

# ***Australian Citizenship Act 2007***

## **Citizenship by Descent**

### **Division 2—Acquisition of Australian citizenship by application**

#### **Subdivision A—Citizenship by descent**

##### **15A Simplified outline**

The following is a simplified outline of this Subdivision:

You may be eligible to become an Australian citizen under this Subdivision in 2 situations:

- you were born outside Australia on or after 26 January 1949 and a parent of yours was an Australian citizen at the time of your birth: see subsection 16(2); or
- you were born outside Australia or New Guinea before 26 January 1949 and a parent of yours was an Australian citizen on 26 January 1949: see subsection 16(3).

You must make an application to become an Australian citizen. The Minister must approve or refuse you becoming an Australian citizen.

You must be eligible to be an Australian citizen to be approved.

The Minister may be required to refuse your application on grounds relating to:

- non-satisfaction of identity: see subsection 17(3); or
- national security: see subsections 17(4) to (4B); or
- cessation of citizenship: see subsection 17(5).

You will be registered if the Minister approves you becoming an Australian citizen.

You do not become an Australian citizen, even if the Minister approves you becoming an Australian citizen, unless a parent of yours was an Australian citizen at a particular time: see section 19A.

## 16 Application and eligibility for citizenship

- (1) A person may make an application to the Minister to become an Australian citizen.

Note: Section 46 sets out application requirements (which may include the payment of a fee).

### *Persons born outside Australia on or after 26 January 1949*

- (2) A person born outside Australia on or after 26 January 1949 is eligible to become an Australian citizen if:
  - (a) a parent of the person was an Australian citizen at the time of the birth; and
  - (b) if the parent was an Australian citizen under this Subdivision or Subdivision AA, or section 10B, 10C or 11 of the old Act (about citizenship by descent), at the time of the birth:
    - (i) the parent has been present in Australia (except as an unlawful non-citizen) for a total period of at least 2 years at any time before the person made the application; or
    - (ii) the person is not a national or a citizen of any country at the time the person made the application and the person has never been such a national or citizen; and
  - (c) if the person is aged 18 or over at the time the person made the application—the Minister is satisfied that the person is of good character at the time of the Minister’s decision on the application.

### *Persons born outside Australia or New Guinea before 26 January 1949*

- (3) A person born outside Australia or New Guinea before 26 January 1949 is eligible to become an Australian citizen if:
  - (a) a parent of the person became an Australian citizen on 26 January 1949; and
  - (b) the parent was born in Australia or New Guinea or was naturalised in Australia before the person’s birth; and
  - (c) the Minister is satisfied that the person is of good character at the time of the Minister’s decision on the application.

## 17 Minister’s decision

- (1) If a person makes an application under section 16, the Minister must, by writing, approve or refuse to approve the person becoming an Australian citizen.
- (1A) The Minister must not approve the person becoming an Australian citizen unless the person is eligible to become an Australian citizen under subsection 16(2) or (3).
- (2) Subject to this section, the Minister must approve the person becoming an Australian citizen if the person is eligible to become an Australian citizen under subsection 16(2) or (3).

### *Identity*

- (3) The Minister must not approve the person becoming an Australian citizen unless the Minister is satisfied of the identity of the person.

Note: Division 5 contains the identity provisions.

### *National security*

- (4) If the person is not covered by subsection (4B), the Minister must not approve the person becoming an Australian citizen at a time when an adverse security assessment, or a qualified security assessment, in respect of the person is in

force under the *Australian Security Intelligence Organisation Act 1979* that the person is directly or indirectly a risk to security (within the meaning of section 4 of that Act).

- (4A) If the person is covered by subsection (4B), the Minister must not approve the person becoming an Australian citizen if the person has been convicted of a national security offence.
- (4B) A person is covered by this subsection if:
  - (a) at the time the person made the application under section 16, the person:
    - (i) is not a national of any country; and
    - (ii) is not a citizen of any country; and
  - (b) at the time of the person's birth, the person had a parent who was an Australian citizen.

#### *Cessation of citizenship*

- (5) If the person has at any time ceased to be an Australian citizen, the Minister must not approve the person becoming an Australian citizen during the period of 12 months starting on the day on which the person ceased, or last ceased, to be an Australian citizen.

### **18 Registration**

If the Minister approves the person becoming an Australian citizen, the Minister must register the person in the manner prescribed by the regulations.

### **19 Day citizenship begins**

A person becomes an Australian citizen under this Subdivision on the day on which the Minister approves the person becoming an Australian citizen.

#### **19A When a person does not become a citizen despite the Minister's approval**

Despite section 19, a person does not become an Australian citizen under this Subdivision, even if the Minister approves the person becoming an Australian citizen, unless:

- (a) if the person was born on or after 26 January 1949—a parent of the person was an Australian citizen at the time of the person's birth; or
- (b) if the person was born before 26 January 1949—a parent of the person became an Australian citizen on 26 January 1949.

*NOTE: This is the version of Subdivision A of the Australian Citizenship Act 2007 in force as at 1 July 2007. Later amendments may occur.*