

## **EXPLANATORY STATEMENT**

Issued by the Minister for Home Affairs

*Australian Citizenship Act 2007*

*Australian Citizenship Amendment (Form of Notice) Regulations 2018*

The *Australian Citizenship Act 2007* (the Citizenship Act) provides for the process of acquiring Australian citizenship, the circumstances in which citizenship may cease, and other matters related to citizenship.

Section 54 of the Citizenship 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 Citizenship Act.

Further, paragraph 37(3)(a) of the Citizenship Act provides that a notice stating that a person is an Australian citizen at a particular time must be in a form prescribed by the regulations. Subsection 12(1) of the *Australian Citizenship Regulation 2016* (the Citizenship Regulation) provides that a notice under paragraph 37(3)(a) must be in accordance with the form in Schedule 2 to the Citizenship Regulation.

The *Australian Citizenship Amendment (Form of Notice) Regulations 2018* (the Regulations) amend Schedule 2 to the Citizenship Regulation to remove a reference to the title of ‘Minister for Immigration and Border Protection’, which is no longer current. The amendment replaces this reference with an instruction to include the Minister’s title under the Minister’s signature.

The Office of Best Practice Regulation (the OBPR) has been consulted in relation to the amendments made by the Regulations. The OBPR considers that the following amendments have minor regulatory impacts, and no further analysis in the form of a Regulation Impact Statement is required. The OBPR consultation reference is 24158.

No further consultation was considered necessary because the amendments do not substantially alter existing arrangements. This accords with subsection 17(1) of the *Legislation Act 2003* (the Legislation Act) which requires consultations to be appropriate and reasonably practicable.

A Statement of Compatibility with Human Rights (the Statement) has been completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The overall assessment is that the Regulations are compatible with human rights. A copy of the Statement is at [Attachment A](#).

The Citizenship Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

Details of the Regulations are set out in [Attachment B](#).

The Regulations are a legislative instrument for the purpose of the Legislation Act. The Regulations commence the day after they are registered.

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

***Australian Citizenship Amendment (Form of Notice) Regulations 2018***

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview**

Paragraph 37(3)(a) of the Citizenship Act provides that a notice stating that a person is an Australian citizen at a particular time must be in a form prescribed by the regulations. Currently, for the purpose of issuing evidence of Australian citizenship under the *Australian Citizenship Act 2007* (the Citizenship Act), Schedule 2 to the *Australian Citizenship Regulation 2016* (the Citizenship Regulation) prescribes the form of notice. These notices are issued as evidence of Australian citizenship to individuals who acquire their Australian citizenship by conferral or by those who apply for evidence of their Australian citizenship.

The form prescribed by Schedule 2 contained reference to the title of ‘Minister for Immigration and Border Protection’ under the Minister’s signature. In light of the ministry arrangement announced on 26 August 2018, this title was no longer the title of any Minister administering the Citizenship Act and therefore needed to be updated.

The amendment replaces the previous reference to the title of ‘Minister for Immigration and Border Protection’ with an instruction to include the Minister’s title under the Minister’s signature.

**Human rights implications**

This Schedule has been assessed against the seven core international human rights treaties and does not engage any of the applicable rights or freedoms.

**Conclusion**

This Schedule is compatible with human rights as it is a technical amendment only and does not raise any human rights issues.

**The Hon Peter Dutton MP  
Minister for Home Affairs**

**Details of the *Australian Citizenship Amendment (Form of Notice) Regulations 2018***

Section 1 – Name

This section provides that the title of the Regulations is the *Australian Citizenship Amendment (Form of Notice) Regulations 2018* (the Regulations).

Section 2 – Commencement

Subsection 2(1) provides that each provision of the Regulations specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms. The table states that the whole of this instrument commences the day after this instrument is registered. A note clarifies that this table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

Subsection 2(2) provides that any information in column 3 of the table is not part of the Regulations. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument. Column 3 of the table provides the date/details of the commencement date.

The purpose of this section is to provide for when the amendments made by the Regulations commence.

Section 3 – Authority

This section provides that the Regulations are made under the *Australian Citizenship Act 2007* (the Citizenship Act).

The purpose of this section is to set out the Act under which the Regulations are made.

Section 4 – Schedule(s)

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

The effect of this section is that the *Australian Citizenship Regulation 2016* (the Citizenship Regulation) is amended as set out in the applicable items in Schedule 1 to the Regulations.

The purpose of this section is to provide for how the amendments in these Regulations operate.

## Schedule 1 – Amendments

### *Australian Citizenship Regulation 2016*

This amendment removes the title “*MINISTER FOR IMMIGRATION AND BORDER PROTECTION*” in Schedule 2 to the Citizenship Regulation, and substitutes it with “*(Title of the Minister)*”.

Paragraph 37(3)(a) of the Citizenship Act provides that a notice stating that a person is an Australian citizen at a particular time must be in a form prescribed by the regulations. Schedule 2 to the Citizenship Regulation prescribes the relevant form. These notices are issued as evidence of Australian citizenship to individuals who acquire their Australian citizenship by conferral, or by those who apply for evidence of their Australian citizenship. This evidence is required for different purposes, such as to obtain passports, to gain government employment, and to access government study assistance, etc.

The Form of Notice prescribed by Schedule 2 previously contained reference to the title of ‘*MINISTER FOR IMMIGRATION AND BORDER PROTECTION*’ under the Minister’s signature. On 26 August 2018, the Government announced a new ministry arrangement. Consequently, the previous title is no longer the title of any Minister administering the Citizenship Act, and must therefore be updated.

This amendment replaces the previous reference to the Minister’s title with an instruction to include the Minister’s title under the Minister’s signature.