

2004-2005-2006

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

As read a third time

**Australian Citizenship (Transitionals
and Consequentials) Bill 2006**

No. , 2006

**A Bill for an Act to provide for transitional and
consequential matters relating to the enactment of
the *Australian Citizenship Act 2006*, and for other
purposes**

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1 THIS Bill originated in the House of
2 Representatives; and, having this day passed,
3 is now ready for presentation to the Senate
4 for its concurrence.

5 I.C. HARRIS
6 *Clerk of the House of Representatives*

7 House of Representatives
8 28 November 2006
9

10 **A Bill for an Act to provide for transitional and**
11 **consequential matters relating to the enactment of**
12 **the *Australian Citizenship Act 2006*, and for other**
13 **purposes**

14 The Parliament of Australia enacts:

15 **1 Short title**

16 This Act may be cited as the *Australian Citizenship (Transitionals*
17 *and Consequentials) Act 2006*.

18 **2 Commencement**

19 (1) Each provision of this Act specified in column 1 of the table
20 commences, or is taken to have commenced, in accordance with
21 column 2 of the table. Any other statement in column 2 has effect
22 according to its terms.

1

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedules 1 to 3	At the same time as sections 2A to 54 of the <i>Australian Citizenship Act 2006</i> commence.	

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Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

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(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

8

3 Schedule(s)

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

1
2 **Schedule 1—Consequential amendments**

3 **Part 1—Amendments**

4 *Administrative Appeals Tribunal Act 1975*

5 **1 Paragraph 21AA(5)(c)**

6 Omit “*Australian Citizenship Act 1948*”, substitute “*Australian*
7 *Citizenship Act 2006*”.

8 *Age Discrimination Act 2004*

9 **2 Paragraph 43(2)(a)**

10 Repeal the paragraph, substitute:

11 (a) the *Australian Citizenship Act 2006*; or

12 *Air Navigation Act 1920*

13 **3 Subsection 11A(4) (definition of *Australian citizen*)**

14 Repeal the definition, substitute:

15 *Australian citizen* has the same meaning as in the *Australian*
16 *Citizenship Act 2006*.

17 *Australian Passports Act 2005*

18 **4 Paragraph 53(3)(b)**

19 Repeal the paragraph, substitute:

20 (b) the name on a notice given to the person under section 37 of
21 the *Australian Citizenship Act 2006*; or

22 *Australian Security Intelligence Organisation Act 1979*

23 **5 Subsection 35(1) (paragraph (c) of the definition of**
24 ***prescribed administrative action*)**

25 Omit “*Australian Citizenship Act 1948*”, substitute “*Australian*
26 *Citizenship Act 2006*”.

1 ***Circuit Layouts Act 1989***

2 **6 Section 5 (definition of *Australian protected person*)**

3 Repeal the definition.

4 **7 Section 5 (paragraph (a) of the definition of *eligible person*)**

5 Omit “citizen, an Australian protected person”, substitute “citizen”.

6 ***Civil Aviation (Carriers’ Liability) Act 1959***

7 **8 Section 5 (definition of *Australian citizen*)**

8 Repeal the definition, substitute:

9 *Australian citizen* has the same meaning as in the *Australian*
10 *Citizenship Act 2006*.

11 ***Commonwealth Electoral Act 1918***

12 **9 Paragraph 99A(1)(a)**

13 Repeal the paragraph, substitute:

14 (a) makes an application to become an Australian citizen under
15 section 21 of the *Australian Citizenship Act 2006*; and

16 **10 Subparagraph 99A(4)(d)(i)**

17 Omit “for a certificate of Australian citizenship”, substitute “to become
18 an Australian citizen”.

19 **11 Paragraph 99A(6)(b)**

20 Repeal the paragraph, substitute:

21 (b) if the person becomes an Australian citizen as a result of the
22 person’s application to become an Australian citizen—inform
23 the Electoral Commissioner, as soon as practicable, that the
24 person has become an Australian citizen.

25 **12 Subsection 99A(7)**

26 Omit “is granted a certificate of Australian citizenship”, substitute
27 “becomes an Australian citizen”.

28 **13 Subsection 99A(7)**

1 Omit “is granted the certificate of citizenship”, substitute “becomes an
2 Australian citizen”.

3 **14 Subsection 99A(8)**

4 Omit “a certificate of Australian citizenship”, substitute “approval to
5 become an Australian citizen”.

6 **15 Paragraph 170(1)(c)**

7 Omit “, having been granted a certificate of Australian citizenship”.

8 **16 Subparagraph 170(1)(c)(ii)**

9 Repeal the subparagraph.

10 ***Commonwealth Serum Laboratories Act 1961***

11 **17 Subsection 19B(1) (definition of *Australian citizen*)**

12 Repeal the definition, substitute:

13 *Australian citizen* has the same meaning as in the *Australian*
14 *Citizenship Act 2006*.

15 ***Consular Privileges and Immunities Act 1972***

16 **18 Subsection 3(1) (definition of *Australian citizen*)**

17 Repeal the definition.

18 ***Copyright Act 1968***

19 **19 Subsection 10(1) (definition of *Australian protected*
20 *person*)**

21 Repeal the definition.

22 **20 Subsection 32(4) (definition of *qualified person*)**

23 Omit “, an Australian protected person”.

24 **21 Section 84 (paragraph (a) of the definition of *qualified*
25 *person*)**

26 Omit “, an Australian protected person”.

1 **22 Subsection 248A(1) (definition of *qualified person*)**

2 Omit “, an Australian protected person”.

3 ***Crimes Act 1914***

4 **23 Paragraph 85ZZH(d)**

5 Omit “*Australian Citizenship Act 1948*”, substitute “*Australian*
6 *Citizenship Act 2006*”.

7 ***Criminal Code Act 1995***

8 **24 Subsection 72.8(2) of the *Criminal Code***

9 Omit “*Australian Citizenship Act 1948*”, substitute “*Australian*
10 *Citizenship Act 2006*”.

11 **25 Paragraph 115.7(1)(a) of the *Criminal Code***

12 Repeal the paragraph, substitute:

13 (a) the *Australian Citizenship Act 2006*;

14 ***Diplomatic Privileges and Immunities Act 1967***

15 **26 Subsection 4(1) (definition of *Australian citizen*)**

16 Repeal the definition.

17 ***Electronic Transactions Act 1999***

18 **27 Clause 2 of Schedule 1**

19 Repeal the clause, substitute:

20 **2 Exempt citizenship documents**

21 (1) Section 11 does not apply to a document required or permitted to
22 be produced in connection with:

23 (a) ascertaining whether a person is, or remains, an Australian
24 citizen; or

25 (b) the operation of a provision of a citizenship law that relates
26 to:

27 (i) registration; or

- 1 (ii) an application for, or the giving of, an approval to
2 become an Australian citizen; or
3 (iii) an application for, or the giving of, a notice about
4 evidence of Australian citizenship; or
5 (iv) the cancellation or surrender of a notice about evidence
6 of Australian citizenship; or
7 (v) the renunciation of Australian citizenship; or
8 (vi) the revocation of Australian citizenship; or
9 (c) the operation of a provision of a citizenship law that relates
10 to:
11 (i) the keeping of a register; or
12 (ii) the correction of an entry in a register; or
13 (iii) the cancellation of an entry in a register.

14 (2) In this clause:

15 *citizenship law* means:

- 16 (a) the *Australian Citizenship Act 2006*; or
17 (b) regulations under that Act.

18 ***Financial Transaction Reports Act 1988***

19 **28 Subsection 3(1) (definition of *citizenship certificate*)**

20 After “declaration”, insert “, notice”.

21 **29 Subsection 3(1) (before paragraph (a) of the definition of** 22 ***citizenship certificate*)**

23 Insert:

- 24 (aa) the *Australian Citizenship Act 2006*; or

25 **30 Subsection 3(1) (paragraphs (b) and (c) of the definition of** 26 ***citizenship certificate*)**

27 Repeal the paragraphs.

28 **31 Subsection 3(1) (definition of *citizenship certificate*)**

29 Omit “under any”, substitute “under either”.

30 ***Higher Education Funding Act 1988***

1 **32 Section 3 (definition of *permanent resident*)**

2 Repeal the definition, substitute:

3 *permanent resident* has the same meaning as in the *Australian*
4 *Citizenship Act 2006*.

5 **33 Section 3 (definition of *permanent visa*)**

6 Repeal the definition, substitute:

7 *permanent visa* has the same meaning as in the *Migration Act*
8 *1958*.

9 **34 Subsection 41(3)**

10 Omit “a certificate of Australian citizenship under section 13 of the
11 *Australian Citizenship Act 1948* and who has yet to make the pledge
12 referred to in section 15”, substitute “an approval to become an
13 Australian citizen under section 24 of the *Australian Citizenship Act*
14 *2006* and who has yet to make the pledge referred to in section 26”.

15 **35 Paragraph 98B(1)(b)**

16 Omit “a certificate of Australian citizenship under section 13 of the
17 *Australian Citizenship Act 1948* and who has yet to make the pledge
18 referred to in section 15”, substitute “an approval to become an
19 Australian citizen under section 24 of the *Australian Citizenship Act*
20 *2006* and who has yet to make the pledge referred to in section 26”.

21 **36 Paragraph 98V(b)**

22 Omit “a certificate of Australian citizenship under section 13 of the
23 *Australian Citizenship Act 1948* and who has yet to make the pledge
24 referred to in section 15”, substitute “an approval to become an
25 Australian citizen under section 24 of the *Australian Citizenship Act*
26 *2006* and who has yet to make the pledge referred to in section 26”.

27 **37 Subparagraph 101(1)(d)(ii)**

28 Omit “a certificate of Australian citizenship under section 13 of the
29 *Australian Citizenship Act 1948* and who has yet to make the pledge
30 referred to in section 15”, substitute “an approval to become an
31 Australian citizen under section 24 of the *Australian Citizenship Act*
32 *2006* and who has yet to make the pledge referred to in section 26”.

1 ***Legislative Instruments Act 2003***

2 **38 Subsection 44(2) (table item 1)**

3 Repeal the item, substitute:

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- 1 Determinations under subsection 5(2) of the *Australian Citizenship Act 2006*

5 ***Migration Act 1958***

6 **39 Paragraph 336D(2)(g)**

7 Omit “*Australian Citizenship Act 1948*”, substitute “*Australian*
8 *Citizenship Act 2006*”.

9 ***Qantas Sale Act 1992***

10 **40 Subsection 7(7) (definition of *Australian citizen*)**

11 Repeal the definition, substitute:

12 *Australian citizen* has the same meaning as in the *Australian*
13 *Citizenship Act 2006*.

14 ***Veterans’ Entitlements Act 1986***

15 **41 Subsection 5G(1AA) (note 2)**

16 Omit “*Australian Citizenship Act 1948*”, substitute “*Australian*
17 *Citizenship Act 2006*”.

Schedule 1 Consequential amendments

Part 2 Repeal

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2 **Part 2—Repeal**

3 *Australian Citizenship Act 1948*

4 **42 The whole of the Act**

5 Repeal the Act.

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Schedule 2—Other amendments

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Immigration (Education) Act 1971

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1 Paragraphs 4D(1)(c) and (d)

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Repeal the paragraphs, substitute:

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- (c) if the person fails to commence an approved English course within the period of 12 months starting on the visa commencement date.

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Schedule 3—Application and transitional provisions

Part 1—Provisions relating to the enactment of the Australian Citizenship Act 2006

1 Definitions

In this Part:

commencement day means the day on which sections 2A to 54 of the *Australian Citizenship Act 2006* commence.

new Act means the *Australian Citizenship Act 2006*.

old Act means the *Australian Citizenship Act 1948* as in force at any time before the commencement day.

2 Rules applicable to Australian citizens under the old Act

- (1) This item applies to a person who was an Australian citizen under the *Australian Citizenship Act 1948* immediately before the commencement day.

Note: The person becomes an Australian citizen under the new Act: see subsection 4(1) of the new Act.

Same kind of citizenship

- (2) If the person, immediately before the commencement day, was an Australian citizen under the provision set out in column 2 of the following table, the person is taken, on and from that day, to be an Australian citizen under the provision set out in column 3 of the table:

Same kind of citizenship		
Column 1 Item	Column 2 Provision under which person was a citizen	Column 3 Provision under which person is taken to be a citizen
1	Section 10B, 10C or 11 of the old Act	Subdivision A of Division 2 of Part 2 of the new Act
2	Division 2 of Part III of the old Act	Subdivision B of Division 2 of Part 2 of the new Act

1 *Person may cease to be a citizen under new Act*

2 (3) This item does not prevent the person from ceasing to be an Australian
3 citizen under the new Act.

4 Note: For example, section 34 of the new Act allows the Minister to revoke a person's
5 citizenship.

6 **3 Expanded meaning of some expressions in the new Act**

7 *Unlawful non-citizen*

8 (1) For the purposes of subparagraph 16(2)(b)(i), subsection 19C(3) and
9 paragraphs 22(1)(b) and (6)(a) of the new Act, a person is taken to also
10 have been present in Australia as an unlawful non-citizen at a particular
11 time if the person:

12 (a) in relation to the period beginning on 19 December 1989 and
13 ending on 31 August 1994—was an illegal entrant at that
14 time within the meaning of the *Migration Act 1958* as in
15 force at that time; and

16 (b) in relation to the period beginning on 2 April 1984 and
17 ending on 18 December 1989—was a prohibited non-citizen
18 at that time within the meaning of that Act as in force at that
19 time; and

20 (c) in relation to the period before 2 April 1984—was a
21 prohibited immigrant at that time within the meaning of that
22 Act as in force at that time; and

23 (d) for any time—was in Australia at that time in contravention
24 of a law of Norfolk Island or the Territory of Cocos
25 (Keeling) Islands.

26 *Permanent visa*

27 (2) For the purposes of the new Act, the definition of *permanent visa* in
28 section 3 of the new Act includes a valid permanent entry permit within
29 the meaning of the *Migration Act 1958* as in force immediately before
30 1 September 1994.

31 *Visa*

32 (3) For the purposes of the new Act, the definition of *visa* in section 3 of
33 the new Act includes:

34 (a) a valid entry permit within the meaning of the *Migration Act*
35 *1958* as in force immediately before 1 September 1994; and

- 1 (b) a valid visa within the meaning of that Act as in force
2 immediately before 1 September 1994.

3 *Defence service*

- 4 (4) For the purposes of section 23 of the new Act:
5 (a) service in the permanent forces of the Commonwealth
6 includes service because of a notice under section 26 of the
7 *National Service Act 1951* as in force at any time before
8 26 November 1964; and
9 (b) service in the Naval Reserve, the Army Reserve or Air Force
10 Reserve includes service in any reserve force that is a
11 predecessor (whether immediate or otherwise) of the Naval
12 Reserve, the Army Reserve or Air Force Reserve.

13 **4 Citizenship by birth under the new Act**

- 14 (1) Paragraph 12(1)(a) of the new Act applies to a person born on or after
15 the commencement day.
16 (2) Paragraph 12(1)(b) of the new Act applies to:
17 (a) a person born on or after the commencement day; and
18 (b) a person born before the commencement day who,
19 immediately before that day, has not been ordinarily resident
20 in Australia throughout the period of 10 years beginning on
21 the day the person was born.

22 Note: The effect of paragraph (b) of subitem (2) is that the period for which the person has
23 been ordinarily resident in Australia before the commencement day will be counted
24 under the new Act.

25 **5 Citizenship by descent and conferral under the new Act**

26 Subsections 17(5) and 24(7) of the new Act apply as if a reference to a
27 person ceasing to be an Australian citizen included a reference to a
28 person ceasing to be an Australian citizen under the old Act.

29 Note: The effect of this item is that if a person ceases to be an Australian citizen under the old
30 Act, the person cannot become an Australian citizen under Subdivision A or B of
31 Division 2 of Part 2 of the new Act for at least 12 months.

32 **5A Citizenship for persons adopted in accordance with the**
33 **Hague Convention on Intercountry Adoption**

- 34 (1) Section 19C of the new Act applies in relation to adoptions that occur
35 before, on or after the commencement day.
-

- 1 (2) Paragraphs 19C(2)(e) and (f) of the new Act apply as if a reference to
2 Subdivision A included a reference to section 10B, 10C or 11 of the old
3 Act (about citizenship by descent).

4 **5B Citizenship by conferral—persons who are permanent** 5 **residents at commencement**

6 If:

- 7 (a) a person is a permanent resident (worked out under the old
8 Act) immediately before the commencement day; and
9 (b) the person makes an application under subsection 21(1) of
10 the new Act within the period of 3 years beginning on the
11 commencement day;

12 then, for the purposes of that application, subsections 22(1) to (2), (4A)
13 and (5A) of the new Act do not apply and the following subsections of
14 section 22 of the new Act apply instead:

- 15 (1) For the purposes of section 21, a person satisfies the *residence*
16 *requirement* if the person has been present in Australia as a
17 permanent resident for:
18 (a) a total period of at least 1 year in the period of 2 years before
19 the day the person made the application; and
20 (b) a total period of at least 2 years in the period of 5 years
21 before that day.
- 22 (2) Paragraph (1)(b) does not apply if the person:
23 (a) was born in Australia; or
24 (b) was an Australian citizen at any time before the person made
25 the application.
- 26 (3) For the purposes of subsection (1), the Minister must not take into
27 account any period during which the person has been:
28 (a) confined in a prison; or
29 (b) confined in a psychiatric institution by order of a court made
30 in connection with proceedings for an offence against an
31 Australian law in relation to the person.

32 **6 Revocation of citizenship by conferral under the new Act**

- 33 (1) This item applies to a person who, under subitem 2(2) of this Part, is
34 taken, on and from the commencement day, to be an Australian citizen
35 under Subdivision B of Division 2 of Part 2 of the new Act.

1 *False or misleading statement in application*

- 2 (2) Subparagraph 34(2)(b)(i) of the new Act applies as if it also referred to
3 the person's conviction, at any time, of an offence against section 50 of
4 the old Act in relation to the person's application for the certificate of
5 Australian citizenship made under the old Act.

6 *Conviction of serious offence*

- 7 (3) Subparagraph 34(2)(b)(ii) of the new Act applies as if it also referred to
8 the person's conviction, at any time after the person made the
9 application for the certificate of Australian citizenship under the old
10 Act, of an offence referred to in subparagraph 21(1)(a)(ii) of the old Act
11 that the person committed at any time before the grant of the certificate.

12 *Migration-related fraud*

- 13 (4) Subparagraph 34(2)(b)(iii) of the new Act applies as if it also referred to
14 the person obtaining the certificate of Australian citizenship under the
15 old Act as a result of migration-related fraud within the meaning of
16 subsections 21(1A) and (1B) of the old Act.

17 **7 Applications under the old Act**

18 *Old descent applications*

- 19 (1) If a person's application (the *old application*) made under section 10B,
20 10C or 11 of the old Act had not been decided immediately before the
21 commencement day, the old application is, on and from the
22 commencement day, taken to be an application (a *new application*) to
23 become an Australian citizen made under section 16 of the new Act.

24 Note: The new application will be assessed under Subdivision A of Division 2 of Part 2 of the
25 new Act. Subitem (7) is also relevant to this assessment.

26 *Old certificate by grant and stateless applications*

- 27 (2) If a person's application (the *old application*) made under section 13 or
28 23D of the old Act had not been decided immediately before the
29 commencement day, the old application is, on and from the
30 commencement day, taken to be an application (a *new application*) to
31 become an Australian citizen made under section 21 of the new Act.

32 Note: The new application will be assessed under Subdivision B of Division 2 of Part 2 of the
33 new Act. Subitems (7) and (8) are also relevant to this assessment.

1 *Old renunciation applications*

2 (3) If:

- 3 (a) a person had made a declaration (the *old declaration*)
4 renouncing the person's Australian citizenship under
5 section 18 of the old Act before the commencement day; and
6 (b) the Minister had not registered the old declaration or refused
7 to register the old declaration immediately before that day;
8 the old declaration is, on and from the commencement day, taken to be
9 an application (a *new application*) to renounce the person's Australian
10 citizenship made under section 33 of the new Act.

11 Note: The new application will be assessed under Division 3 of Part 2 of the new Act.
12 Subitem (7) is also relevant to this assessment.

13 *Old resumption applications*

14 (4) If:

- 15 (a) a person had given the Minister a statement and declaration
16 (the *old declaration*) under subsection 23AA(1) or 23AB(1)
17 of the old Act before the commencement day; and
18 (b) the Minister had not registered the old declaration or refused
19 to register the old declaration immediately before that day;
20 the old declaration is, on and from the commencement day, taken to be
21 an application (a *new application*) to become an Australian citizen
22 again made under section 29 of the new Act.

23 Note: The new application will be assessed under Subdivision C of Division 2 of Part 2 of the
24 new Act. Subitem (7) is also relevant to this assessment.

25 (5) If:

- 26 (a) an application (the *old application*) had been made under
27 subsection 23AA(2) or 23AB(3) of the old Act before the
28 commencement day in relation to a child; and
29 (b) the child satisfied paragraphs 23AA(2)(a), (b) and (c) or
30 23AB(3)(a), (b) and (c), as the case requires, at the time that
31 application was made; and
32 (c) the Minister had not decided the application immediately
33 before the commencement day;

34 the old application is, on and from the commencement day, taken to be
35 an application (a *new application*) to become an Australian citizen
36 again made under section 29 of the new Act.

Schedule 3 Application and transitional provisions

Part 1 Provisions relating to the enactment of the Australian Citizenship Act 2006

1 Note: The new application will be assessed under Subdivision C of Division 2 of Part 2 of the
2 new Act. Subitem (7) is also relevant to this assessment.

3 (6) If:

- 4 (a) a person had given the Minister a declaration (the *old*
5 *declaration*) under section 23B of the old Act before the
6 commencement day; and
7 (b) the Minister had not registered the old declaration or refused
8 to register the old declaration immediately before that day;
9 the old declaration is, on and from the commencement day, taken to be
10 an application (a *new application*) to become an Australian citizen
11 again made under section 29 of the new Act.

12 Note: The new application will be assessed under Subdivision C of Division 2 of Part 2 of the
13 new Act. Subitem (7) is also relevant to this assessment.

14 *Assessing new applications under the new Act*

15 (7) In assessing a new application under the new Act, a reference in the
16 new Act to the time the person made the application is taken to be a
17 reference to the time the old application or the old declaration, as the
18 case requires, was made under the old Act.

19 Note: The new application will be assessed under the provisions of the new Act. The effect of
20 this subitem is that some of those provisions will be applied at the time the old
21 application or the old declaration, as the case requires, was made under the old Act.

22 (8) In applying section 22 of the new Act to a new application covered by
23 subitem (2), subsections 22(1) to (2), (4A) and (5A) of the new Act do
24 not apply and the following subsections of section 22 of the new Act
25 apply instead:

- 26 (1) For the purposes of section 21, a person satisfies the *residence*
27 *requirement* if the person has been present in Australia as a
28 permanent resident for:
29 (a) a total period of at least 1 year in the period of 2 years before
30 the day the person made the application; and
31 (b) a total period of at least 2 years in the period of 5 years
32 before that day.
33 (2) Paragraph (1)(b) does not apply if the person:
34 (a) was born in Australia; or
35 (b) was an Australian citizen at any time before the person made
36 the application.
-

- 1 (3) For the purposes of subsection (1), the Minister must not take into
2 account any period during which the person has been:
3 (a) confined in a prison; or
4 (b) confined in a psychiatric institution by order of a court made
5 in connection with proceedings for an offence against an
6 Australian law in relation to the person.
- 7 (4) The Minister may treat a period as one in which the person was
8 present in Australia as a permanent resident if:
9 (a) the person was engaged in activities during that period that
10 the Minister considers to be beneficial to Australia; and
11 (b) the person was not present in Australia during that period but
12 was a permanent resident during that period.

13 **8 Person granted certificate of citizenship under the old Act** 14 **but not an Australian citizen under the old Act**

- 15 (1) If:
16 (a) a person has been granted a certificate of Australian
17 citizenship under section 13 of the old Act before the
18 commencement day; and
19 (b) the certificate is in force immediately before that day; and
20 (c) the person has not become an Australian citizen under
21 section 15 of the old Act immediately before that day;
22 the certificate is, on and from the commencement day, taken to be an
23 approval given to the person under section 24 of the new Act.

24 *Cancellation of approval under the new Act*

- 25 (2) For the purposes of applying section 25 of the new Act to such an
26 approval:
27 (a) if the person was granted the certificate of Australian
28 citizenship under subsection 13(1) of the old Act—paragraph
29 25(2)(a) of the new Act is taken to apply to the person; and
30 (b) the reference in paragraph 25(3)(a) of the new Act to the day
31 on which the person received notice of the approval is taken
32 to be a reference to the day on which the person was notified
33 of the Minister's decision under section 13 of the old Act to
34 grant the certificate.

1 *Deferral of pledge of commitment under old Act*

- 2 (3) If a decision is in force under subsection 14C(1) of the old Act
3 immediately before the commencement day, the decision is, on and
4 from the commencement day, taken to be a determination made under
5 subsection 26(3) of the new Act.

6 **9 Children of persons who lost or were deprived of**
7 **citizenship under the old Act**

- 8 (1) If, immediately before the commencement day, paragraph 23(3)(c) of
9 the old Act has prevented the application of subsection 23(1) or (2) of
10 the old Act in relation to a child, then, on and from the commencement
11 day, section 36 of the new Act is taken to apply in relation to the child.
- 12 (2) For this purpose, the reference to the cessation time in subsection 36(2)
13 of the new Act is taken to be a reference to the commencement day and
14 there is taken to be a responsible parent of the child who is an
15 Australian citizen on that day.

16 **10 Review of decisions made under the old Act**

17 Despite the repeal of the old Act made by item 42 of Schedule 1,
18 section 52A of the old Act continues to apply in relation to a decision
19 made under that Act, as if that repeal had not been made.

20 **11 Continuation of criminal proceedings under the old Act**

21 Despite the repeal of the old Act made by item 42 of Schedule 1, the old
22 Act continues to apply on and after the commencement day, in relation
23 to criminal proceedings that began before that day under the old Act, as
24 if that repeal had not been made.

25 **12 Section 8 of the *Acts Interpretation Act 1901***

26 This Part does not limit the operation of section 8 of the *Acts*
27 *Interpretation Act 1901* in relation to the repeal of the old Act.

28 **13 Transitional regulations**

29 The Governor-General may make regulations prescribing matters of a
30 transitional nature (including prescribing any saving or application
31 provisions) relating to:

- 32 (a) the amendments or repeals made by this Act; or
33 (b) the enactment of this Act or the new Act.

1
2 **Part 2—Provisions relating to the amendments made**
3 **by Schedules 1 and 2 to this Act**

4 **14 Definition**

5 In this Part:

6 *commencement day* means the day on which sections 2A to 54 of the
7 *Australian Citizenship Act 2006* commence.

8 **15 Transitional—Administrative Appeals Tribunal Act 1975**

9 If, on or after the commencement day, there are proceedings of the
10 Administrative Appeals Tribunal to which paragraph 21AA(5)(c) of the
11 *Administrative Appeals Tribunal Act 1975* applies and which relate to
12 the old Act, the amendment made by item 1 of Schedule 1 is, for the
13 purposes of those proceedings, taken not to have been made.

14 **16 Application—Age Discrimination Act 2004**

15 The amendment made by item 2 of Schedule 1 applies in relation to
16 things done by a person on or after the commencement day.

17 **17 Application—Australian Passports Act 2005**

18 The amendment made by item 4 of Schedule 1 applies in relation to
19 Australian travel documents issued on or after the commencement day.

20 **18 Application—Commonwealth Electoral Act 1918**

21 The amendments made by items 15 and 16 of Schedule 1 apply in
22 relation to nominations made on or after the commencement day.

23 **19 Transitional—Criminal Code Act 1995**

24 (1) A certificate in force under subsection 72.8(2) of the *Criminal Code*
25 immediately before the commencement day has effect on and after that
26 day as if it were a certificate issued under that subsection on that day.

27 (2) A certificate in force under subsection 115.7(1) of the *Criminal Code*
28 (in relation to paragraph 115.7(1)(a) of the *Criminal Code*) immediately
29 before the commencement day has effect on and after that day as if it
30 were a certificate issued under that subsection on that day.

31 **20 Application—Electronic Transactions Act 1999**

Schedule 3 Application and transitional provisions

Part 2 Provisions relating to the amendments made by Schedules 1 and 2 to this Act

1 The amendment made by item 27 of Schedule 1 applies in relation to
2 documents required or permitted to be produced on or after the
3 commencement day.

4 **21 Application—*Immigration (Education) Act 1971***

5 The amendment made by item 1 of Schedule 2 applies in relation to:

- 6 (a) a person in respect of which an obligation under section 4C
7 of the *Immigration (Education) Act 1971* begins on or after
8 the commencement day; or
9 (b) a person in respect of which an obligation under that section
10 began before the commencement day, but only if that
11 obligation has not ceased before the commencement day.

12 **22 Transitional—*Migration Act 1958***

- 13 (1) This item applies to an authorisation that:
14 (a) is in force under section 336D of the *Migration Act 1958*
15 immediately before the commencement day; and
16 (b) specifies the purpose of making decisions under the
17 *Australian Citizenship Act 1948* or the regulations made
18 under that Act.
- 19 (2) The authorisation has effect on and after that day as if it were an
20 authorisation in force under that section that specified the purpose of
21 making decisions under the *Australian Citizenship Act 2006* or the
22 regulations made under that Act.
23

(181/05)
