# EXPLANATORY STATEMENT

## *Australian Citizenship Act 2007*

**Australian Citizenship(LIN 19/066: Persons Who May Receive a Pledge of Commitment) Authorisation 2019**

*(Subsections 27(4) and 27(5))*

1. The instrument, LIN 19/066, is made under subsections 27(4) and 27(5) of the *Australian* *Citizenship Act 2007* (‘the Act’).
2. The instrument revokes IMMI 17/098 (F2017L01044) and IMMI 09/129 (Instrument of Authorisation) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*, which states that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.
3. The instrument operates to authorise persons and the different class of persons able to receive the pledge of commitment of Australian citizenship. Subsection 26(1) of the Act requires that a person must make a pledge of commitment to Australia to become an Australian citizen unless they meet the requirements set out in paragraphs 26(1)(a) to (c). A person required to make a pledge of commitment becomes an Australian citizen on the day on which the pledge of commitment is made.
4. The purpose of the instrument LIN 19/066 is to update the persons and classes of persons authorised to receive a pledge of commitment. In particular, this instrument, in section 5 of Schedule 1, specifies the new names of the divisions, branches and sections of entrusted persons of the Department of Home Affairs, which have changed as a result of recent Machinery of Government changes.
5. In accordance with paragraph 15J(2)(e) of the *Legislation Act 2003*, consultation in relation to updating the titles of classes of persons authorised was not considered necessary. Those amendments to the instrument are minor and machinery in nature and do not substantially alter existing arrangements.
6. The Office of Best Practice Regulation (OBPR) has been consulted (OBPR reference: 24029).
7. Under section 42 of the *Legislation Act 2003*, the instrument is subject to disallowance and therefore a Statement of Compatibility with Human Rights has been provided.
8. The instrument commences on the day after registration on the Federal Register of Legislation.

## **Statement of Compatibility with Human Rights**

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

**Australian Citizenship (LIN 19/066: Persons Who May Receive a Pledge of Commitment) Authorisation 2019**

This Disallowable 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 of the Disallowable Legislative Instrument**

Instrument LIN 19/066 is made under subsections 27(4) and 27(5) of the *Citizenship Act 2007* (the Act). The instrument repeals the *Citizenship (Authorisation) Revocation and Authorisation Instrument 2017*, IMMI 17/098 (F2017L01044) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*.

The operation of this instrument is to authorise persons or classes of persons to receive the pledge of commitment. Subsection 26(1) of the Act requires that a person must make a pledge of commitment to become an Australian citizen unless they meet the requirements set out in paragraphs 26(1)(a), 26(1)(b) or 26(1)(c). A person required to make a pledge of commitment becomes an Australian citizen on the day on which the pledge of commitment is made.

The purpose of the instrument LIN 1, is to update the persons and classes of persons authorised to receive a pledge of commitment. In particular, this instrument, in section 5 of Schedule 1, specifies the new names of the divisions, branches and sections of entrusted persons of the Department of Home Affairs which have been changed as a result of the Machinery of Government Change that occurred in April 2018.

**This instrument does not substantially alter existing arrangements; as such changes are considered to be minor or machinery in nature. In accordance with paragraph 15J(2)(e) of the *Legislation Act 2003* consultation was deemed not necessary. The changes made relate to name changes of the relevant section/branch/division/group, and the change in name from the Department of Immigration and Border Protection, to the Department of Home Affairs.**

### **Human rights implications**

This legislative instrument has been considered against the seven core human rights conventions, in particular the following Convention articles.

### **Conclusion**

This Legislative Instrument is compatible with human rights because, to the extent that it may limit human rights those limitations are reasonable, necessary and proportionate.

**The Hon David Coleman MP**

**Minister for Immigration, Citizenship and Multicultural Affairs**