

Australian Citizenship Act 1948

Section 10B

10B Citizenship by descent

- (1) A person born outside Australia (in this subsection referred to as the ***relevant person***) is an Australian citizen if:
- (a) the name of the relevant person is registered for the purposes of this section at an Australian consulate, and the registration is the result of an application made within 25 years of the person's birth to register the person's name for those purposes; and
 - (b) a person, being a parent of the relevant person at the time of the birth of the relevant person:
 - (i) was at that time an Australian citizen who had acquired Australian citizenship otherwise than by descent; or
 - (ii) was:
 - (A) at that time an Australian citizen who had acquired Australian citizenship by descent; and
 - (B) at any time before the registration of the name of the relevant person (including a time before the birth of the relevant person), present in Australia, otherwise than as a prohibited immigrant, as a prohibited non-citizen, as an illegal entrant, as an unlawful non-citizen, or in contravention of a law of a prescribed Territory, for a period of, or for periods amounting in the aggregate to, not less than 2 years.

Note: for the meaning of acquiring Australian citizenship by descent, see subsection (5).

- (1A) If the relevant person referred to in subsection (1) has attained the age of 18 years, the name of the relevant person must not be registered for the purposes of this section unless the Minister is satisfied that the relevant person is of good character.
- (2) Where, at the time of the birth of a child (in this subsection referred to as the ***relevant child***), one of the parents of the relevant child was not an Australian citizen, the name of the relevant child shall not be registered for the purposes of this section at an Australian consulate unless the person applying to register the name declares in writing to the person to whom the application is made, or otherwise satisfies that person, that:
- (a) at least one person who is, at the time of the application, a responsible parent of the relevant child, was, at the time of the birth of the relevant child:
 - (i) a parent of the relevant child; and
 - (ii) an Australian citizen; or
 - (b) a person who was, at the time of the birth of the relevant child:
 - (i) a parent of the relevant child; and
 - (ii) an Australian citizen;is dead.

- (3) The validity of the registration at an Australian consulate of the name of a person is not affected by a failure to comply with subsection (2) in relation to that registration.
- (4) A person born outside Australia is an Australian citizen if, before the commencement of the *Australian Citizenship Amendment Act 1990*:
 - (a) an application was made to register the person's name at an Australian consulate for the purposes of this section before the person turned 18; and
 - (b) the person's name was so registered even though the person had turned 18 at the time of registration.
- (5) For the purposes of this section, a person acquires Australian citizenship by descent if the person acquires Australian citizenship under:
 - (a) this section; or
 - (b) section 10C; or
 - (c) section 11 of this Act as in force at any time before or after the commencement of this section.

Note: This is the version of Section 10B in force as at 30 June 2007. This provision was repealed with effect from 1 July 2007. The Australian Citizenship Act 2007 contains a new provision dealing with citizenship by descent (Section 16) from 1 July 2007.