

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2009 No. 330**

Issued by the Minister for Immigration and Citizenship

*Australian Citizenship Act 2007*

*Australian Citizenship Amendment Regulations 2009 (No. 2)*

Section 54 of the *Australian Citizenship Act 2007* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Paragraph 46(1)(d) of the Act provides that an application under a provision of the Act must be accompanied by the fee (if any) prescribed by the *Australian Citizenship Regulations 2007* (the Principal Regulations).

The purpose of the Regulations is to amend the Principal Regulations to incorporate, by reference, instruments made under subregulations 5.36(1) and 5.36(1A) of the *Migration Regulations 1994* (the Migration Regulations) which relate to the payment of fees in foreign currencies and foreign countries.

In particular, the Regulations, by reference, specify the foreign countries where a fee may be paid, the amount of foreign currency in which a fee may be paid, and how much foreign currency must be paid for a fee expressed in Australian dollars.

Details of the Regulations are set out in the Attachment.

The Regulations commence on 1 January 2010.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Office of Best Practice Regulation's Business Cost Calculator and Assessment Checklists were used to determine that there was a low impact and compliance cost on business.

No consultation was conducted, as the amendments have no relevant implications for any external agencies or other bodies.

## **ATTACHMENT**

### **Details of the Australian Citizenship Amendment Regulations 2009 (No. 2)**

#### **Regulation 1 – Name of Regulations**

This regulation provides that the title of the Regulations are the *Australian Citizenship Amendment Regulations 2009 (No. 2)*.

#### **Regulation 2 – Commencement**

This regulation provides for the Regulations to commence on 1 January 2010.

#### **Regulation 3 – Amendment of *Australian Citizenship Regulations 2007***

Subregulation 3(1) provides that Schedule 1 amends the *Australian Citizenship Regulations 2007* (the Principal Regulations).

Subregulation 3(2) provides that the amendments made by Schedule 1 apply in relation to an application made under the *Australian Citizenship Act 2007* (the Act) on or after 1 January 2010.

#### **Schedule 1 – Amendments**

##### **Item [1] – Subregulation 12A(7), definition of *conversion instrument***

This item amends the definition of “conversion instrument” currently in subregulation 12A(7) of the Principal Regulations by omitting reference to the instrument (IMMI 09/038) and substituting a reference to instrument (IMMI 09/100).

The definition of “conversion instrument” is relevant to provisions in the Principal Regulations which allow a person who makes an application under the Act to pay the prescribed fee in a foreign currency specified in the conversion instrument.

The definition of “conversion instrument” is being amended to incorporate by reference, a new instrument titled “Payment of Visa Application Charges and Fees in Foreign Currencies, (IMMI 09/100)” which is proposed to be made under subregulation 5.36(1A) of the *Migration Regulations 1994* (the Migration Regulations) and commence on 1 January 2010. This instrument sets out visa application charge and fee amounts in foreign currencies which correspond to amounts payable in Australian dollars. If the amount of the application fee is mentioned in the conversion instrument, then payment can be made in the corresponding amount in the foreign currency. The number for that instrument to be made under the Migration Regulations is already allocated.

Due to the operation of section 14 of the *Legislative Instruments Act 2003*, it is not possible to incorporate by reference the instrument made under regulation 5.36 of the Migration Regulations as in force from time-to-time. Rather, the new instrument will be incorporated by reference at the time of commencement of the Regulations.

Instruments made under the Migration Regulations are incorporated in the Principal Regulations because the Act does not currently permit the Minister to make instruments under the Principal Regulations.

Item [2] – Subregulation 12A(7), definition of *places and currencies instrument*

This item amends the definition of “places and currencies instrument” currently in subregulation 12A(7) by omitting reference to the instrument (IMMI 09/039) and inserting a reference to instrument (IMMI 09/101).

This definition of “places and currencies instrument” is relevant to provisions in the Principal Regulations which allow a person who makes an application under the Act to pay the prescribed fee in a foreign country and a foreign currency specified in the places and currencies instrument.

The definition of “places and currencies instrument” is being amended to incorporate by reference a new instrument titled “Places and Currencies for Paying of Fees, (IMMI 09/101)” which is proposed to be made under subregulation 5.36(1) of the Migration Regulations and commence on 1 January 2010. The instrument sets out the places and currencies for paying fees.