b) a person has made an application as a result of incorrect advice given by the Department.

- (3) The Minister may refund the whole or part of a fee payable under section 46 of the Act in relation to an application made under section 37 of the Act in any of the following circumstances:
- (a) a person has previously made an application under the same section and a decision on that application has not been made;
  - (b) a person has made an application mentioned in paragraph (a) as a result of incorrect advice given by the Department;
  - (c) a person has already been given evidence of his or her Australian Citizenship, but a departmental error was made which resulted in an error in the information provided in the evidence.

**14 Form of notice under section 47 of the Act**

For subsection 47 (4) of the Act, the Minister must give notice of a decision under the Act, by:

- (a) personal delivery; or
- (b) prepaid post to the last address given to the Department; or
- (c) electronic means.



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## **Schedule 1      Preamble for citizenship ceremony**

(regulation 8)

Australian citizenship represents full and 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.

Persons on whom Australian citizenship is conferred enjoy these rights and undertake to accept these obligations:

- (a) by pledging loyalty to Australia and its people;
- (b) by sharing their democratic beliefs;
- (c) by respecting their rights and liberties; and
- (d) by upholding and obeying the laws of Australia.

## Schedule 2      Form of notice

(regulation 10)

COMMONWEALTH OF AUSTRALIA

*Australian Citizenship Act 2007*

Australian Citizenship

*(full name of citizen)*

born on *(date of citizen's birth)*

I, the Minister administering the *Australian Citizenship Act 2007*, give notice that the abovenamed is an Australian citizen and that citizenship was acquired on *(date of acquisition or birth)*.

*(Signature or printed or stamped signature of the Minister)*

**MINISTER FOR IMMIGRATION AND CITIZENSHIP**

*(Signature of presiding officer)*

Dated:

Evidence No:

*Note 1* If desired, a presiding officer may sign his or her signature where indicated above. However, a presiding officer may only sign the form when a person acquires citizenship by conferral after making the pledge of commitment in accordance with section 27 of the Act before that presiding officer.

*Note 2* In limited circumstances, the names of the following children:

- (a) who had not attained the age of 16 years at the time of application;
- (b) whose application was made prior to 1 July 2002;
- (c) whose responsible parent is named in this notice;

may be listed on the back of this notice, along with the signature or printed or stamped signature of the Minister.

## Schedule 3 Fees to accompany applications

(subregulation 12 (2))

Item	Application	Fee
1	Applications made at the same time under section 16 of the Act by 2 or more siblings	\$110 for the application by the first sibling, and \$85 for the applications made by the second and subsequent siblings
2	An application under section 16 of the Act, other than an application mentioned in item 1	\$110
3	Applications made at the same time under section 19C of the Act by 2 or more siblings	\$110 for the application by the first sibling, and \$85 for the applications made by the second and subsequent siblings
4	An application under section 19C of the Act, other than an application mentioned in item 3	\$110
5	An application under section 21 of the Act where the applicant has completed at least 3 months service in the permanent forces of the Commonwealth or 3 months National Service under section 26 of the <i>National Service Act 1951</i> as in force at any time before 26 November 1964	Nil
6	An application under section 21 of the Act where the applicant has entered Australia from the United Kingdom or Malta between 22 September 1947 and 31 December 1967 inclusive, and was a ward of the Minister under the <i>Immigration (Guardianship of Children) Act 1946</i>	Nil

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Item	Application	Fee
7	An application under section 21 of the Act where the applicant has previously had an application for citizenship refused solely on the grounds of not satisfying the residence requirements of: <ul style="list-style-type: none"> <li>(a) subsection 22 (1) of the Act; or</li> <li>(b) paragraphs 13 (1) (d) and (e) of the <i>Australian Citizenship Act 1948</i>;</li> </ul> and applied within 3 months of being able to satisfy the residence requirements	Nil
8	An application under section 21 of the Act where the applicant has applied under subsection 21 (8) of the Act (statelessness)	Nil
9	An application under section 21 of the Act where the applicant holds a pensioner concession card or health care card, endorsed by Centrelink with 1 of the following codes: AGE; AGE BLIND; CAR; DSP; DSP BLIND; MAA; NSA; PPP; PTA; SAL; SPL; WDA; WFA; WFD; WFW	\$20
10	An application under section 21 of the Act where the applicant: <ul style="list-style-type: none"> <li>(a) holds a pensioner concession card, endorsed by Centrelink, with the code PPS; and</li> <li>(b) produces evidence that the applicant is over 60 years of age; and</li> <li>(c) has been in receipt of PPS for at least 9 months</li> </ul>	\$20

Item	Application	Fee
11	An application under section 21 of the Act where the applicant: <ul style="list-style-type: none"> <li>(a) holds a health care card, endorsed by Centrelink with the code PA; and</li> <li>(b) produces evidence that the applicant is :               <ul style="list-style-type: none"> <li>(i) the partner of a holder of a pensioner concession card, endorsed by Centrelink with 1 of the following codes: AGE; AGE BLIND; CAR; DSP; DSP BLIND; MAA; WFA; WFD; WFW; or</li> <li>(ii) the partner of a holder of a health care card, endorsed by Centrelink with the code SL and who has received the SL benefit for at least 46 of the previous 52 weeks</li> </ul> </li> </ul>	\$20
12	An application under section 21 of the Act where the applicant: <ul style="list-style-type: none"> <li>(a) holds a health care card, endorsed by Centrelink with the code SL; and</li> <li>(b) produces evidence that the applicant has received the SL benefit for at least 46 of the previous 52 weeks</li> </ul>	\$20
13	An application under section 21 of the Act where the applicant holds a pensioner concession card, endorsed by the Department of Veterans' Affairs, for Age Service, Invalidity Service or Partner Service pension or an Income Support Supplement	\$20
14	An application under section 21 of the Act by a child, under the age of 16, who applies for citizenship at the same time and on the same form as a responsible parent	Nil
15	An application under section 21 of the Act, apart from an application mentioned in items 5 to 14	\$120

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Item	Application	Fee
16	An application under section 29 of the Act by a child, under the age of 16, who makes an application at the same time and on the same form as a responsible parent	Nil
17	An application under section 29 of the Act, other than an application mentioned in item 16	\$65
18	An application under section 33 of the Act	\$260
19	An application under section 37 of the Act that is made at the same time and on the same form as an application under section 21 or 29 of the Act	Nil
20	An application under section 37 of the Act, other than an application mentioned in item 19	\$55

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**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.frli.gov.au](http://www.frli.gov.au).