

EXPLANATORY STATEMENT

Issued by the Minister for Immigration, Citizenship and Multicultural Affairs

Australian Citizenship Act 2007

*Australian Citizenship Amendment (Indexation of Citizenship Application Fees)
Regulations 2023*

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

Section 54 of the Citizenship Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Citizenship Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Citizenship Act. Paragraph 46(1)(d) of the Citizenship Act provides that an application made under that Act must be accompanied by the fee prescribed by the regulations.

The *Australian Citizenship Amendment (Indexation of Citizenship Application Fees) Regulations 2023* (the Regulations) applies two years indexation for 2021-22 and 2022-23 to certain Australian citizenship application fees from 1 July 2023 to more accurately reflect the cost of delivering the citizenship program. Fees for Australian citizenship were last updated in 2021.

Items in Schedule 3 that provide for a nil fee are not increased. Fees for Australian citizenship will be increased to keep pace with the cost of processing applications for Australian citizenship and delivering the Australian citizenship program.

The amendments to the *Australian Citizenship Regulation 2016* (the Citizenship Regulation) relate to matters of detail and are therefore appropriate for inclusion in regulations.

A Statement of Compatibility with Human Rights 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 Office of Impact Analysis (the OIA) has been consulted in relation to the amendments. No Regulation Impact Statement is required. The OIA consultation reference number is OIA23-04789.

No consultation was undertaken as the amendment does not substantially alter existing arrangements. The proposed change will enable the Australian citizenship program to keep pace with the cost of processing. This accords with section 17 of the *Legislation Act 2003*, which provides that before a rule maker makes a legislative instrument, they must be satisfied that appropriate and reasonably practicable consultation has taken place. In determining whether any consultation is appropriate, the rule maker may have regard to any relevant matter.

The Regulations commence on 1 July 2023.

Further details of the Regulations are set out in Attachment B.

The Department follows standard practices to notify clients about the Regulation, including updating its website and notifying peak bodies.

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

The Regulations are a legislative instrument for the purposes of the Legislation Act.

ATTACHMENT A

Statement of Compatibility with Human Rights

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

Australian Citizenship Amendment (Indexation of Citizenship Application Fees) Regulations 2023

This regulation change, which will amend the *Australian Citizenship Regulation 2016* (the Regulation) 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*.

Australian Citizenship Amendment (Indexation of Citizenship Application Fees) Regulations 2023 amends the Regulation to update fee amounts to accompany citizenship applications.

Overview of the Regulation change

The purpose of this amendment is to increase fees for certain Australian citizenship applications in order to keep pace with the cost of processing applications and delivering the Citizenship Program.

For the purposes of paragraph 46(1)(d) of the *Australian Citizenship Act 2007*, the amount of the fee payable (if any) to accompany an application for citizenship is set out in Schedule 3 to the Regulation.

Citizenship application fees are categorised as a resource charge for cost recovery and guided by Australian Government Cost Recovery Guidelines (RMG 304) issued by the Department of Finance. Government entities are expected to develop mechanisms (e.g. internal control systems) to manage any under- or over-recovery.

The current citizenship application fees as listed under Schedule 3 to the Regulation were set on 1 July 2021. The Government has agreed to apply two years indexation since 2021 to the current fee amounts from 1 July 2023. This means that from 1 July 2023, certain applications for Australian citizenship will be accompanied with new fee amounts. Items in Schedule 3 that provide for a nil fee are not being amended.

The change is consistent with the Australian Government Cost Recovery Guidelines, as fees should be generally set to recover the full cost of providing specific activities.

Fees will be amended in accordance with the following table:

Item Number	Type of Application	Fee up to 30 June 2023 (AUD)	Fee from 1 July 2023 (AUD)
1	<u>Citizenship by descent – person born outside Australia to an Australian parent</u> Applications made at the same time under section 16 of the Act by 2 or more siblings	\$315 for the application by the first sibling, and \$130 for the applications made by the second and	\$345 for the application by the first sibling, and \$145 for the applications made by the second and

		subsequent siblings	subsequent siblings
2	<p><u>Citizenship by descent – person born outside Australia to an Australian parent</u></p> <p>An application under section 16 of the Act, other than an application mentioned in item 1</p>	\$315	\$345
3	<p><u>Citizenship through adoption – person adopted in accordance with the Hague Convention on Intercountry Adoption or a bilateral arrangement</u></p> <p>Applications made at the same time under section 19C of the Act by 2 or more siblings</p>	\$315 for the application by the first sibling, and \$130 for the applications made by the second and subsequent siblings	\$345 for the application by the first sibling, and \$145 for the applications made by the second and subsequent siblings
4	<p><u>Citizenship through adoption – person adopted in accordance with the Hague Convention on Intercountry Adoption or a bilateral arrangement</u></p> <p>An application under section 19C of the Act, other than an application mentioned in item 3</p>	\$315	\$345
10	<p><u>Citizenship by conferral – other than general eligibility – citizenship test not required – eligible for concessional fee</u></p> <p>An application under section 21 of the Act, other than an application mentioned in items 5 to 9 or item 15, if:</p> <p>(a) the applicant does not claim eligibility on the basis of the criteria in subsection 21(2) of the Act; and</p> <p>(b) the applicant:</p> <p style="padding-left: 40px;">(i) holds a pensioner concession card issued by the Commonwealth; or</p> <p style="padding-left: 40px;">(ii) is under the age of 18 and is listed as a dependant on a pensioner concession card issued by the Commonwealth held by another person</p>	\$35	\$40
13	<p><u>Citizenship by conferral – general eligibility – eligible for concessional fee</u></p> <p>An application under section 21 of the Act, other than an application mentioned in items 5 to 9 or item 15, if:</p>	\$70	\$75

	<p>(a) the applicant claims eligibility on the basis of the criteria in subsection 21(2) of the Act; and</p> <p>(b) the applicant:</p> <p style="padding-left: 40px;">(i) holds a pensioner concession card issued by the Commonwealth; or</p> <p style="padding-left: 40px;">(ii) is under the age of 18 and is listed as a dependant on a pensioner concession card issued by the Commonwealth held by another person</p>		
14	<p><u>Citizenship by conferral – general eligibility</u></p> <p>An application under section 21 of the Act, other than an application mentioned in items 5 to 13 or items 15 to 18, if the applicant claims eligibility on the basis of the criteria in subsection 21(2) of the Act</p>	\$490	\$540
16	<p><u>Citizenship by conferral – other than general eligibility - citizenship test not required</u></p> <p>An application under section 21 of the Act, other than an application mentioned in items 5 to 15 or items 17 and 18</p>	\$300	\$330
17	<p><u>Citizenship by conferral – general eligibility – applicant previously passed citizenship test in association with a previous application – eligible for concessional fee</u></p> <p>An application (the <i>new application</i>) under section 21 of the Act, other than an application mentioned in item 5, 6, 8, 13 or 18, if:</p> <p>(a) the applicant claims eligibility on the basis of the criteria in subsection 21(2) of the Act; and</p> <p>(b) the applicant previously made an application (the <i>old application</i>) on or after 1 October 2007; and</p> <p>(c) under the old application, the applicant sat a test as described in paragraph 21(2A)(a) of the Act; and</p> <p>(d) the applicant:</p> <p style="padding-left: 40px;">(i) holds a pensioner concession card</p>	\$35	\$40

	<p>issued by the Commonwealth; or</p> <p>(ii) is under the age of 18 and is listed as a dependant on a pensioner concession card issued by the Commonwealth held by another person</p>		
18	<p><u>Citizenship by conferral – general eligibility – applicant previously passed citizenship test in association with a previous application</u></p> <p>An application (the <i>new application</i>) under section 21 of the Act, other than an application mentioned in item 5, 6, 8, 13 or 17, if:</p> <p>(a) the applicant claims eligibility on the basis of the criteria in subsection 21(2) of the Act; and</p> <p>(b) the applicant previously made an application (the <i>old application</i>) on or after 1 October 2007; and</p> <p>(c) under the old application, the applicant sat a test as described in paragraph 21(2A)(a) of the Act</p>	\$300	\$330
20	<p><u>Resumption of Australian citizenship</u></p> <p>An application under section 29 of the Act, other than an application mentioned in item 19</p>	\$210	\$230
21	<p><u>Renunciation of Australian citizenship</u></p> <p>An application under section 33 of the Act</p>	\$265	\$290
24	<p><u>Evidence of Australian citizenship</u></p> <p>An application under section 37 of the Act, other than an application mentioned in item 22 or 23</p>	\$240	\$265

Human rights implications

The measures in this instrument may engage the right to acquire or change a nationality under the following international instruments:

- Article 24(3) of the International Covenant on Civil and Political Rights;
- Article 5(iii) of the Convention on the Elimination of all Forms of Racial Discrimination;
- Article 18 of the Convention on the Rights of Persons with Disabilities;
- Article 9 of the Convention on the Elimination of All Forms of Discrimination Against Women; and

- Article 7 of the Convention of the Rights of the Child.

An increase in fees for citizenship applications may engage the right to acquire or change a nationality under the instruments listed above. To the extent that a person on an income support payment has a right to acquire or change a nationality, an increase in fees may limit that right. However, any limitation is reasonable and proportionate, as the scheme allows for concessional fees for those who are on income support payments. Fee increases are necessary to ensure the continued delivery of the citizenship program in a timely and efficient manner.

Conclusion

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

The Hon Andrew Giles MP
Minister for Immigration, Citizenship and Multicultural Affairs

Details of the Australian Citizenship Amendment (Indexation of Citizenship Application Fees) Regulations 2023

Section 1 - Name

This section provides that the name of the instrument is the *Australian Citizenship Amendment (Indexation of Citizenship Application Fees) Regulations 2023*.

Section 2 - Commencement

This section provides that the Regulations commence on 1 July 2023.

Section 3 - Authority

This section provides that the instrument is made under the *Australian Citizenship Act 2007*.

Section 4 - Schedules

This section provides for how the amendments made by the Regulations operate.

Schedule 1 – Amendments

Part 1 – Increases to citizenship application fees

Australian Citizenship Regulation 2016 (the Citizenship Regulation).

Items [1 to 15]

Part 1 to Schedule 1 to the proposed Regulations will amend column 2 of the table in Schedule 3 to the Citizenship Regulation. Items 1 to 15 will give effect to the Government's policy to increase the citizenship application fee amounts from 1 July 2023.

The proposed amendments made by items 1 to 15 substitute existing citizenship fee amounts with indexed fee amounts.

Part 2 – Application of amendments

Australian Citizenship Regulation 2016

Item [16] At the end of Part 4

This item will insert new section 33 into Part 4 of the Citizenship Regulation. Section 33 provides that amendments made by Part 1 of Schedule 1 to the proposed Regulations will apply in relation to an application for Australian citizenship made on or after 1 July 2023.