

J. A. PETTIFER
ACTING CLERK OF THE HOUSE OF REPRESENTATIVES



Australian Citizenship Act 1973

No. 99 of 1973

AN ACT

To amend the *Citizenship Act* 1948-1969.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

1. (1) This Act may be cited as the *Australian Citizenship Act* 1973. Short title and citation.
(2) The *Citizenship Act* 1948-1969* is in this Act referred to as the
5 Principal Act.
(3) The Principal Act, as amended by this Act, may be cited as the *Australian Citizenship Act* 1948-1973.
2. (1) Sections 1, 2 and 22 shall come into operation on the day on which this Act receives the Royal Assent. Commencement.
10 (2) Sub-section (1) of section 3, sections 7 and 14, sub-section (2) of section 15 and section 17 shall come into operation six months after the date fixed under sub-section (3).
(3) The remaining provisions of this Act shall come into operation on a date to be fixed by Proclamation.

* Act No. 83, 1948, as amended by No. 58, 1950; No. 70, 1952; No. 85, 1953; No. 1, 1955; No. 63, 1958; No. 79, 1959; No. 82, 1960; No. 11, 1966; No. 11, 1967; and No. 22, 1969.

2	No.	<i>Australian Citizenship</i>	1973
Parts.		3. (1) Section 4 of the Principal Act is amended by omitting the words—	
		“ Division 1A—Citizenship by Notification (Sections 11A–11C).”	
		(2) Section 4 of the Principal Act is amended—	
		(a) by omitting the words—	5
		“ Division 2—Citizenship by Registration (Sections 12–13). Division 3—Citizenship by Naturalization (Sections 14–16).”	
		and substituting the words—	
		“ Division 2—Grant of Australian Citizenship (Sections 12–15) ”; and	10
		(b) by omitting the words—	
		“ Division 5—General (Section 23C).”	
		and substituting the words—	
		“ Division 5—General (Sections 23C–23D) ”.	
Interpreta- tion.		4. Section 5 of the Principal Act is amended—	15
		(a) by omitting from sub-section (1) the definitions of “ foreign country ”, “ the Australian Government ” and “ trust territory ”; and	
		(b) by omitting from paragraph (b) of sub-section (3) the words “ twenty-one years ” and substituting the words “ eighteen years ”.	20
Persons having status of British subjects.		5. Section 7 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:—	
		“ (2) The countries to which this section applies are the following countries and any other country declared by the regulations to be a country to which this section applies:—	25
		Commonwealth of the Bahamas	
		People’s Republic of Bangladesh	
		Barbados	
		Republic of Botswana	
		Canada	30
		Republic of Cyprus	
		Fiji	
		The Gambia	
		Republic of Ghana	
		Guyana	35
		Republic of India	
		Jamaica	
		Republic of Kenya	
		Kingdom of Lesotho	
		Republic of Malawi	40

- Malaysia
 Malta
 Mauritius
 Republic of Nauru
 5 New Zealand
 Federal Republic of Nigeria
 Sierra Leone
 Republic of Singapore
 Republic of Sri Lanka
 10 Kingdom of Swaziland
 United Republic of Tanzania
 Kingdom of Tonga
 Trinidad and Tobago
 Uganda
 15 United Kingdom and Colonies
 Independent State of Western Samoa
 Republic of Zambia.”.

6. After section 8 of the Principal Act the following section is inserted:—

- 20 “ 8A. (1) Where—
- (a) a person is not an Australian citizen and, but for this sub-section, would not be a citizen of a country to which section 7 applies; and
- (b) immediately before the date of commencement of this section—
- 25 (i) the person was a citizen of Pakistan or of the Republic of South Africa and was ordinarily resident in Australia; or
- (ii) the person, being the child of a person referred to in subparagraph (i), was under the age of sixteen years,

Application of this Act to certain citizens of Pakistan and Republic of South Africa.

this Act applies to and in relation to the person as if Pakistan and the Republic of South Africa were specified in sub-section (2) of section 7.

- 30 “ (2) This section shall cease to be in operation on the expiration of the period of two years commencing on the date of commencement of this section and shall thereupon be deemed to have been repealed by an Act other than this Act.”.

7. Division 1A of Part III of the Principal Act is repealed.

Repeal of Division 1A of Part III.

- 35 8. Divisions 2 and 3 of Part III of the Principal Act are repealed and the following Division is substituted:—

“ *Division 2—Grant of Australian Citizenship*

- “ 12. This Division does not apply to a person who is an Australian citizen.

Application of Division.

Declaration of intention to apply for, and application for, certificate of Australian citizenship.

“ 13. (1) A person may, not earlier than one year after his entry into Australia, make a declaration in the approved form of his intention to apply for the grant to him of a certificate of Australian citizenship.

“ (2) A person may apply in the approved form for the grant to him of a certificate of Australian citizenship. 5

“ (3) An application under sub-section (2) may be made whether or not the applicant has previously made a declaration under sub-section (1), but shall not be made more than six months before the earliest date on which the Minister, under the provisions of section 14, could become empowered to grant the certificate. 10

Grant of Australian citizenship.

“ 14. (1) The Minister may grant a certificate of Australian citizenship to a person who has made an application in accordance with section 13 and satisfies the Minister—

- (a) that he is of full age;
- (b) that he is capable of understanding the nature of the application; 15
- (c) that he has resided continuously in Australia or New Guinea, or partly in Australia and partly in New Guinea, throughout the period of one year immediately preceding the date of the grant of his certificate;
- (d) that, in addition to the residence required under paragraph (c), 20 he has resided in Australia or New Guinea, or partly in Australia and partly in New Guinea, or has had service under an Australian government, or partly such residence and partly such service, for periods amounting in the aggregate to not less than two years during the eight years immediately preceding that date; 25
- (e) that he is of good character;
- (f) that he has an adequate knowledge of the English language;
- (g) that he has an adequate knowledge of the responsibilities and privileges of Australian citizenship; and
- (h) that he intends, if granted a certificate of Australian citizenship, 30 to reside or to continue to reside in Australia or New Guinea or to enter or continue in service under an Australian government, in the service of an international organisation of which the Australian government is a member, or service under the employment of a person, society, company or body of persons resident or 35 established in Australia or New Guinea.

“ (2) Paragraphs (b), (f) and (g) of sub-section (1) do not apply in relation to a person whose father or mother is, or, if dead, was at the time of death, an Australian citizen.

“ (3) Paragraphs (c) and (d) of sub-section (1) do not apply in relation 40 to—

- (a) a person who has completed, whether before or after the commencement of this section, not less than three months' service in the permanent forces of the Commonwealth; or

(b) a person who has been discharged, whether before or after the commencement of this section, from the permanent forces of the Commonwealth, before completing three months' service, as medically unfit for service or further service and who became
5 medically unfit by reason of his service.

“(4) For the purpose of paragraph (d) of sub-section (1), the Minister may, in such cases as he thinks fit, allow periods of residence or service earlier than eight years preceding the date of the application to be reckoned in computing the aggregate period mentioned in that paragraph.

10 “(5) Subject to sub-section (6), the Minister may, upon application made under sub-section (2) of section 13 within two years after the date of commencement of this section, grant a certificate of Australian citizenship to a person who—

(a) was, on the date of commencement of this section—

- 15 (i) a citizen of a country to which section 7 applied on that date;
(ii) an Irish citizen; or
(iii) a person having the status of a British subject without citizenship; and

20 (b) would, but for paragraph (d) of sub-section (1) of this section, be eligible for the grant of the certificate under that sub-section.

“(6) Sub-section (5) does not authorize the grant of a certificate of Australian citizenship to a person after the expiration of the period of two years commencing on the date of commencement of this sub-section
25 unless the person resided continuously in Australia or New Guinea, or partly in Australia and partly in New Guinea, throughout the period of one year immediately preceding the expiration of that period.

“(7) Paragraphs (f) and (g) of sub-section (1) do not apply in relation to a person who—

- 30 (a) has attained the age of sixty years; or
(b) satisfies the Minister that he is suffering (otherwise than temporarily) from a loss, or from a substantial impairment, of hearing, speech or sight.

“(8) Notwithstanding anything contained in sub-section (1), the
35 Minister may, upon application in the approved form, grant a certificate of Australian citizenship to a person—

- (a) who has not attained the age of twenty-one years;
(b) who has attained the age of twenty-one years but, before attaining that age—
40 (i) made the application under this sub-section; or
(ii) made a declaration of intention to apply for the grant of a certificate of Australian citizenship in accordance with sub-section (1) of section 13;

(c) who is the wife, widow, husband or widower of an Australian citizen or of a person who would, but for his or her death, have become an Australian citizen under section 25;

(d) who—

(i) has attained the age of sixteen years; and 5

(ii) is the wife or husband of a person who has been granted a certificate of Australian citizenship but has not yet taken the oath of allegiance or made an affirmation of allegiance in accordance with section 15; or

(e) who was formerly an Australian citizen or was born in Australia. 10

“(9) The Minister may, upon application in the approved form, include in a certificate of Australian citizenship, either at the time of granting the certificate or by later amending the certificate, the name of a child who has not attained the age of sixteen years and of whom the grantee is the responsible parent or guardian. 15

Effect
of grant of
certificate of
Australian
citizenship.

“ 15. (1) A person to whom a certificate of Australian citizenship has been granted under this Division shall be an Australian citizen—

(a) in the case of a person to whom paragraph (b) does not apply— as from the date upon which he takes an oath of allegiance or makes an affirmation of allegiance in the manner provided by this section and in accordance with the form contained in Schedule 2; or 20

(b) in the case of a person who has not attained the age of sixteen years or a person to whom sub-section (2) of section 14 applies— as from the date upon which the certificate is granted. 25

“(2) The oath or affirmation of allegiance referred to in sub-section (1) shall—

(a) be taken or made before a Judge of a Federal Court or a Judge or Magistrate holding office under the law of a State or Territory or before a person, or a person included in a class of persons, approved by the Minister; and 30

(b) if the Minister has made arrangements in pursuance of section 41 for it to be taken or made in public—be taken or made in accordance with those arrangements, unless the Minister otherwise permits. 35

“(3) A person who has been granted a certificate of Australian citizenship under sub-section (8) of section 14 by virtue of being the wife or husband of a person referred to in paragraph (d) of that sub-section shall not take an oath of allegiance, or make an affirmation of allegiance, referred to in sub-section (1) of this section before that last-mentioned person has taken such an oath or made such an affirmation. 40

“(4) A person whose name is, under sub-section (9) of section 14, included in a certificate of Australian citizenship shall, if not already an Australian citizen, be an Australian citizen as from the date upon which

his name is so included or the date upon which the grantee of the certificate of Australian citizenship becomes an Australian citizen, whichever is the later.

“ (5) A reference in sub-section (1) to a person to whom a certificate
5 of Australian citizenship has been granted under this Division shall be read as including a reference to a person to whom a certificate of Australian citizenship has been granted under section 15 of the *Citizenship Act* 1948–1969 or of that Act as amended but who was not an Australian citizen immediately before the commencement of this section.”

10 9. Section 18 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-sections:— Renunciation of citizenship.

“ (1) Where—

(a) an Australian citizen is a national or citizen of a country other than Australia; and

15 (b) that person’s nationality or citizenship of that other country was acquired (whether before, on or after 26th January, 1949) at birth, before he attained the relevant age for the purpose of this paragraph or by reason of marriage,

20 he may, at any time after attaining the age of eighteen years or after the marriage, make a declaration renouncing his Australian citizenship.

“ (1A) For the purpose of paragraph (b) of sub-section (1), the relevant age, in relation to a person, is—

25 (a) if that person’s nationality or citizenship of that other country was acquired before the commencement of this sub-section—
twenty-one years; or

(b) in any other case—eighteen years.”

10. Section 23A of the Principal Act is amended by omitting from sub-section (1) the words “twenty-one years” and substituting the words “eighteen years”. Persons may resume citizenship lost under s. 20.

30 11. Section 23B of the Principal Act is amended by omitting from sub-section (1) the words “twenty-one years” and substituting the words “eighteen years”. Persons may resume citizenship lost under s. 23.

12. After section 23C of the Principal Act the following section is inserted in Division 5 of Part III:—

35 “ 23D. (1) The Minister shall, upon application made in accordance with the approved form for the grant of Australian citizenship to a person under this sub-section and if he is satisfied that the person—

(a) was born in Australia; and

Special provisions to prevent persons being stateless.

(b) is not, and has never been, a citizen of any country, register that person as prescribed as an Australian citizen, and the person is an Australian citizen as from the date upon which the registration is effected.

“ (2) Notwithstanding sub-sections (2) and (3) of section 10, a person born in Australia after the commencement of this section shall be an Australian citizen by birth if, at the time of the birth, the person’s mother is an Australian citizen and, but for this sub-section, the person would not be a citizen of any country. 5

“ (3) Where a condition specified in paragraph (a) or (b) of sub-section (1) of section 11 is fulfilled in relation to a person who was born outside Australia on or after 26th January, 1949, and the person is not, and has never been, a citizen of any country— 10

(a) the Minister shall not, if the birth of the person has not been registered at an Australian consulate within five years after its occurrence, so exercise his powers under that sub-section as to prevent the registration of the birth under that sub-section; and 15

(b) sub-sections (2) and (3) of that section do not apply in relation to the registration of the birth of the person at an Australian consulate. 20

“ (4) Sub-section (2) of section 23 does not apply in relation to a child who would, if the Minister were to make an order under that sub-section in respect of him, become a person who is not a citizen of any country.”.

Transitional provisions.

13. Section 25 of the Principal Act is amended by omitting from sub-section (4A) the words “ sub-section (2) of section twelve or sub-section (4) of section fifteen of this Act or paragraph (b) of the last preceding sub-section ” and substituting the words “ paragraph (c) of sub-section (8) of section 14 or paragraph (b) of sub-section (4) of this section ”. 25

Persons having the status of British subjects without citizenship.

14. Section 26 of the Principal Act is amended by omitting sub-section (7). 30

Alien wives of persons having status of British subjects without citizenship.

15. (1) Section 26A of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:—

“ (2) A woman shall not be registered in accordance with a direction under sub-section (1) unless she takes an oath, or makes an affirmation, in accordance with the form in Schedule 3.”. 35

(2) Section 26A of the Principal Act is amended by omitting from sub-section (6) the words “ Sub-sections (2), (4) and (7) of the last preceding section ” and substituting the words “ Sub-sections (2) and (4) of section 26 ”. 40

16. Section 30 of the Principal Act is amended by omitting from sub-section (2) the words "twenty-one years" and substituting the words "eighteen years".

Citizenship of children who cease to be British subjects on loss of British nationality of parent.

17. After section 44 of the Principal Act the following section is inserted:—

"44A. (1) In this section, unless the contrary intention appears—
 'authorized officer' means an officer authorized by the Secretary to issue certificates under this section;

Evidence of Australian citizenship.

'prescribed evidentiary certificate' means—

- 10 (a) a certificate issued under sub-section (2) of this section; or
 (b) a certificate that was issued before the commencement of this section under sub-section (3) of section 11C of the *Citizenship Act 1948-1969* or of that Act as amended.

"(2) Where the Secretary is satisfied that a person referred to in section 11B of the *Citizenship Act 1948-1969* had, before the commencement of this section, duly given a notice under section 11C of that Act or of that Act as amended and has not ceased to be an Australian citizen, the Secretary shall, on application by that person, cause an authorized officer to issue to that person an evidentiary certificate in relation to the Australian citizenship of that person.

"(3) An evidentiary certificate under this section shall certify that the person specified in the certificate is an Australian citizen.

"(4) Where the Secretary is satisfied that a person to whom a prescribed evidentiary certificate has been issued is not an Australian citizen, the Secretary may, by order in writing under his hand, revoke the certificate.

"(5) A prescribed evidentiary certificate is, unless the certificate is shown to have been revoked either before or after the commencement of this section, *prima facie* evidence that the person specified in the certificate is an Australian citizen.

"(6) The Secretary shall cancel all prescribed evidentiary certificates that are revoked after the commencement of this section.

"(7) An order under sub-section (4) may be proved in legal proceedings by the production of a copy of the order together with a certificate signed by an authorized officer certifying the copy to be a true copy.

"(8) A prescribed evidentiary certificate, a certificate under sub-section (8) of section 11C of the *Citizenship Act 1948-1969* or of that Act as amended or a certificate referred to in sub-section (7) of this section is admissible in evidence in legal proceedings without proof of the signature of the person signing it or of the fact that he was entitled to sign it."

Evidentiary certificate to be surrendered where order of revocation made.

18. Section 48A of the Principal Act is amended by omitting the words “ sub-section (5) of section eleven c of this Act ” and substituting the words “ sub-section (4) of section 44A ”.

Second and Third Schedules.

19. The Second and Third Schedules to the Principal Act are repealed and the following Schedules substituted:—

5

SCHEDULE 2

Section 15

OATH OF ALLEGIANCE

I, A. B., renouncing all other allegiance, swear by Almighty God that I will be faithful and bear true allegiance to Her Majesty Elizabeth the Second, Queen of Australia, Her heirs and successors according to law, and that I will faithfully observe the laws of Australia and fulfil my duties as an Australian citizen.

AFFIRMATION OF ALLEGIANCE

I, A. B., renouncing all other allegiance, solemnly and sincerely promise and declare that I will be faithful and bear true allegiance to Her Majesty Elizabeth the Second, Queen of Australia, Her heirs and successors according to law, and that I will faithfully observe the laws of Australia and fulfil my duties as an Australian citizen.

SCHEDULE 3

Section 26A

OATH OF ALLEGIANCE

I, A. B., renouncing all other allegiance, swear by Almighty God that I will be faithful and bear true allegiance to Her Majesty Elizabeth the Second, Queen of Australia, Her heirs and successors according to law.

AFFIRMATION OF ALLEGIANCE

I, A. B., renouncing all other allegiance, solemnly and sincerely promise and declare that I will be faithful and bear true allegiance to Her Majesty Elizabeth the Second, Queen of Australia, Her heirs and successors according to law.

Formal amendments.

20. The Principal Act is amended as set out in the Schedule to this Act.

Transitional Provisions.

21. (1) A person who, immediately before the commencement of this section, was an Australian citizen by virtue of a provision of the Principal Act repealed by this Act, does not cease to be an Australian citizen by reason of the repeal of that provision. 10

(2) For the purposes of the Principal Act as amended by this Act—

- (a) an application for the grant of a certificate of Australian citizenship that had been made under sub-section 12 (1) or (2), or sub-section 14 (2), of the Principal Act, and had not been granted or refused, before the commencement of this section shall be deemed to have been made under section 13 of the Principal Act as amended by this Act; 15
- (b) an application to include the name of a child in a certificate of Australian citizenship that had been made under sub-section 12 (3) or sub-section 15 (6) of the Principal Act, and had not been granted or refused, before the commencement of this section shall be deemed to have been made under sub-section 14 (9) of the Principal Act as amended by this Act; 20

- (c) an application for the grant of a certificate of Australian citizenship that had been made under sub-section 15 (3) of the Principal Act, and had not been granted or refused, before the commencement of this section shall be deemed to have been made under sub-section 14 (8) of the Principal Act as amended by this Act;
- 5 (d) a declaration of intention to apply for the grant of a certificate of Australian citizenship made under sub-section 14 (1) of the Principal Act before the commencement of this section shall be deemed to have been made under sub-section 13 (1) of the Principal Act as amended by this Act; and
- 10 (e) an approval given by the Minister, before the date of commencement of this section, under paragraph 16 (1A) (a) of the Principal Act, being an approval that was in force immediately before that date, continues in force on and after that date as if it had been given under paragraph 15 (2) (a) of the Principal Act as amended by this Act.
- 15 (3) Subject to sub-section (4), the provisions of sub-sections 15 (2), (2A) and (2B) of the Principal Act apply, notwithstanding the amendments effected by this Act, to a person who makes application under sub-section 13 (2) of the Principal Act as amended by this Act within two
- 20 years after the date of commencement of this section.
- (4) The provisions of sub-sections 15 (2), (2A) and (2B) of the Principal Act do not apply by virtue of sub-section (3) of this section to a person in relation to the grant of a certificate of Australian citizenship to him under
- 25 sub-section 14 (1) of the Principal Act as amended by this Act after the expiration of two years after the date of commencement of this section unless the person resided, or would, if the provisions of sub-section 15 (2A) of the Principal Act were to apply to him, be taken to have resided, continuously in Australia or New Guinea, or partly in Australia or partly in
- 30 New Guinea, throughout the period of one year immediately preceding the expiration of that period.
- (5) In the application of the provisions of sub-sections 15 (2), (2A) and (2B) of the Principal Act by virtue of sub-section (3) of this section—
- 35 (a) expressions used in those sub-sections have the same respective meanings as they had in the Principal Act;
- (b) the reference in sub-section 15 (2) of the Principal Act to paragraph 15 (1) (c) of the Principal Act shall be read as a reference to paragraph 14 (1) (d) of the Principal Act as amended by this Act; and
- 40 (c) the reference in sub-section 15 (2B) of the Principal Act to section 7 of the Principal Act shall be read as a reference to section 7 of the Principal Act as amended by this Act.

22. Regulations for the purposes of a provision of the Principal Act Regulations. as amended by this Act may be made at any time after this Act receives the Royal Assent but regulations so made do not come into operation

45 before the date on which that provision comes into operation.

SCHEDULE

Section 20

ADDITIONAL AMENDMENTS

1. The following provisions of the Principal Act are amended by omitting any number expressed in words that is used, whether with or without the addition of a letter or letters, to identify a section of that Act or of another Act, and substituting that number expressed in figures:—

Sections 5 (1) (definition of "certificate of Australian citizenship"), 5 (2) and (4), 8 (1) (a), 23 (1) (a) and (2), 23A (1), 23B (1), 25 (1) (a), 26 (1) (b), (5) and (6), 26A (4) and (5), 28 (1), 29, 30 (1) (a) and (b) and (4) and 41.

2. The following provisions of the Principal Act are amended by omitting the words "of this Act", "to this Act", "of this section" and "of this sub-section" (wherever occurring):—

Sections 5 (2), 18 (6), 23 (1) (a) and (2), 23B (1), 25 (1) (a) and 3 (c), 26 (1) (b), (5) and (6), 26A (3), (4) and (5), 41, 46A (2), (4) and (5) and 51 (2).

3. The Principal Act is further amended as set out in the following table:—

Provision	Amendment
Section 3	Omit "the First Schedule to this Act", substitute "Schedule 1".
Section 5 (3) (aa) ..	Omit "the twenty-sixth day of January, One thousand nine hundred and forty-nine, to be a person to whom sub-sections (2) and (3) of section ten of this act", substitute "26th January, 1949, to be a person to whom sub-sections (2) and (3) of section 10".
Section 5 (3A) ..	Omit "section seven of this Act", substitute "section 7".
Section 8 (1) ..	Omit "the twenty-sixth day of January, One thousand nine hundred and forty-nine", substitute "26th January, 1949".
Section 8 (2) ..	Omit "section seven of this Act", substitute "section 7".
Section 9	Omit "the twenty-sixth day of January, One thousand nine hundred and forty-nine", substitute "26th January, 1949".
Section 11 (1) ..	Omit "the twenty-sixth day of January, One thousand nine hundred and forty-nine", substitute "26th January, 1949".
Section 21	Omit "section fifty of this Act", substitute "section 50".
Section 24	Omit "the twenty-sixth day of January, One thousand nine hundred and forty-nine", insert "26th January, 1949".
Section 25 (5) ..	Omit "section seven of this Act", substitute "section 7".
Section 26	Omit "the twenty-sixth day of January, One thousand nine hundred and forty-nine" (wherever occurring), substitute "26th January, 1949".
Section 29	Omit "the first day of January, One thousand nine hundred and twenty-one", substitute "1st January, 1921".
Section 43	Omit "shall be evidence", substitute "shall be <i>prima facie</i> evidence".
Section 44	Omit "shall be evidence", substitute "shall be <i>prima facie</i> evidence".
Section 46A (4) ..	Omit "is evidence", substitute "is <i>prima facie</i> evidence".

I HEREBY CERTIFY that the above is a fair print of the Australian Citizenship Bill 1973 which originated in the House of Representatives and has been finally passed by the Senate and the House of Representatives.

Clerk of the House of Representatives

IN THE NAME OF HER MAJESTY, I assent to this Act.

Governor-General

17th September, 1973