



**Australian Government**  
**Department of Immigration  
and Border Protection**

# **Submission to the Inquiry into the Australian Citizenship Legislation Amendment (Strengthening the Requirements for Australian Citizenship and Other Measures) Bill 2017**

Senate Legal and Constitutional Affairs  
Legislation Committee

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## Chapter One

### Introduction

1. The Department of Immigration and Border Protection (the Department) welcomes the opportunity to provide a submission to the Senate Legal and Constitutional Affairs Legislation Committee Inquiry into the Australian Citizenship Legislation Amendment (Strengthening the Requirements for Australian Citizenship and Other Measures) Bill 2017 (the Bill).
2. The Explanatory Memorandum (EM) to the Bill outlines the amendments to the *Australian Citizenship Act 2007*. The Department's submission provides further information.

### Immigration is helping to shape the nation

3. Immigration policy and Australia's immigration intake have shaped the nation in a variety of ways for more than a century, from population growth and size, to cultural diversity, to underpinning economic growth and improving the well-being of all Australians.

### Australia's success as an immigration nation

4. Australia is an immigration nation. Australia's immigration story is integral to our success as a nation, its development and its modern identity.
5. During 1788–1840 approximately 80,000 convicts arrived in Australia as well as a growing population of voluntary immigrants, largely from Britain and the Republic of Ireland. The Gold Rush of the mid-19th century attracted large numbers of migrants, including from Europe and China. By Federation, Australia's population was approximately four million, about a quarter of whom were born overseas.
6. Australia's population has increased almost five-fold over the past century, reaching 24.4 million by the end of 2016.<sup>1</sup> Immigration has remained a constant feature of Australia's population growth and Australia's development as a country.

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<sup>1</sup> In this submission the term *population*, in the Australian context and unless otherwise defined or referring to an historical concept, refers to the *resident population*, defined by the Australian Bureau of Statistics ([www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/3412.0Explanatory%20Notes12015-16](http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/3412.0Explanatory%20Notes12015-16)) to be those people who have been in Australia for 12 out of the previous 16 months, or were at some stage previously and have not been out of Australia for more than 12 of any 16 month period since.

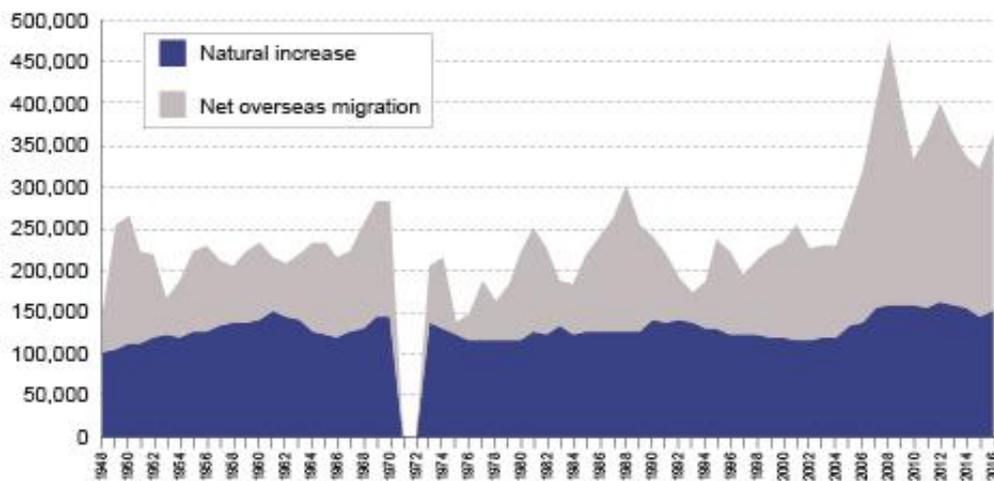
Figure 1. Australian annual population growth rate, 1920–2016\*



\*Note: There are breaks in 1971 and 2006 associated with changes in the definition and calculation of estimated resident population and net overseas migration by the Australian Bureau of Statistics.

7. Since 1945, the Australian Government has included an immigration department overseeing an immigration policy that encourages migrants to settle in Australia in the national interest. The policy was driven initially by the need to develop Australia—to ‘populate or perish’. It is now largely driven by Australia’s economic and skill needs.
8. Australia’s overseas born population now accounts for 26.3 per cent (6.2 million people) of the current population. Almost half of the population is either born overseas or has at least one parent born overseas. This is the highest level since Federation.
9. In the past five years, the number of people born overseas in the population has increased by 16.4 per cent (870,000 people).
10. Since 2006, net overseas migration (the difference between the annual intake of immigrants into Australia and the outflow of emigrants departing Australia) has been at a level above that experienced previously. In the decade to December 2016, Australia’s population increased by 3.8 million—net overseas migration accounted for 58 per cent (2.2 million) of this increase.

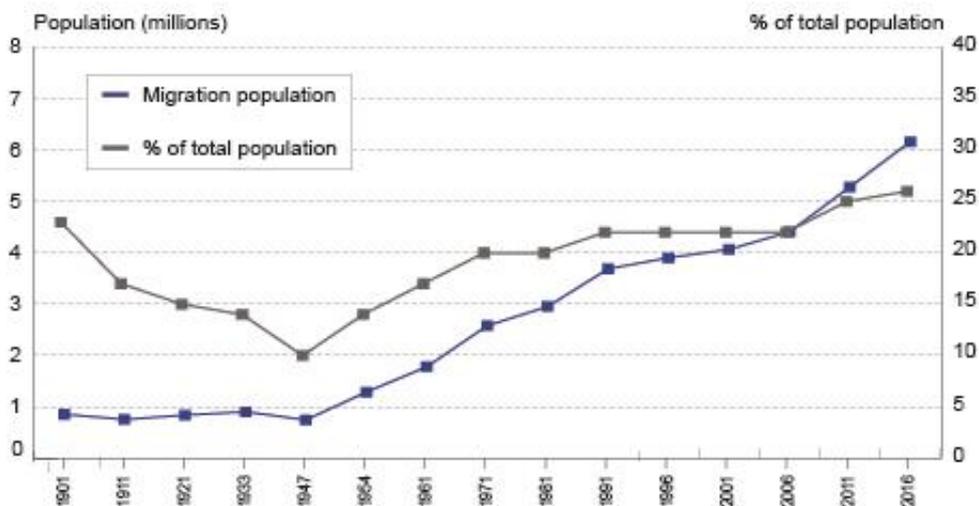
Figure 2. Annual changes in Australia's population\*



\*Note: There are breaks in 1971 and 2006 associated with changes in the methodology and calculation of estimated resident population and net overseas migration respectively by the Australian Bureau of Statistics.

11. Figure 3 shows the growth of Australia's immigrant population since federation.

Figure 3. Migrant population and percentage of total population by census year

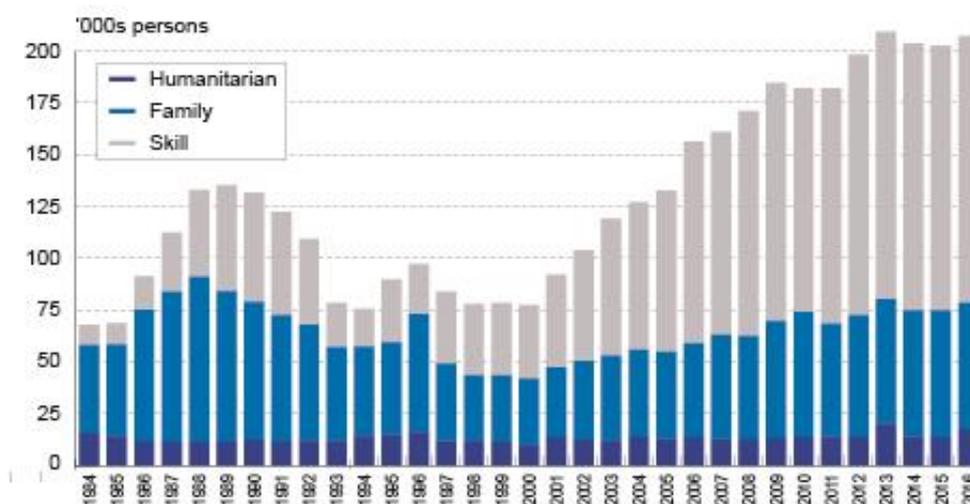


Source: Australian Historical Population Statistics, 2014 ABS. Cat. No. 3105.0.65.001 (Tables 8.7 to 8.23) and ABS 2016 Census Table Builder data extract

## Developments in Australia’s immigration policy

12. Annex A outlines the change in source countries of migrants to Australia.
13. Australia’s targeted, skills focused migration programme brings significant economic benefits to Australia. In addition to increasing the size of the labour force, it increases the participation rate and lifts labour productivity. This improves economic outcomes for all, through improved funding opportunities for Government services as well as increased demand for goods and services produced by existing Australian residents.
14. The Skill stream is the largest component of Australia’s Migration Programme and accounts for approximately 67 per cent of the total programme. This stream targets migrants who have skills that will contribute to the Australian economy (116,139 skilled migration stream places were granted in 2016–17 as at 31 May 2017).<sup>2</sup>
15. The Family stream accounts for 33 per cent of the total programme and includes migrants on the basis of their family relationship to a sponsor in Australia (54,221 Family stream places were granted in 2016–17 as at 31 May 2017).
16. Figure 4 shows the evolution of the Skill, Family and Humanitarian components of the permanent migration programme.

Figure 4. Evolution of Australia’s permanent migration intake



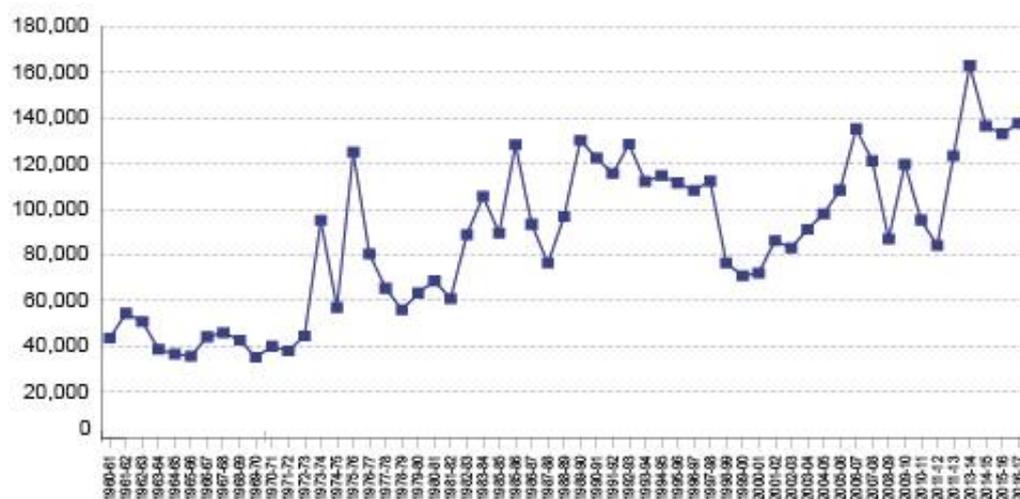
Source: Department of Immigration and Border Protection 2016, Australia’s Migration Trend 2014–15 (and earlier editions)

<sup>2</sup> Department of Immigration and Border Protection 2017 migration programme outcome statistics.

## Citizenship in Australia today

17. Australia’s history as a nation of immigration and its approach to managed migration have helped maintain it as a diverse, cohesive, innovative and economically thriving society. Migration benefits Australia by bringing in skills, enabling business connections and investment, developing family and community links, injecting diversity and innovation, and raising the country’s profile internationally.
18. Australian citizenship is highly valued by migrants today.
19. Of the seven million immigrants who have settled in Australia since 1945, more than 60 per cent have become Australian citizens.<sup>3</sup> At the time of the 2016 Census there were more than 3.9 million migrants living in Australia who reported themselves to be Australian citizens.

Figure 5. Number of persons granted Australian citizenship by financial year (1 July 1960–30 June 2017)



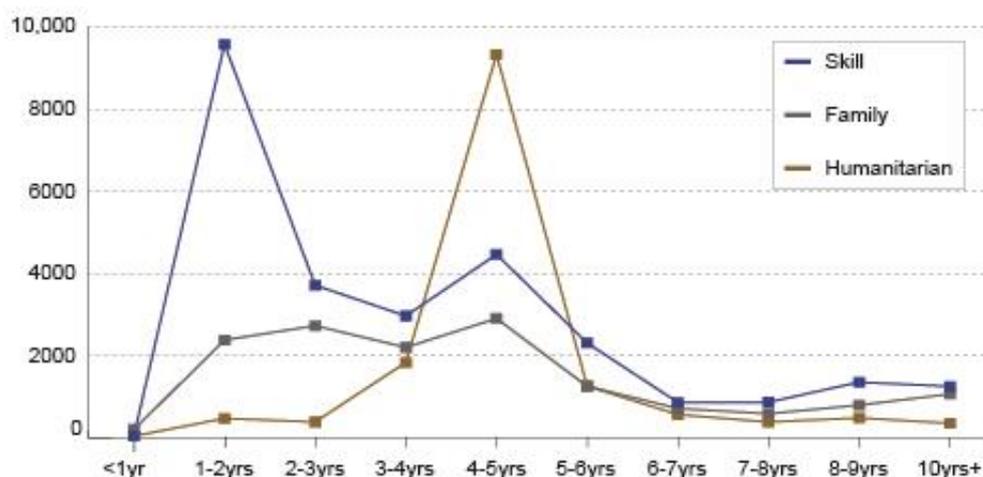
Source: Department of Immigration and Border Protection—internal citizenship DB2 database—data extracted on 7 July 2017. This information provided by the Department of Immigration and Border Protection was extracted from Departmental systems as at 7 July 2017. As data has been drawn from a dynamic system environment, the information was correct at the time of publication and figures may differ slightly from previous or future reporting.

<sup>3</sup> Productivity Commission (13 April 2016). *Migrant Intake into Australia*, Productivity Commission Inquiry Report No. 77, p. 4.

20. In 2016–17, 137,750 migrants acquired Australian citizenship. Of those who acquired Australian citizenship:
- 65 per cent were from the permanent skilled migration stream
  - 24 per cent were from the family migration stream; and
  - 6 per cent were from the humanitarian migration stream.

21. Figure 6 below show the number of years that a person resided in Australia as a permanent resident before applying for Australian citizenship and a peak in applications for Australian citizenship across all streams at the four to five year point from grant of permanent residency.

Figure 6. Number of applicants\* with applications on-hand as at 2 July 2017\*\* by migration stream and timeframe from grant of a permanent residency visa to lodgement of a citizenship application



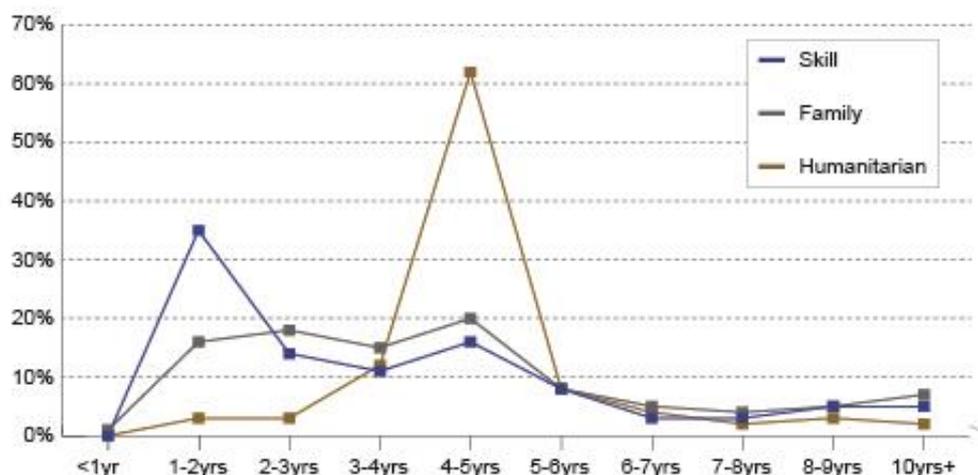
\* primary and dependent applicants are counted separately.

\*\* applications lodged before 20 April 2017 only.

Source: Department of Immigration and Border Protection—internal citizenship DB2 database—data extracted on 3 July 2017.

This information provided by the Department of Immigration and Border Protection was extracted from Departmental systems as at 3 July 2017. As data has been drawn from a dynamic system environment, the information was correct at the time of publication and figures may differ slightly from previous or future reporting.

Figure 7. Proportion of applicants\* with applications on-hand as at 2 July 2017\*\* by migration stream and timeframe from grant of a permanent residency visa to lodgement of a citizenship application



\* primary and dependent applicants are counted separately.

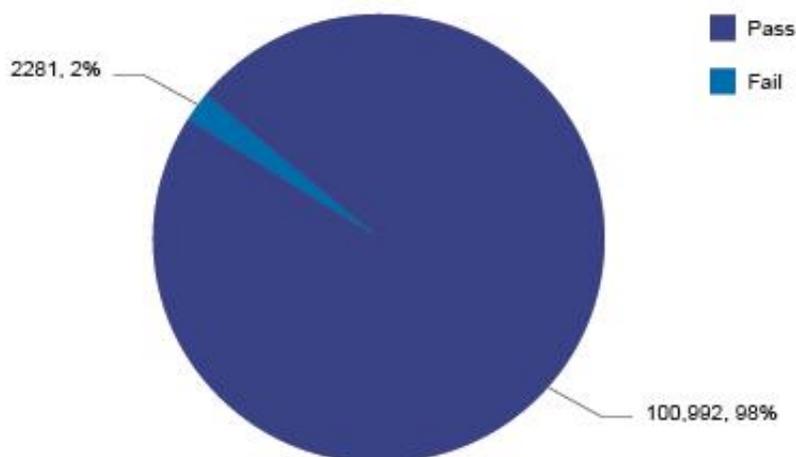
\*\* applications lodged before 20 April 2017 only.

Source: Department of Immigration and Border Protection—internal citizenship DB2 database—data extracted on 3 July 2017.

This information provided by the Department of Immigration and Border Protection was extracted from Departmental systems as at 3 July 2017. As data has been drawn from a dynamic system environment, the information was correct at the time of publication and figures may differ slightly from previous or future reporting.

22. In 2016–17, the majority of applicants who sat the current Australian citizenship test passed.

Figure 8. Number of persons who passed and failed the citizenship test in 2016–17

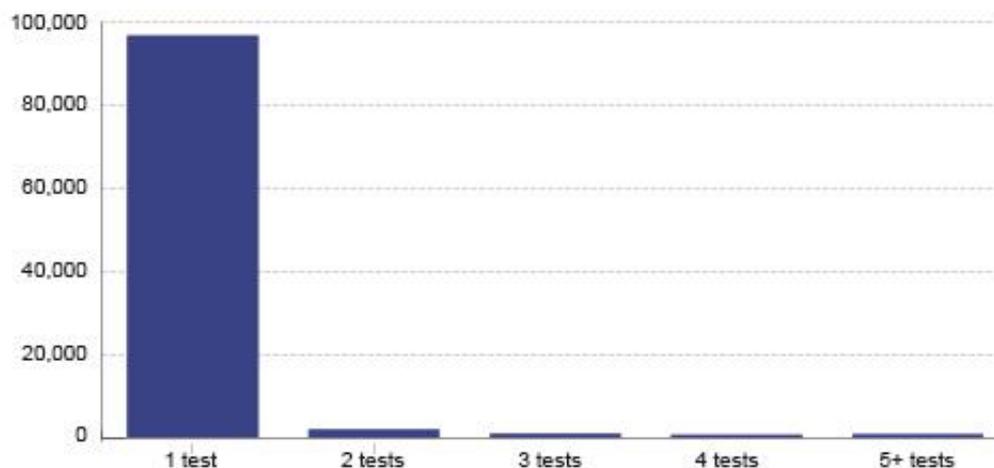


Source: Department of Immigration and Border Protection—internal citizenship DB2 database—data extracted on 7 July 2017.

This information provided by the Department of Immigration and Border Protection was extracted from Departmental systems as at 7 July 2017. As data has been drawn from a dynamic system environment, the information was correct at the time of publication and figures may differ slightly from previous or future reporting.

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Figure 9. Number of citizenship tests\* undertaken by people who passed in 2016–17



\* citizenship course results are not included.

Source: Department of Immigration and Border Protection—internal citizenship DB2 database—data extracted on 7 July 2017.

This information provided by the Department of Immigration and Border Protection was extracted from Departmental systems as at 7 July 2017. As data has been drawn from a dynamic system environment, the information was correct at the time of publication and figures may differ slightly from previous or future reporting.

## Australian citizenship—privileges and responsibilities

23. Australian citizenship is an extraordinary privilege requiring a continuing commitment to Australia and Australian values. Australian citizens enjoy privileges, rights and fundamental responsibilities.

### Privileges

24. The privileges of Australian citizenship include the right to:
- vote in federal and state or territory elections, and in referenda
  - seek election to Parliament
  - apply for work in the Australian Public Service or Defence forces
  - apply for an Australian passport and re-enter Australia freely
  - request help from an Australian official while overseas
  - register children born overseas as Australian citizens by descent, and
  - apply for access to social welfare / HECS HELP / Centrelink payments.

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## Responsibilities

25. The responsibilities of citizenship are included in both the *Preamble* to the *Australian Citizenship Act 2007* and the *Pledge of commitment* as a citizen of the Commonwealth of Australia, set out in Schedule 1 to that Act.
26. The responsibilities of Australian citizenship include an obligation to:
  - obey the law
  - defend Australia should the need arise
  - serve on a jury if called to do so, and
  - vote in federal and state or territory elections, and in referenda.

## Chapter Two

### The changing global context

27. Australia's migration programme emphasises the importance of migration both for Australia's ongoing economic and social prosperity, and the need to ensure that the Australian community is secure.
28. In the past 20 years, the international environment that Australia's immigration policy operates in, has changed dramatically. The Government must continue to review its migration and citizenship policies to ensure Australia continues to welcome people committed to the success of our nation, by enriching our society and building economic prosperity.

### Technology and mobility

29. Technology has provided a catalyst for change, and revolutionised how nations, governments and individuals interact and connect. This presents a range of challenges as well as opportunities.
30. Historically, Australia's size and relative isolation have served as more tangible and physical obstacles to travel, trade and communication. Physical borders and geography are now less of a barrier.
31. The global population is increasingly mobile. Australia is now a destination of choice for temporary visitors and migrants, reflected by the rapidly increasing numbers of people entering Australia each year.
32. Increased access to and use of technology, the internet and mobile solutions, empowers individuals, but also enables people to operate independently or engage more easily in illicit activity.
33. Government must remain in-step with technological advances to innovate and improve efficiency, but also to maximise the effectiveness of decision and law making.

### National security

34. The current complex security environment is unprecedented in terms of the ability of criminal and terrorist organisations to breach borders by using digital communications technology. For example, in the majority of cases where Australians have become radicalised by terrorist organisations, it has been through online information and contact.<sup>4</sup>

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<sup>4</sup> Lewis, D. (31 May 2017). Interview with Mr Duncan Lewis, Director General of Security, Australian Security Intelligence Organisation, ABC Radio National.

35. The inter-connectedness of the modern world similarly exposes Australians to geopolitical developments occurring in the furthest corners of the world. While this can have a positive impact, there is also a risk posed by armed conflict, civil unrest, corruption and extremism, no matter how distant.
36. Since 2012, terrorist organisations have successfully encouraged approximately 200 Australians to travel to Syria and Iraq to join that conflict. While the military situation has worsened for Islamic State, it now uses the internet and social media to not only promote its extremist views, but specifically to encourage followers to conduct attacks against targets in their own countries including Australia.
37. In this digital age, it is more important than ever to actively foster Australian values and a connection with community. Australia's migration programme, which encourages eligible migrants to seek citizenship, can contribute to these efforts.

### Addressing the national security concern—Australia's response

38. In 1997, the Government introduced changes to citizenship laws to deprive people of citizenship when it was obtained as a result of migration-related fraud and received a conviction.<sup>5</sup>
39. These provisions were strengthened in the early 2000s, to extend provisions for the deprivation of citizenship to include people convicted of people smuggling offences.<sup>6</sup> These amendments followed earlier changes to introduce provisions to apply Chapter 2 of the Criminal Code to all offences against the *Australian Citizenship Act 1948*.<sup>7</sup>
40. In 2015, to deal with the threat caused by dual citizens who engage in serious terrorist-related activities, the *Australian Citizenship Act 2007* was amended so that a dual citizen can lose their Australian citizenship if they act contrary to their allegiance to Australia. This applies to people who:
  - engage in terrorism-related behaviour, with the intention of advancing a political, religious or ideological cause; or
  - coerce or intimidate the Australian Government or the government of another country or the public; or
  - fight for, or are in the service of, a declared terrorist organisation outside of Australia.
41. The Minister for Immigration and Border Protection may revoke a dual citizen's Australian citizenship if the person has been convicted and sentenced for a terrorism-related offence in Australia and the conduct underpinning the conviction shows they have repudiated their allegiance to Australia.

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<sup>5</sup> Legislative amendments implemented by *Migration Legislation Amendment Act (No. 1) 1997*.

<sup>6</sup> Ireland, I. (2002). *Australian Citizenship Legislation Amendment Bill 2002*, Bills digest, no. 78, Parliamentary Library, Canberra, 2002

<sup>7</sup> Legislative amendments implemented by *Migration Legislation Amendment (Application of Criminal Code) Act 2001*.

42. If a person is in Australia when their Australian citizenship is revoked they will be automatically granted an ex-citizen visa under the *Migration Act 1958*. This visa may be cancelled for non-citizens of character concern. Where a non-citizen's visa is cancelled, they will be detained and removed in line with established removal procedures and process.
43. If a person is offshore when their Australian citizenship ceases they may apply for a visa for entry to Australia and will be subject to the requirements of the visa, such as passing the character test.
44. The measures outlined in the Bill build on these earlier developments and reinforce the integrity of Australia's citizenship programme.

### Strengthening integration

45. Immigrant integration is a core challenge in liberal democracies. This is especially so in light of recent political discourse in Europe and beyond that suggests a real 'failure of integration' among new and long-established immigrant populations, as indicated by evidence as diverse as socio-economic performance gaps and acts of terrorism.<sup>8</sup>
46. In response to this problem, civic integration has been singled out as an alternative or an altogether new strategy of integration, with states shifting away from historical integration models of assimilation, multiculturalism and exclusionism.<sup>9</sup>
47. Civic integration policies express the idea that successful incorporation into a host society rests not only on employment (economic integration) and civic engagement (political integration), but also on individual commitments and attainments in line with norms of national citizenship, specifically relating to country knowledge, language proficiency and liberal and social values.<sup>10</sup>
48. The key objective of civic integration is promoting functional, individual autonomy. To promote civic skills and value commitments for newcomers, governments have put into place a variety of requirements or 'civic hardware', including integration contracts, classes, tests and ceremonies.<sup>11</sup>

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<sup>8</sup> Goodman, S. W. (2010). 'Integration requirements for integration's sake? Identifying, categorising and comparing civic integration policies', *Journal of ethnic and migration studies*, 36(5), pp 753–772.

<sup>9</sup> Goodman, S. W. (2010). 'Integration requirements for integration's sake? Identifying, categorising and comparing civic integration policies', *Journal of ethnic and migration studies*, 36(5), pp 753–772.

<sup>10</sup> Goodman, S. W. (2010). 'Integration requirements for integration's sake? Identifying, categorising and comparing civic integration policies', *Journal of ethnic and migration studies*, 36(5), pp 753–772.

<sup>11</sup> Goodman, S. W. (2010). 'Integration requirements for integration's sake? Identifying, categorising and comparing civic integration policies', *Journal of ethnic and migration studies*, 36(5), pp 753–772.

## Martin Place siege

49. The Martin Place siege on 15 December 2014 was a turning point in the Australian context.
50. The January 2015 Joint Commonwealth-New South Wales review of the Martin Place Siege noted that at around 8.33am on 15 December 2014, Man Haron Monis walked into the Lindt Café, on the corner of Martin Place and Phillip Street, in the heart of Sydney's commercial district. Shortly thereafter, he produced a gun and ordered that the customers and staff be locked inside as hostages. After a standoff lasting around 17 hours, the siege ended in gunfire. Three people died: two hostages and Monis. Several of the other hostages sustained injuries. The Martin Place siege has affected the community deeply.<sup>12</sup>
51. The review recommended:

### Recommendations on immigration

- a. Immigration should review its internal connectivity and information sharing processes to improve the Department's ability to verify the initial supporting information provided by visa applicants wishing to travel to Australia.
- b. Immigration should better assess the possible risks posed by individuals at the pre-visa, post-visa and pre-citizenship stages.
- c. Immigration should propose policy and legislative changes necessary to support decisions to grant or revoke an initial visa, subsequent visas and, citizenship.

52. On 26 May 2015, the Australian Government commissioned a National Consultation on Citizenship to consult with a broad range of stakeholders to improve understanding of the privileges and responsibilities of Australian citizenship.

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<sup>12</sup> Commonwealth of Australia. (2015) *Martin Place Siege: Joint Commonwealth—New South Wales review*, Canberra.

53. Senator the Hon Concetta Fierravanti-Wells and the Hon Philip Ruddock MP found:

‘Our consultation shows that Australians hold dear their citizenship. This is more than a simplistic attachment to the formal privileges of citizenship. Australians see citizenship in a deeper sense—of having a stake in our future as a prosperous and diverse nation and in the values that underpin this.

‘Australians are concerned however, that citizenship is undervalued by some in our community. This concern is most acute in the cases of Australians who by their conduct have chosen to break with the values inherent in being an Australian citizen with a commitment to Australia first most and fore most. It is timely to review the citizenship framework, to ensure community understanding of and respect for Australian citizenship and to strengthen the pathways to citizenship so that all Australians know and understand their responsibilities and obligations as citizens.’<sup>13</sup>

### International approaches to integration

54. More and more countries also now impose integration requirements at an earlier stage in the migration trajectory, even before immigrants decide to become citizens.<sup>14</sup>
55. In France, the *contrat d'intégration républicaine* is a contract signed by all newly arrived (or newly regularised) immigrants, which commits them to learning French and improving their understanding of French laws.
56. The recent rise in perceptions of insecurity and deep social divides between immigrant and existing populations are prompting immigrant integration reform in most European states.<sup>15</sup>
57. The Netherlands is considered a European leader in this area. Since 2006, the Netherlands has required prospective immigrants to learn Dutch and familiarise themselves with Dutch customs before arriving in the Netherlands.<sup>16</sup>
58. As detailed in the *Bills Digest no. 188 2006-07-Australian Citizenship Amendment (Citizenship Testing) Bill 2007*, ‘Germany, the Netherlands, Norway, Austria, Denmark, Switzerland and parts of Belgium now all mandate integration.

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<sup>13</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 3.

<sup>14</sup> Banulescu-Bogdan, N. & Benton, M. (2017). *In Search of Common Values amid Large-Scale Immigrant Integration Pressures*. Brussels: Migration Policy Institute Europe, p. 11.

<sup>15</sup> Banulescu-Bogdan, N. & Benton, M. (2017). *In Search of Common Values amid Large-Scale Immigrant Integration Pressures*. Brussels: Migration Policy Institute Europe, p. 11.

<sup>16</sup> Banulescu-Bogdan, N. & Benton, M. (2017). *In Search of Common Values amid Large-Scale Immigrant Integration Pressures*. Brussels: Migration Policy Institute Europe, p. 11.

## Chapter Three

### *The National Consultation on Citizenship: Australian Citizenship—Your Right, Your Responsibility*

#### The National Consultation on Citizenship

59. On 26 May 2015, the Australian Government commissioned a National Consultation on Citizenship to consult with a broad range of stakeholders to improve understanding of the privileges and responsibilities of Australian citizenship. The Department published a discussion paper to support the National Consultation on Citizenship (Annex B).
60. Senator the Hon Concetta Fierravanti-Wells and the Hon Philip Ruddock MP led the National Consultation on Citizenship in 2016. It was undertaken over a number of months and input was received from a large number of individuals, community groups and subject matter experts (2544 responses to an on-line survey and more than 400 written submissions; three consultations with key stakeholders in Canberra, Melbourne and Sydney; public consultations in New South Wales, Queensland, Victoria, the Northern Territory, South Australia, Western Australia and Tasmania).
61. The Final Report of the National Consultation on Citizenship *Australian Citizenship—Your Right, Your Responsibility* (the Final Report) was informed by the consultations, and was also supported by research into international models. The Final Report is at Annex C.

#### The Final Report of the National Consultation on Citizenship— key findings and recommendations

62. On 2 May 2016 the Final Report was presented to the Prime Minister, the Hon Malcolm Turnbull MP, and the Minister for Immigration and Border Protection, the Hon Peter Dutton MP.
63. The Final Report made key findings and 15 recommendations in relation to:
  - promoting community understanding of Australian citizenship; and
  - strengthening the pathway to citizenship.
64. The following Chapter describes the key findings and the recommendations that inform the Government's reforms to strengthen the requirements for Australian citizenship.

## Promoting community understanding of the value of Australian citizenship

65. As noted above, the Final Report found that Australians hold dear their citizenship. For most, this is more than a simplistic attachment to the formal privileges of citizenship. Australians see citizenship in a deeper sense, namely of having a stake in our future as a prosperous and diverse nation and in the values that underpin this.<sup>17</sup>
66. The National Consultation showed that the considerable majority of people (64 per cent of tallied responses) felt that Australian citizenship is not sufficiently valued.<sup>18</sup>
67. Public input to the National Consultation showed overwhelming support (98 per cent of tallied responses) for action by the Government and the community to ensure Australian citizens understand and respect the privileges and obligations of Australian citizenship.<sup>19</sup>
68. The Final Report found that given the changes over recent years in Australia and in the world over recent years including the complex global security environment, it is prudent to re-examine the place of Australian citizenship in society and Australia's citizenship laws. This examination is not undertaken to weaken or dilute the unifying role of Australian citizenship—it is to preserve and maintain it, most especially in the context of 2016 multicultural Australia.<sup>20</sup>
69. An overwhelming majority of respondents (88 per cent of tallied responses) believed that there are areas of the citizenship test and the pledge that should be examined, in addition to qualification criteria including English language, more rigorous entry processes, identity and criminal history.<sup>21</sup>

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<sup>17</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 11.

<sup>18</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 11.

<sup>19</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 11.

<sup>20</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 13.

<sup>21</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 14.

## Strengthening the pathway to citizenship

### Recommendation 8

The Government should continue to strengthen the integrity of the citizenship process, including through elements proposed in the *Australian Citizenship and Other Legislation Amendment Bill 2014*.

70. The Final Report found that an overwhelming majority of respondents believed that the Government should develop policies to ensure that Australian citizens understand and respect the privileges and obligations of citizenship and that the eligibility requirements should be strengthened.<sup>22</sup>
71. Respondents expressed strong support for integrity in Australia's migration and citizenship programmes. There was overwhelming support (91 per cent of tallied responses) for more rigorous migration and border entry processes, including checks on applicants' identity, criminal history, known associations and attitudes to Australian values, and a desire for greater confidence that applicants are not known to present a national security risk. Some respondents felt that these checks should be supplemented by an assessment of applicants' ability to integrate into the Australian community.<sup>23</sup>

### Case for reform

72. The Final Report saw scope for enhancing the integrity of the Australian citizenship programme. The Final Report noted that previous changes to citizenship law and policy to improve programme integrity have not diminished the common bond of Australian citizenship. The change of the residence requirements to four years lawful stay, the introduction of the citizenship test in 2007, and changes in eligibility criteria for children in 2009, did not reduce take-up rates of those who were eligible to become Australian citizens. Instead, the Final Report contends that such changes have been welcomed when linked to an issue or problem and when the change is proportionate and timely.<sup>24</sup>
73. In this regard, the Final Report notes that work to strengthen the integrity of the citizenship pathway would be consistent with recommendations of the Joint Commonwealth-New South Wales review of the Martin Place siege, which was released in February 2015 <sup>25</sup> (Annex D).

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<sup>22</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 16.

<sup>23</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 16.

<sup>24</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 18.

<sup>25</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 19.

## General residence

### Recommendation 10

The general residence requirement should be increased to a minimum of four years permanent residence immediately prior to the application for citizenship, during which time applicants may be absent from Australia for no more than 12 months in total. Applicants for citizenship should be physically in Australia to lodge their application and to acquire Australian citizenship at a ceremony.

74. A majority of respondents supported lengthening the residence requirement from its current 'four year's lawful stay'. Suggestions for the total residency requirement included five years, eight years and ten years and that this period be treated as a 'probationary period' for Australian citizenship.<sup>26</sup>
75. The Final Report found that residence requirements are a key area for consideration. A residence requirement in citizenship law is an objective measure of a person's association with Australia, with an assumption that the person will use this time to become acquainted and comfortable with Australian society and its values and to appreciate the commitment they must make to become an Australian citizen. It also serves as a probationary period, so that a person's 'word and deeds' across this time can be considered should the person apply for Australian citizenship.<sup>27</sup>
76. The Final Report notes that according to the Organisation for Economic Co-operation and Development's (OECD) Indicators of Immigrant Integration report (July 2015), which compared countries' take-up rates according to the proportion of citizenship among immigrants with 10 or more years of residency. According to this metric, Australia has one of the highest levels of citizenship acquisition (80 per cent) in the OECD. Hence, regardless of recent changes to the residence requirements, about four in five migrants who have settled in Australia take out Australian citizenship—a measure of its success and importance<sup>28</sup>
77. The Final Report considers that given all of these factors, it is rational to consider increasing the residence requirement to reflect the value and importance of Australian citizenship.<sup>29</sup>

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<sup>26</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 16.

<sup>27</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 19.

<sup>28</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 19.

<sup>29</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 19.

## English language

### Recommendation 15

In view of the strong emphasis the community places on English language, the Government should improve the Adult Migration English Program (AMEP) and ensure new citizens have adequate (not just basic) language ability, taking into account particular circumstances.

78. A strong theme throughout the National Consultation was the importance of English language to being a citizen and full integration into Australian society. There was support for raising the minimum standard of English required to sit the citizenship test.<sup>30</sup>

## Citizenship test

### Recommendation 11

The Citizenship Test should be retained, revised and updated including online and other means if necessary to include questions about allegiance and more questions about the rule of law, values and democratic rights and responsibilities in the Citizenship Test.

### Recommendation 12

The integrity of the Citizenship Test should be strengthened through limits on the number of times a person can sit but fail to pass the Test before their application is refused. A person can make a new application for citizenship once s/he has gained a sufficient understanding to enable them to pass the test (*sic*). Cheating on the Citizenship Test should incur appropriate penalties.

79. There was overwhelming support (91 per cent of tallied responses) for examining the role of the existing citizenship test and pledge in ensuring citizenship programme integrity.<sup>31</sup>
80. The Final Report supported retention of the citizenship test as a corner stone of the citizenship programme.<sup>32</sup>

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<sup>30</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 18.

<sup>31</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 17.

<sup>32</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 20.

81. The Final Report described the test as a tool to determine whether or not a person meets the legislative requirements set out in law. A person who repeatedly fails the test does not meet the requirements and therefore should have their application refused. The Final Report indicated that the client should then spend time to gain sufficient understanding to enable them to pass the test and make a new application for citizenship.<sup>33</sup>
82. The Final Report expressed the view that a person who cheats on the test should have their application for citizenship refused on the basis of not passing the test and have no ability to re-sit the test. A person in this situation will need to re-apply for Australian citizenship in the future.<sup>34</sup>

## Integration

83. The Final Report did not contain a specific recommendation about integration. However, some respondents viewed that employment records and the amount of welfare claimed during the residence period should form a part of the consideration of whether the person should be approved for Australian citizenship.<sup>35</sup>
84. Some suggested that the ability of new arrivals to 'integrate' into the Australian community needed to be examined and considered before offering them Australian citizenship.<sup>36</sup>
85. As noted above, a strong theme throughout the National Consultation was the importance of English language to being a citizen and full integration into Australian society.

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<sup>33</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 21.

<sup>34</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 21.

<sup>35</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 17.

<sup>36</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 17.

## Pledge

### Recommendation 5

The Citizenship Pledge should be updated to include language on allegiance to Australia.

### Recommendation 13

The Government should ensure more individuals formally make the Pledge by reducing the exemptions from participation in citizenship ceremonies and by including the Pledge in processes whereby citizenship is gained by descent, adoption or resumption.

86. Many respondents supported strengthening the pledge, as well as the *Preamble* to the *Australian Citizenship Act 2007*, to include words about allegiance and an undertaking not to act contrary to that allegiance.<sup>37</sup>
87. The Final Report considered that the pledge should be introduced into other streams of citizenship by application, such as by descent, Hague Convention on Inter-country Adoption or bilateral adoption agreement and resumption of citizenship. The Final Report also suggested that the pledge be applied when those applicants reach 16–18 years of age and the exemption for applicants who are 60 years and over should be removed.<sup>38</sup>

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<sup>37</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 18.

<sup>38</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 21.

## Chapter Four

# The Australian Government's response — *Strengthening the Test for Australian Citizenship*

## Reforms to strengthen the test for Australian Citizenship

88. On 20 April 2017 the Australian Government announced a package of reforms to strengthen the test for Australian citizenship in response to the recommendations of the Final Report.
89. The reforms include the following measures:
  - Increasing the general residence requirement to a minimum of four years permanent residence immediately prior to application
  - Requiring applicants to demonstrate competent English language listening, speaking, reading and writing skills before they are eligible to apply and sit the citizenship test
  - Strengthening the test for Australian citizenship through the addition of new test questions about Australian values and the privileges and responsibilities of Australian citizenship
  - Introducing a requirement for applicants to demonstrate their integration into the Australian community
  - Strengthening the Australian values statement in application forms for visas and citizenship to include reference to allegiance to Australia and require applicants to make an undertaking to integrate into and contribute to the Australian community
  - Strengthening the pledge of commitment in the *Australian Citizenship Act 2007* to refer to allegiance to Australia and
  - extending the requirement to make the pledge of allegiance to all streams of citizenship by application, including citizenship by descent, adoption and resumption.
90. The Government's publication on the reforms, *Strengthening the Test for Australian Citizenship* (Annex E), concluded that these reforms are integral to Australia's future as a strong and successful multicultural nation, united by our allegiance to Australia and committed to freedom and prosperity.
91. The Final Report and the Government's response were published on the Department's website on 20 April 2017.

## Implementation of reforms

92. On 15 June 2017, the Minister for Immigration and Border Protection, the Hon Peter Dutton MP, introduced the Bill into Parliament.
93. The first set of measures in the Bill commences with effect from the date of the Government's announcement of the reforms on 20 April 2017.
94. These measures are outlined in more detail in Chapters 5–10.
95. The second set of measures in the Bill is to strengthen the Australian citizenship programme and enhance public confidence in it. These measures were first introduced into the Parliament via the Australian Citizenship and Other Legislation Amendment Bill 2014 (the 2014 Bill). They will commence on Royal Assent and include:
  - Limiting automatic acquisition of citizenship at ten years of age to certain people
  - Ministerial power to defer an applicant making the pledge for up to two years
  - Ministerial power to cancel approval of citizenship prior to pledge if an applicant is no longer eligible or if the pledge is not made within 12 months
  - Extending the good character requirement to applicants under 18 years of age
  - Ministerial discretion to revoke citizenship on grounds of fraud or misrepresentation in migration or citizenship processes, without requirement for prior conviction of relevant criminal offences
  - Ministerial discretion to revoke citizenship by descent
  - Personal decisions made by the Minister in the public interest not being subject to merits review
  - The Minister having the power to set aside decisions of the Administrative Appeals Tribunal (AAT) concerning identity and character, in the public interest
96. These measures are outlined in more detail in Chapter 11.

## Rationale

97. The current citizenship test is out-of-date and only assesses applicants' basic understanding of Australian government and society. Applicants are able to acquire Australian citizenship without passing a dedicated English language test or making any commitment to integrate into and contribute to the Australian community.
98. The Final Report indicated strong community support for strengthening the test for Australian citizenship.

99. The Australian community expects aspiring citizens to demonstrate their allegiance to Australia, their commitment to live in accordance with Australian values, and their willingness and ability to integrate into and become contributing members of the Australian community.
100. The Government's package of measures will require applicants for Australian citizenship to pledge their allegiance to Australia and assess them for competent English language, understanding of and commitment to Australian values, and willingness and ability to integrate into and make a contribution to the Australian community. This will contribute to Australia's economic and social policy objectives.
101. The Government's reforms will also contribute to Australia's national security objectives by ensuring all aspiring citizens make a commitment of allegiance to Australia and demonstrate an understanding of Australian values.
102. Ultimately, the reforms will enhance public confidence in the Australian citizenship programme.

## Measures

### [A new general residence requirement before application for citizenship](#)

103. The Government is changing the general residence requirement.
104. The current requirement is that applicants for Australian citizenship need to be present in Australia for a period of four years immediately prior to their application for citizenship, including as a permanent resident for 12 months immediately prior to their application. The requirements allow applicants to spend a maximum of 12 months outside Australia during the four year residence with a maximum of 90 days outside Australia during the permanent residence period.
105. In future, applicants will need to be a permanent resident in Australia for a period of four years immediately prior to their application for citizenship, during which time applicants may be absent from Australia for no more than 12 months in total.
106. Changing the length of the qualifying period of permanent residency will allow more time for the Government to assess all applicants' experience of integrating into life in Australia.

### [A new English language test before application for citizenship](#)

107. Applicants will need to pass an English language test before being eligible to apply for Australian citizenship and sit the new citizenship test. Exemptions from the new English language requirement (on grounds of age, or of physical and mental incapacity) will apply.
108. Applicants will need to demonstrate competent English language listening, reading, writing and speaking skills. Applicants who do not meet a competent standard in the English language test cannot apply for Australian citizenship.

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109. Competent English is necessary so that aspiring Australian citizens can integrate into and contribute to the Australian community, including by obtaining employment. The new English language test will promote successful settlement of new Australian citizens.

#### A new citizenship test, containing questions on Australian values

110. As noted above, the current citizenship test is out-of-date and only assesses applicants' basic understanding of Australian Government and society.
111. The Final Report indicated strong community support for strengthening the citizenship test.
112. The new test will include additional questions on Australian values.
113. An applicant will be able to sit and fail the citizenship test three times before the application is refused.
114. If an application is refused, the applicant will be barred from further applications for two years. The Government is also removing the option for applicants who have failed the test three or more times to complete a course instead of the computer-based test. The purpose of the course-based test was to assist applicants with below 'basic' English, to understand the citizenship test. With the introduction of a new English language test, the course based test is no longer necessary.
115. The Department will publish new editions of the *Life in Australia* book (Annex F), and the resource book for the citizenship test, *Citizenship: Our Common Bond* (Annex G). The current editions contain information about Australia's democratic rights and liberties, Australia and its people, and government and the law in Australia. The new editions will also contain information about allegiance to Australia and its people, and Australian values.
116. The Department will engage expert consultants to develop the new citizenship test.

#### A new requirement to provide evidence of integration into the Australian community

117. The new strengthened citizenship application requirements will include collecting information about, and assessing evidence of, applicants' integration into the Australian community. Relevant documentation could include evidence of maintaining competent English, sending children to school, seeking employment rather than relying on welfare, earning income and paying tax, and contributing to the Australian community.
118. The Department would also check an applicant's criminal background and consider any conduct that is inconsistent with Australian values, such as domestic or family violence, criminality including procuring or facilitating female genital mutilation and involvement in gangs and organised crime.
119. An applicant who fails the integration requirements will have their application refused. Depending on the reasons for failing the new integration requirements, an applicant may be referred for consideration of visa cancellation under the existing cancellation provisions in the *Migration Act 1958*.

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### New significance of the Australian values statement

120. All citizenship application forms include a Declaration for applicants to sign in relation to, amongst other things:
- their understanding of Australian values,
  - their acceptance that Australian citizenship involves reciprocal rights and responsibilities, including obeying Australian laws, and
  - an undertaking to accept these responsibilities and respect the values of Australian society.
121. Under the Bill, applicants must sign the Australian values statement in order to lodge a valid application.
122. The Australian values statement will be strengthened to include a reference to allegiance to Australia and will require applicants to make an undertaking to integrate into and contribute to the Australian community.

### A new pledge of allegiance to Australia

123. The Government is revising the pledge to require aspiring citizens to pledge their allegiance to Australia.
124. The Bill contains the new pledge of allegiance to Australia:

#### Pledge of allegiance

From this time forward [under God],  
I pledge my allegiance to Australia and its people,  
whose values and democratic beliefs I share,  
whose rights and liberties I respect, and  
whose laws I will uphold and obey.

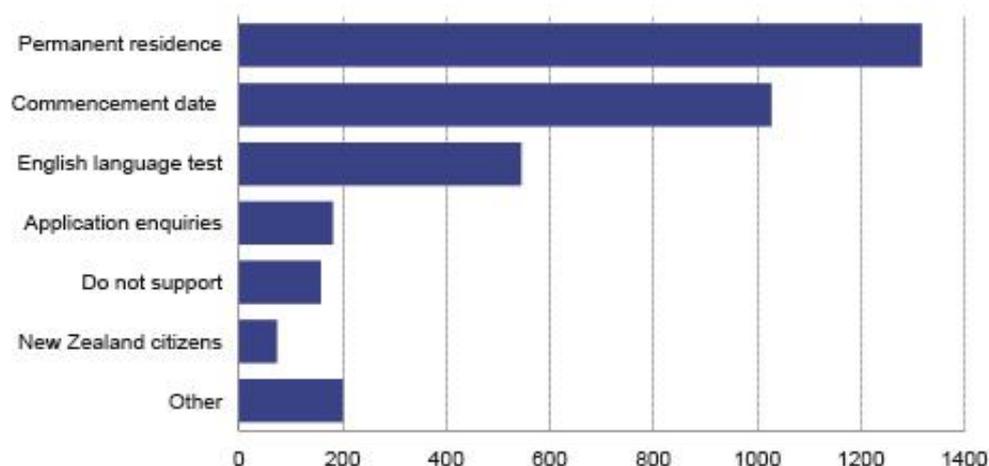
125. Currently, only those applicants over the age of 16 who are attaining citizenship by conferral, are required to make the pledge.
126. The Government will extend the requirement to make the pledge to all applicants aged 16 years and over in all streams of citizenship by application, including citizenship by descent, adoption and resumption.
127. The exemptions to making the pledge on grounds of physical or mental incapacity, or age (under 16 years of age) will remain.

### Response to the announcement of the reforms

128. Following the 20 April 2017 announcement, the Government invited comments in response to the new values and citizenship test questions.

129. Over the last five programme years (1 July 2012 to 30 June 2017), 693,903 people were granted Australian Citizenship.
130. The 3693 responses the Department received to the publication *Strengthening the test for Australian citizenship* represent 0.5 per cent of total programme numbers. Most of the responses were related to individual cases.
131. The majority of comments received related to specific issues with the reforms or impacts on individuals' personal circumstances, rather than on changes to values and other citizenship test questions. Comments focussed on the permanent residency requirements, introduction of English language testing and the commencement date of the reforms. (see Figure 10)

Figure 10. Summary of responses—Strengthening the test for Australian citizenship



Source: Department of Immigration and Border Protection, 2017.

132. The date of commencement was informed by experiences of previous Australian governments announcing reforms to programmes in the portfolio including the citizenship programme. When new policy is announced this can result in significant increases in the number of applications, and consequential delays in the processing of these applications.

## Spike in applications

133. Despite the Government's announcement that the reforms will come into effect from 20 April 2017, the Department received a spike in citizenship applications on and after that date.
134. A total of 9276 applications were lodged from 20 to 30 April 2017 compared to 4952 in the corresponding period in 2016.

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## Chapter Five

### General residence requirements

#### Changes through history on residence requirements

135. There have been a number of changes to residency requirements since the concept of Australian citizenship was introduced in 1949. This reflects the balance between the underlying policy of inclusiveness and a close connection to Australia, and the desire of successive governments to provide an opportunity for eligible individuals to become Australian citizens as soon as possible after settling in Australia.<sup>39</sup>

Table 1. Changes to residency requirements

Date	Applicant	Residence requirement
1920	All (to become British Subject in Commonwealth)	Required five years residence in the Empire and last 12 months to have been in the country granting citizenship.
1949	British subjects	Five years residence requirement, Minister has discretion to shorten period to 12 months.
	Aliens	Five years residence requirement, which included a period of one year preceding the date of approval of the application. There was no ministerial discretion to shorten the period for aliens.
1955	British subjects	Five years residence requirement, Minister has discretion to shorten period to 12 months.
	Aliens	Five years residence requirement, which included a period of one year preceding the date of approval of the application. There was no ministerial discretion to shorten the period for aliens.
	All applicants	The Minister has discretionary powers to waive the residence requirement or shorten the period for husbands and wives of Australians.
1969	British subjects	Five years residence requirement, Minister has discretion to shorten period to 12 months. Citizens of Commonwealth countries who met this requirement could acquire citizenship by notification.
	Aliens	Five years residence requirements; or Three years residence requirements, where the applicant could demonstrate 'adequate' written and spoken English.

<sup>39</sup> Australian Citizenship Council. (2000). *Australian citizenship for a New Century*, Canberra: Department of Immigration and Multicultural Affairs, p. 44.



Date	Applicant	Residence requirement
1973	All applicants	Three years residence requirement.
1984	All applicants	Two of the previous five years in Australia as a permanent resident, including one year in Australia in the two years immediately prior to the application.
2007	All applicants	Four years residence in Australia immediately prior to the application, including 12 months as a permanent resident in Australia immediately prior to the application.
2009	All applicants	The 2007 residency requirements are renamed 'general resident requirements'. Two 'special residence requirements' are introduced. For applicants engaged in activities of benefit to Australia, the applicant must be present in Australia for at least four of the last 24 months and three of the last 12 months; and For applicants working in certain occupations, the applicant must be present in Australia for at least 16 of the last 48 months and four of the last 12 months.

Source: All references to Australian Government legislation sourced from the Federal Register of Legislation [www.legislation.gov.au](http://www.legislation.gov.au)

## International comparisons

136. Australia's current general residence requirements are low in comparison to the international standards described in Table 2 below. Other countries' requirements range from four years to nine years continuous residence.
137. Countries around the world require applicants for citizenship of their countries to demonstrate a minimum period of residence in their countries, before being able to apply for citizenship.
138. The residence requirements vary from country to country. However, generally speaking, the requirements include requirements for residence of a kind similar to the Australian concept of 'permanent residence'.
139. The common rationale for countries requiring applicants for citizenship to demonstrate a minimum period of residence, including permanent residence, in their countries, is that countries regard permanent residence as evidence of an applicant's intention and commitment to live in the country permanently.
140. The Table below outlines the residence requirements in New Zealand, Canada, the United Kingdom, the United States of America, France, Germany, the Netherlands and Denmark.

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Table 2. Residence requirements for citizenship—International comparison<sup>40</sup>

Country	Who is assessed?	Years of residence required for citizenship*	Entitlements
New Zealand <sup>41</sup>	Anyone seeking New Zealand citizenship through grant	Five years	The holder of any resident class visa is entitled to: <ul style="list-style-type: none"> <li>- free or subsidised health care at publicly funded health services</li> <li>- free education at state-run primary and secondary schools, and subsidised fees for domestic students at private schools and tertiary institutions</li> <li>- social security benefits: after two years' residence for Jobseeker Support, Sole Parent Support and Supported Living Payment; and ten years' residence for New Zealand Superannuation</li> <li>- enrol and vote in elections (after one year of residence).</li> </ul>
Canada	Anyone seeking Canadian citizenship through naturalisation	Under new Bill C 6/2017: Three out of five previous years (up to one year under a temporary residence visa can be counted)	Permanent residents receive most of the benefits Canadian citizens receive. For example, Canadian permanent residents are entitled to: <ul style="list-style-type: none"> <li>- work and study in Canada</li> <li>- social benefits, including healthcare and access to the Canadian public education system up to the age of 18, free of charge</li> <li>- unlike Canadian citizens, permanent residents cannot vote or run for political office, or hold certain job</li> </ul>

<sup>40</sup> Note that In Australia eligible applicants may also meet the residence requirement through:  
– Section 22A—Special residence requirement—persons engaging in activities that are of benefit to Australia (e.g. Olympians)  
– Section 22B—Special residence requirement—persons engaged in particular kinds of work requiring regular travel outside Australia (e.g. academics)  
– Section 23—Defence service requirement (where a person or member of a family unit has completed relevant defence service).

<sup>41</sup> <https://www.govt.nz/browse/nz-passports-and-citizenship/getting-nz-citizenship/apply-for-nz-citizenship/#residence-requirements>



			positions that require a high-level security clearance. <sup>42</sup>
United Kingdom <sup>43</sup>	Anyone seeking British citizenship through naturalisation	Five years plus one year (usually <i>after</i> the five years) of being 'settled'— so usually 5+1=6 years.  For spouses it is three years, but they must be 'settled', so, in reality, that is usually five years.	A migrant with indefinite leave would be able to access benefits where appropriate and they do not pay the Health Surcharge. They can also apply for dependants to remain with them permanently. <sup>44</sup>
United States of America <sup>45</sup>	Anyone seeking United States citizenship through naturalisation	Five years	Health Care Benefits such as emergency Medicaid, the Children's Health Insurance Program, prenatal care, or other free or low-cost medical care at health centres.  Food Programs such as Food Stamps, school meals, or other food assistance  Non-Cash Programs such as public housing, child care, energy assistance, disaster relief, Head Start, or job training or counselling.  Green Card holders can access the full range of social assistance, including Cash Welfare programs (such as Supplemental Security Income, Temporary Assistance for Needy Families, and state and local cash assistance programs) and institutionalisation for long-term care, such as residing in a nursing home

<sup>42</sup> Information provided by Canadian government in response to a questionnaire survey. For more information regarding permanent residence, see also: [www.cic.gc.ca/english/newcomers/about-pr.asp](http://www.cic.gc.ca/english/newcomers/about-pr.asp)

<sup>43</sup> <https://www.gov.uk/becoming-a-british-citizen/check-if-you-can-apply>

<sup>44</sup> Information provided by UK government in response to a questionnaire survey.

<sup>45</sup> <https://www.uscis.gov/citizenship/teachers/naturalization-information>

			or mental health facility at government expense. <sup>46</sup>
France <sup>47</sup>	Anyone seeking French citizenship through naturalisation	Five years	France's social benefits scheme is a hybrid scheme, funded by the government, and also by social insurance payments by workers (for sickness, unemployment, maternity or paternity, invalidity or occupational injuries).  EU migrants (and their families) are entitled to the same benefits as citizens of the host country, if they are workers or self-employed. However, access to certain benefits can depend on the amount of time a worker has been paying social insurance contributions.  Jobless migrants are not entitled to the same range of benefits (mainly those which are funded from salary contributions). <sup>48</sup>
Germany <sup>49</sup>	Anyone seeking German citizenship through naturalisation	Eight years in general  Seven years if the applicant attended an integration course  Six years for refugee or where applicant has achieved 'special integration achievements'  Three years for a spouse	For health insurance, long-range nursing care, pensions and unemployment, people with jobs must, as a rule, make contributory payments, usually comprising about 40 per cent of gross income (but the employer normally pays half of this). <sup>50</sup>  Child allowance payable to all parents of children (up to the age of 25 if they are studying) is available to foreigners after 12 months of residence. <sup>51</sup>  Receipt of social welfare benefits during the first five years of residence may disqualify the person for naturalisation (except if non-payment of such benefits is unreasonable, e.g. in case of disability, seniors, single parents or young people still at school, in training or studying at a university). <sup>52</sup>

<sup>46</sup> US Immigration and Citizenship Services 'Public Charge' factsheet: <https://www.uscis.gov/news/fact-sheets/public-charge-fact-sheet>

<sup>47</sup> [http://www.expatica.com/fr/visas-and-permits/A-guide-to-French-citizenship-and-permanent-residence\\_107626.html](http://www.expatica.com/fr/visas-and-permits/A-guide-to-French-citizenship-and-permanent-residence_107626.html)

<sup>48</sup> [www.bbc.com/news/world-europe-25134521](http://www.bbc.com/news/world-europe-25134521)

<sup>49</sup> [www.freiburg.de/pb/.Lde/849942.html](http://www.freiburg.de/pb/.Lde/849942.html)

<sup>50</sup> [www.howtogermany.com/pages/working.html](http://www.howtogermany.com/pages/working.html)

<sup>51</sup> [www.internations.org/germany-expats/guide/15984-social-security-taxation/social-security-in-germany-15970](http://www.internations.org/germany-expats/guide/15984-social-security-taxation/social-security-in-germany-15970)

<sup>52</sup> Pursuant to German Social Code Vol. II (SGB II) or SGB XII. See [www.freiburg.de/pb/.Lde/849942.html](http://www.freiburg.de/pb/.Lde/849942.html) for example.

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<p>The Netherlands<sup>53</sup></p>	<p>Anyone seeking Dutch citizenship through naturalisation</p>	<p>Five years</p>	<p>EU (plus Switzerland, Norway, Iceland) citizens typically have the same rights to social security benefits as Dutch nationals, although no claims can be made within the first three months of moving to the Netherlands or before being hired if you came to work.</p> <p>During the first five years of residence in the Netherlands, however, claiming social security benefits as an EU citizen can result in the withdrawal of your right to reside in the Netherlands, which is determined on a case-by-case basis.</p> <p>Non-EU nationals who have a regular residency permit for a definite or an indefinite period of time also generally have the same rights to claim social security benefits as Dutch nationals, although some residence permits exclude eligibility for access to any public funds.<sup>54</sup></p>
<p>Denmark<sup>55</sup></p>	<p>Anyone seeking Danish citizenship through naturalisation</p>	<p>Nine years</p>	<p>The integration benefit was reduced (2015) to the same level as Danish student support grants—Danish Krone 7445, falling significantly from the unemployment benefit level of Danish Krone 10,849 a month—for all migrants who haven't lived in Denmark for more than seven of the past eight years. If migrants are unable to pass an intermediate Danish fluency test, the benefit is cut by a further Danish Krone 1500 a month.<sup>56</sup></p>

\*For general overview only and does not list exemptions or discretions available to vary requirements. Limitations on the amount of time spent out of the country may apply.

<sup>53</sup> <https://ind.nl/en/dutch-citizenship/Pages/Naturalisation.aspx>

<sup>54</sup> [www.expatica.com/nl/about/Dutch-social-security-system-explained\\_100578.html#SocialSecurityBenefits](http://www.expatica.com/nl/about/Dutch-social-security-system-explained_100578.html#SocialSecurityBenefits)

<sup>55</sup> [https://en.wikipedia.org/wiki/Danish\\_nationality\\_law](https://en.wikipedia.org/wiki/Danish_nationality_law)

<sup>56</sup> [www.breitbart.com/london/2015/07/02/denmark-replaces-unemployment-benefits-with-integration-benefit-payments-depend-on-migrants-learning-danish](http://www.breitbart.com/london/2015/07/02/denmark-replaces-unemployment-benefits-with-integration-benefit-payments-depend-on-migrants-learning-danish)

## Australia's current residence requirements

141. Most applicants are required to satisfy a residence requirement in order to be eligible for citizenship by conferral. These include the:
- general residence requirement; or
  - special residence requirement
    - persons engaging in activities that are of benefit to Australia; or
    - person engaged in particular kinds of work requiring regular travel outside Australia; or
  - Defence service requirement.
142. Ministerial discretions to vary the residence periods may also be applied in limited circumstances.

## General residence requirement

143. Australia's current general residence requirements are four years continuous residence in Australia, including 12 months permanent residence in Australia immediately prior to applying for citizenship. The requirements allow applicants to spend a maximum of 12 months outside Australia during the four years residence, with a maximum of 90 days outside Australia during the permanent residence period.

Table 3. Residence requirements for citizenship—Australia—pre 20 April 2017

Country	Who is assessed?	Years of residence required for citizenship
Australia (pre-20 April)	Anyone seeking Australian citizenship by conferral	4 years continuous residence including the last year as a permanent resident

## Special residence requirements

144. Special residence requirements exist for applicants engaging in specific activities that are of benefit to Australia or that require regular travel outside Australia.
145. The Minister for Immigration and Border Protection specifies in a legislative instrument, the activities that are of benefit to Australia. The activities include:
- employment in a position that requires a Negative Vetting 2 or higher security clearance in a Commonwealth department or agency; and
  - participation in a specified Australian sporting team such as the Olympic Games team or an Australian tennis or cricket team.
146. The Minister also specifies in a legislative instrument the kinds of work applicable to meet the requirement for persons engaged in regular travel outside Australia. The kinds of work include:
- members of the crew of a ship or aircraft
  - CEO of an S&P/ASX All Australian 200 listed company
  - specified scientists and medical specialists; and
  - specified visual or performing artists who held or hold a Distinguished Talent Visa.<sup>57</sup>

## Defence Service requirement

147. A permanent resident may be granted citizenship after completing 90 days permanent service in the Australian Defence Force (ADF) or six months service in the Reserves. This is usually an ADF 'lateral transfer member'. These are people who have served in another nation's armed forces, often the United Kingdom's, and who have then migrated to Australia to join the ADF. Their spouses and children are also eligible for Australian citizenship at the same time.

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<sup>57</sup> Section 22A of the *Australian Citizenship Act 2007*. The Minister defines the activities in a legislative instrument.

## The case for reform

148. As mentioned in Chapter 3, the Final Report found that the majority of respondents supported lengthening the residence requirement from its current ‘four year’s lawful stay’. Suggestions for the total residence requirement included five years, eight years and ten years and that this period be treated as a ‘probationary period’ for Australian citizenship.<sup>58</sup>
149. The Final Report noted that according to the OECD’s Indicators of Immigrant Integration report (July 2015), Australia has one of the highest levels of citizenship acquisition (80 per cent) in the OECD.<sup>59</sup>
150. Many temporary residents choose to become permanent residents to access Australian citizenship however, temporary visa holders do not arrive in Australia with the stated intent to settle in Australia permanently. Those visa holders are temporary residents. There is no automatic pathway from a temporary visa to Australian citizenship.
151. The Final Report recommended increasing the general residence requirement to a minimum of four years permanent residence immediately prior to the application for citizenship:

### Recommendation 10

The general residence requirement should be increased to a minimum of four years permanent residence immediately prior to the application for citizenship, during which time applicants may be absent from Australia for no more than 12 months in total. Applicants for citizenship should be physically in Australia to lodge their application and to acquire Australian citizenship at a ceremony.

## Australia’s new requirements

152. The Australian Government accepted the recommendation arising from the Final Report in relation to increasing the general residence requirements for citizenship.
153. Australia’s new general residence requirements are four years permanent residence in Australia immediately prior to applying for citizenship. The requirements allow applicants to spend a maximum of 12 months outside Australia during the permanent residence period.

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<sup>58</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 16.

<sup>59</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 19.

Table 4. Residence requirements for citizenship—Australia—from 20 April 2017

Country	Who is assessed?	Years of residence required for citizenship
Australia (from-20 April 2017)	Anyone seeking Australian citizenship by conferral	4 years permanent residence

154. Australia’s new general residence requirements are comparable with the low end of the scale of international standards. Other countries’ requirements range from four years to nine years residence.

155. Australia’s new general residence requirements will retain:

- the current exemptions for applicants engaging in activities that are of benefit to Australia or that require frequent travel (special residence requirements), and for members of the Australian Defence Force (defence service requirements).
- the Ministerial discretion to in effect waive the permanent residence requirements if the Minister is satisfied that the person will suffer significant hardship or disadvantage because of not meeting the requirements. The person still has to be present in Australia during the relevant period, however they may be here on a temporary visa.<sup>60</sup>

### Ministerial discretion—new power to waive general residence requirement

156. Currently, the Minister may treat a period of time as one in which the person was present in Australia despite an administrative error indicating that the person was not present in Australia. This power is not adequate to deal with all situations.

157. The Bill contains a new provision which will enable the Minister to deal with situations where, for example, a person has spent some time outside of Australia under the belief that they were an Australian citizen and, for that reason, does not meet the general residence requirement.

158. To exercise this power, the Minister must be satisfied that either:

- an administrative error made by the Commonwealth (which includes this Department but also other Commonwealth agencies such as Department of Foreign Affairs and Trade, which issues passports) caused an applicant to believe that they were an Australian citizen, and the error contributed to the applicant not being able to satisfy the general residence requirement; or
- it is in the public interest to do so.

<sup>60</sup> See section 22(6) of the *Australian Citizenship Act 2007*.

159. This power can only be exercised by the Minister, and the Minister does not have a duty to consider exercising the power.

Hypothetical scenario: Ministerial discretion—new power to waive the general residence requirement due to an administrative error

Mr Q was adopted in Australia from overseas by his Australian citizen parents through an inter-country adoption process. After arriving in Australia on an Adoption visa, Mr Q was issued with an Australian birth certificate by a State Government Department of Births, Deaths and Marriages in error. As a result, his parents believed him to be an Australian citizen.

Mr Q applied for an Australian passport as an adult, at which time he provided his Australian birth certificate as evidence of his citizenship status. The passport was issued, and Mr Q travelled for several years on a working holiday and spent time visiting his birth family overseas. During this time overseas, Mr Q married and began a family.

The error in Mr Q's citizenship status was not discovered until he applied for citizenship by descent for his children born overseas. During processing of his application, it became evident that Mr Q was never an Australian citizen and that his Australian birth certificate and passport were issued in error. It followed that his children were therefore not eligible to apply for citizenship by descent, as Mr Q was not an Australian citizen. Mr Q lost his status as a permanent resident when he first travelled outside of Australia. As he does not currently hold a permanent visa he is unable to apply for citizenship. He first needs to resolve his immigration status. Furthermore, Mr Q is also not currently eligible to apply for citizenship by conferral as his extended periods of travel in the past four years prevent him from meeting the general residence requirement.

Under the proposed reforms, the Minister will have the power to waive the general residence requirement in situations such as these, where an applicant believed they were an Australian citizen due to an administrative error by, or on behalf of, the Commonwealth.

## General residence requirements for certain New Zealand citizens

160. On 1 July 2017, this additional pathway became a new stream within the Skilled Independent (subclass 189 visa). The pathway is for New Zealand Special Category Visa (SCV) holders who were usually resident in Australia on or before 19 February 2016 and who, at the time of lodging an application, have resided in Australia for at least five years. These new arrangements will give many New Zealand citizens permanent residence status, if they meet certain criteria, including:

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- contributing to Australia, demonstrated through income tax returns which show taxable income at least equivalent to the Temporary Skilled Migration Income Threshold (TSMIT) for the qualifying period; and
  - meeting mandatory health, character and security checks
161. The Prime Minister made a commitment that, in recognition of the special relationship between Australia and New Zealand, the Government's proposed citizenship reform specifically relating to the general residence requirement will not apply to New Zealand citizens who hold a Skilled Independent 189 (New Zealand) Stream visa (New Zealand Pathway visa).
162. New Zealand citizens who are granted this visa will be eligible to apply for Australian citizenship after a period of 12 months (in addition to the five years as an eligible New Zealand special category visa holder if they were usually resident in Australia on or before 19 February 2016).
- The Minister has clarified that this commitment includes dependants who hold a New Zealand Pathway visa and are New Zealand citizens.
163. All other New Zealand citizens and their dependants (including non-New Zealand citizen New Zealand pathway visa holders) will be subject to the new general residence requirement of four years permanent residence in Australia immediately prior to applying for citizenship.

## Responses to the reforms

### Length of permanent residence

164. Over 1300 respondents raised concerns about the changes to the permanent residence requirements during the public consultations following the 20 April 2017 announcement.
165. All respondents who raised concerns about the permanent residence requirements were concerned that four years of permanent residence is too long in the context of their own personal circumstances. A small number of respondents indicated that if the Government introduced a new four-year permanent residence requirement, the requirement should only apply to new permanent residents (that is, individuals who become permanent residents on or after the date of the Government's announcement on 20 April 2017).
166. The Final Report expressed the view that the decision to become a permanent resident of Australia is evidence of a commitment to Australia.
167. The Australian Government contends that the Australian community has higher expectations of permanent residents than temporary residents, in terms of their integration into and contribution to the Australian community. The Government considers that the increased length of the qualifying period of permanent residency will enable it to make a thorough examination of aspiring citizens' experience of integrating into life in Australia, before granting citizenship.

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## Impact on skilled migrants

168. A considerable number of respondents to the Australian Government's discussion paper on the reforms, were skilled migrants, who argued that the new permanent residence requirements will make Australia less attractive to skilled migrants.
169. Of the permanent residents who arrived in Australia in 2016–17, 51 per cent were skilled migrants. In 2015–16 the majority of applicants who acquired citizenship by conferral (85,669 of a total of 133,941) were from the skilled migration stream.
170. As mentioned above, special residence requirements may apply in cases in which individuals are engaged in activities that are of benefit to Australia, that require regular travel and for members of the Australian Defence Force.

## Impact on families

171. Some respondents expressed concern that the reforms will 'split' families.
172. The requirement will not split families whose members hold a permanent visa. It might mean that a family does not acquire citizenship all at the same time, but it will not prevent a family being together in Australia on a permanent visa.

## Impact on refugees and humanitarian entrants

173. A number of refugee advocates argued that the increase in the permanent residence requirements will impact disproportionately on refugees and humanitarian entrants to Australia.
174. Of the permanent residents who arrived in Australia in 2016–17, 20 per cent (24,441) were humanitarian migrants. In 2015–16 the number of citizenship by conferral applications lodged by humanitarian migrants was over 21,000.
175. Increasing the general residence requirement to four years of permanent residence is unlikely to have an impact on these humanitarian migrants who first arrive in Australia as a permanent resident.

## Chapter Six

### English language requirements

#### Changes through history on English Language requirements

176. English language skills are regarded as ‘advantageous for civic participation’<sup>61</sup> and have been a requirement of Australian naturalisation and citizenship since 1917.
177. The introduction of the Australian citizenship test in 2007 changed the testing of the English language requirements, with applicants demonstrating basic English language skills by passing the test in English.

Table 5. Changes to English language

Implementation date	English language requirement
23 December 1901	<i>Immigration Restriction Act 1901</i> All immigrants may be subject to ‘dictation test’ which could be given in any European language.
20 September 1917	<i>Naturalization Act 1917</i> Applicant for naturalisation must demonstrate they can read and write in English.
1 January 1921	<i>Nationality Act 1920</i> Applicant for naturalisation must demonstrate an ‘adequate’ knowledge of English that is engage in any ordinary occupation among English-speaking people, easily procure everyday requirements and explain the responsibilities and privileges of Australian citizenship.
22 November 1984	<i>Australian Citizenship Amendment Act 1984</i> English language skills changed from ‘adequate’ knowledge to ‘basic’ knowledge, demonstrated during the citizenship interview. Applicants over 50 years old are exempt from this requirement.
1 October 2007	<i>Australian Citizenship Act 2007</i> Basic knowledge of English language required, demonstrated by passing the Australian citizenship test in English.

Source: All references to Australian Government legislation sourced from the Federal Register of Legislation [www.legislation.gov.au](http://www.legislation.gov.au)

<sup>61</sup> Australian Citizenship Council. (2000). *Australian citizenship for a New Century*, Canberra: Department of Immigration and Multicultural Affairs, p. 51.

## International comparisons

178. The countries referred to in Table 6 below require applicants to demonstrate local language proficiency in the context of applying for citizenship.
179. As with the residence requirements, the language requirements vary from country to country. The requirements range from ‘basic’ to ‘independent’ or ‘competent’ local language proficiency.
180. The common rationale for countries requiring applicants for citizenship to demonstrate local language proficiency, is because local language is essential to settling into the community successfully.
181. The Table below outlines the language requirements in Canada, the United Kingdom, France, Germany and Denmark. While it is not an exact comparison, references to naturalisation in Table 6 equate to Australia’s concept of citizenship by application.

Table 6. Language requirements for citizenship—International comparisons

Country	Who is assessed?	Language requirement	IELTS equivalent
Canada	Anyone seeking Canadian citizenship through naturalisation	‘Adequate’ knowledge of English or French/ Level 4 Canadian Language Benchmark assessed via an English test or evidence of completion of education/ language training.	IELTS average 4
United Kingdom	Anyone seeking citizenship through naturalisation	At least CEFR* B1 English assessed via a standalone English test or evidence of completion of higher education (degree)/language qualification.	IELTS 4–5
France	Anyone seeking French citizenship through naturalisation	At least ‘CEFR Level B1’ French assessed via a standalone French test or evidence of completion of higher education	IELTS 4–5
Germany	Anyone seeking German citizenship through naturalisation	At least ‘CEFR Level B1’ German assessed via a language examination (written and oral) or evidence of completion of education/ language training	IELTS 4–5
Denmark	Anyone seeking Danish citizenship through naturalisation	At least ‘CEFR Level B2’ Danish assessed via integration exam a standalone language test (written and oral)	IELTS 6–6.5

Note: Naturalisation in this context is similar to Australia's citizenship by conferral

Source: Referenced from *Appendix 2: Language tests for access, integration and citizenship: An outline for policy makers, ALTE, LAMI, Council of Europe.*

## International language test providers and test scores

182. The Department currently accepts English language test scores from the following test providers as evidence of English language proficiency for the purposes of migration under the *Migration Act 1958*:
- International English Language Testing System (IELTS)
  - Occupational English Test (OET)
  - Test of English as a Foreign Language (TOEFL)
  - Pearson Test of English (PTE) Academic, and
  - Cambridge English: Advanced (CAE).
183. IELTS offer a General or Academic test. The Academic test is not required for migration purposes however the Department accepts either as evidence of English proficiency.
184. Usually people applying for higher education or professional registration take the Academic test and those who are applying for secondary education, work experience or training programmes take the General Training test. Both tests assess the four skills: reading, writing, speaking and listening.
185. There is a difference in the writing and reading modules for the General and Academic IELTS test.
- People applying for higher education or professional registration take the Academic test because the format of the key skills (reading and writing) for studying is more appropriate for university requirements. For example reading texts will be taken from books and journals and may be written in a variety of styles, for example discursive and argumentative. Texts may contain non-verbal materials, such as diagrams, graphs or illustrations. Writing tasks ask people to compare data, describe the stages of a process or procedure or present a solution to a problem or evaluate and challenge ideas, evidence or an argument.
  - People applying for secondary education, work experience or training programs take the General Training test because the format is more appropriate. For example, texts may come from newspapers and magazines and are related to social and workplace survival with tasks about retrieving and providing general factual information, such as notices, advertisements and timetables. For more extended texts, there is an emphasis on descriptive and instructive rather than

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argumentative texts (Academic). Writing tasks ask people to engage in a personal correspondence (a letter) or present and possibly justify an opinion.

186. The fees vary depending on the test, starting from approximately AUD\$330.

187. The Table below is extracted from the IELTS website, and describes the level of English language proficiency that corresponds with their test scores.

Table 7. How IELTS is scored

The IELTS scale		
Band score	Skill level	Description
9	Expert user	The test taker has fully operational command of the language. Their use of English is appropriate, accurate and fluent, and shows complete understanding.
8	Very good user	The test taker has fully operational command of the language with only occasional unsystematic inaccuracies and inappropriate usage. They may misunderstand some things in unfamiliar situations. They handle complex and detailed argumentation well.
7	Good user	The test taker has operational command of the language, though with occasional inaccuracies, inappropriate usage and misunderstandings in some situations. They generally handle complex language well and understand detailed reasoning.
6	Competent user	The test taker has an effective command of the language despite some inaccuracies, inappropriate usage and misunderstandings. They can use and understand fairly complex language, particularly in familiar situations.
5	Modest user	The test taker has a partial command of the language and copes with overall meaning in most situations, although they are likely to make many mistakes. They should be able to handle basic communication in their own field.
4	Limited user	The test taker's basic competence is limited to familiar situations. They frequently show problems in understanding and expression. They are not able to use complex language.
3	Extremely limited user	The test taker conveys and understands only general meaning in very familiar situations. There are frequent breakdowns in communication.
2	Intermittent user	The test taker has great difficulty understanding spoken and written English.
1	Non-user	The test taker has no ability to use the language except a few isolated words.
0	Did not attempt the test	The test taker did not answer the questions.

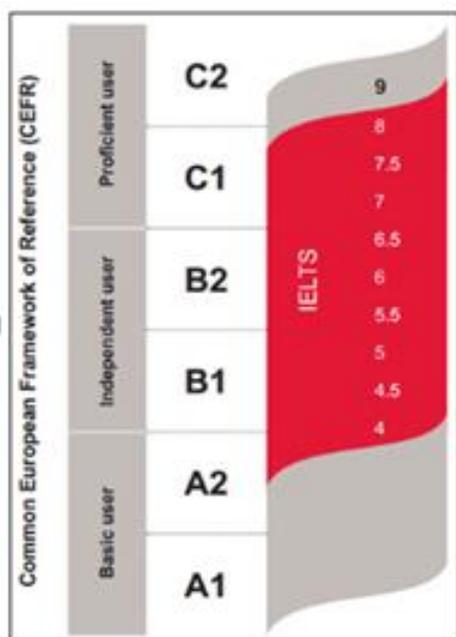
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Source: <https://www.ielts.org/about-the-test/how-ielts-is-scored>

188. The Common European Framework of Reference for Languages (CEFR) is an international standard for describing language ability. The Table below provides a comparison between CEFR and IELTS scores.

Table 8. Comparison of the CEFR and IELTS



Source: <https://www.ielts.org/ielts-for-organisations/common-european-framework>

## Australia's current requirements

189. Australia's current language requirements are for 'basic' English, which is assessed via applicants passing the multiple choice citizenship test. The current language requirements do not involve a separate English language test.
190. The term 'basic' English is not defined in the *Australian Citizenship Act 2007*. The Department describes the ordinary meaning of the term 'basic' English as 'a sufficient knowledge of English to be able to exist independently in the wider Australian community'.

Table 9. Language requirements for citizenship—Australia—pre 20 April 2017

Country	Who is assessed?	Language requirement	IELTS equivalent
Australia (Pre-20 April 2017)	Anyone seeking Australian citizenship by conferral	'Basic' English Assessed via the citizenship test	Approx. IELTS 4 (max)

191. Using IELTS as an example, the Department estimates that basic proficiency corresponds with IELTS 4 'Limited user', which is described in the following terms:

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IELTS level	Description	Explanation
4	Limited user	The test taker's basic competence is limited to familiar situations. They frequently show problems in understanding and expression. They are not able to use complex language.

192. Australia's current language requirements are comparable with the low end of the scale of international standards described above: other countries' requirements range from 'basic' to 'independent' or 'competent' local language proficiency.

## Exemptions to the English language requirements

193. Exemptions to the English language test will apply for those applicants who:

- have a permanent or enduring physical or mental incapacity; or
- are aged over 60 or have a hearing, speech or sight impairment; or
- are aged under 16; or
- applied under the born in Papua, born to a former Australian citizen or statelessness provisions.

194. Citizens of the United Kingdom, the United States of America, Canada, New Zealand or the Republic of Ireland when they apply for citizenship will not be required to provide evidence of English language proficiency. This is consistent with how the Department currently determines competent English for the purposes of skilled visas.

195. There will be limited exemptions from this requirement for applicants who have undertaken specified English language studies at a recognised Australian education institution.<sup>62</sup>

## Programmes that support migrants to learn English

196. There is a strong link between English ability and better outcomes for migrants, socially and economically. For a large proportion of migrants, a lack of English is the biggest barrier to employment, education, improving skills, being independent, making connections and being able to fully capitalise on the opportunities life in Australia offers.<sup>63</sup>

197. Noting the importance of English for migrants, language education and training is one of the key priority areas in the National Settlement Framework, overseen by the Department of Social Services.

<sup>62</sup> These will be included in a legislative instrument made by the Minister once the legislation comes into effect.

<sup>63</sup> Productivity Commission, (2016). *Migrant Intake into Australia*, Productivity Commission Inquiry Report.

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198. The Government encourages migrants to continue to improve their English language ability, from arrival through to permanent residence and subsequently to citizenship. This in turn will contribute to stronger settlement outcomes—such as economic participation, integration and independence.
  199. The AMEP provides English language tuition to eligible migrants and humanitarian entrants to learn foundation English language and settlement skills, to enable them to participate socially and economically in Australian society. The Department of Education and Training administers the AMEP.
  200. Eligibility for AMEP is dependent on the visa. Humanitarian and family visa holders have access to the AMEP, as do some dependents of skilled visa holders and some temporary visas.
  201. As the AMEP is designed for migrants who have a less than a functional level of English, an eligible visa holder who has a functional (or above) level of English is not eligible for AMEP. There are time limits to accessing and completing AMEP.
  202. The new business model for AMEP, which commenced on 1 July 2017, seeks to help people achieve better English language outcomes in order to find sustainable employment and participate independently in society.
  203. Under the new business model those people who have not attained functional English after completing the legislated entitlement of 510 hours, may be able to access a capped programme of up to 490 hours of additional tuition.

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### Hypothetical scenario—applicant over the age of 60

Mrs X arrived in Australia as a 60 year old refugee in May 2017. Mrs X has never attended school, cannot communicate in English, and is illiterate in both English and her own native language.

Mrs X intends to apply for Australian citizenship after her 65th birthday.

As a newly arrived refugee, to assist with her learning of the English language and new life in Australia, Mrs X is eligible to access English language tuition provided by the Department of Education and Training's Adult Migrant English Program. The AMEP provides up to 510 hours of English language tuition to eligible migrants and humanitarian entrants to help them learn foundation English language and settlement skills.

Citizenship applicants aged 60 or over, like Mrs X, will be exempt from the English language test requirement.

To improve client participation, English language proficiency and employment outcomes, changes have been made to the AMEP from 1 July 2017. Key changes include offering up to 490 hours of additional tuition to eligible applicants who complete their 510 hour entitlement but have not reached functional English, allowing eligible humanitarian entrants access to additional training under the Special Preparatory Programme and offering applicants a choice of tuition streams that delivers tailored tuition to meet their needs and goals—Social English Stream and Pre-Employment English Stream.

## The case for reform

204. As mentioned in Chapter 3, a strong theme of the Final Report was the importance of English language to being a citizen and full integration into Australian society. The Final Report concluded that there is strong public support to ensure citizens are able to participate fully in Australian life, by speaking English, our national language. There was support for raising the minimum standard of English required to sit the citizenship test from 'basic' to 'adequate'.<sup>64</sup>
205. The 2016 Census data indicates a downward trend in the self-reported English language skills of the overseas-born population. It also reflects a downward trend in the English language skills of newly arrived migrants. Twenty-four per cent of the people who arrived between January and August 2016, self-reported as not speaking English well, or at all. The proportion for the equivalent group in 2006 and 2011 Censuses was significantly lower at 18 and 19 per cent respectively.
206. Further, 11 per cent (413,000 people) of the overseas-born population who had arrived in the past 25 years (since 1991), self-reported as either not speaking

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<sup>64</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. p. 18.

English well, or at all. For migrants who arrived before 1991 this number was only eight per cent.

207. Data from the 2016 Census show that the longer a person remains in Australia, the higher their self-reported level of English. When overseas-born people have been in Australia for six or more years the proportion that self-reported low English skills is about eight to nine per cent. This varies depending on the group.
208. Within three years of arrival the proportion of the prime working age group (aged 25–44) that self-report not speaking English well or at all is nine per cent and continues to fall to two per cent the longer they are in Australia.
209. This indicates that as people settle in Australia over time they are more confident in their English language ability. This indicates a higher level of self-reported inclusion for this group based on their level of English language skills.

#### Recommendation 15

In view of the strong emphasis the community places on English language, the Government should improve the Adult Migration English Program (AMEP) and ensure new citizens have adequate (not just basic) language ability, taking into account particular circumstances.

## Australia's new requirements

210. The Australian Government was informed by the recommendation arising from the Final Report, in relation to increasing the English language requirements for citizenship.
211. The Government was also informed by a Productivity Commission report in 2016 that highlighted the importance of English language proficiency for integration and settlement outcomes.
212. The Commission noted that most contemporary immigrants to Australia come from English-speaking countries (such as the United Kingdom, New Zealand and South Africa) or Asian countries (such as China, India and the Philippines), with the latter growing in importance as source countries over the past decade.
213. The Government agrees with the Commission that competent English language is essential for economic participation and social cohesion, and there are certain standards that must be met, especially for those who are seeking to become permanent residents or Australian citizens.
214. Australia's new English language requirements involve a separate English language test, and require applicants to demonstrate competent listening, speaking, reading and writing skills.

Table 10. Language requirements for citizenship—Australia—from 20 April 2017

Country	Who is assessed?	Language requirement	IELTS equivalent
Australia (from 20 April 2017)	Anyone seeking Australian citizenship by conferral aged 16–60	'Competent' English Standalone English language test	IELTS 6

215. Using IELTS as an example, the Department estimates competent English corresponds with IELTS 6 'Competent user', which is described in the following terms:

IELTS level	Description	Explanation
6	Competent user	The test taker has an effective command of the language despite some inaccuracies, inappropriate usage and misunderstandings. They can use and understand fairly complex language, particularly in familiar situations.

216. CEFR describes that a person who has achieved a IELTS test score of six in all four skills of listening, speaking, reading and writing, as being able to:
- interact with a degree of fluency and spontaneity that makes regular interaction with native speakers quite possible
  - explain his or her viewpoint on a topical issue
  - write clear, detailed text on a wide range of topical subjects
  - express his or her views and opinions in writing
  - understand most TV news, current affairs programmes and the majority of films in a standard dialect and identify the speakers' feelings and attitudes
  - skim read a magazine or newspaper and decide what to read, and
  - recognise the writer's implied views and feelings in a text.
217. A person who has achieved a score of six in general can engage more confidently with a wider community. They are not constrained or limited to familiar surroundings or interests but can branch out, explore and take advantage of their English language abilities.
218. Video files on the IELTS website demonstrate what a person who has achieved a 5 and a 6 on an IELTS test sound like and what that means in a practical sense. The IELTS website is <https://www.ielts.org>.
219. Australia's introduction of a new separate English language test is consistent with the separate local language tests in other countries as set out in Table 6.

## Responses to the reforms

### A separate English language test

220. As mentioned in Chapter 4 above, of the 3693 email responses the Department received in response to the Government's discussion paper on the reforms, over 500 respondents raised concerns about the new English language requirements.
221. A number noted that the current citizenship test is in effect also an English language test, and questioned why a separate English language test is necessary.
222. The current citizenship test was designed primarily to assess whether an applicant has an adequate knowledge of Australia and the responsibilities of Australian citizenship. By passing the test it is accepted that the applicant has at least a basic knowledge of English. However, it is not a formal assessment of the individual's level of English ability, and it only tests reading comprehension—it does not test listening, speaking or writing skills.

223. Acknowledging the importance of English to a migrant's ability to settle successfully and participate in Australian society, the Government is seeking to test an applicant for a level of English listening, speaking, reading and writing skills, that enables an individual to engage confidently in a wide range of situations.

### Level of English language proficiency

224. All respondents who raised concerns about the English language requirement were concerned that requiring 'competent' English language proficiency is setting the bar too high.

225. For a large proportion of migrants, a lack of English is a barrier to getting a job, studying, being independent, making friends, taking part in community activities and capitalising on the opportunities Australia has to offer.

226. The Government's position is that setting a competent level of English for citizens reflects how important English ability is to a migrant's successful settlement experience and effective integration and participation. It also sets an expectation that learning English for new Australians is a continual and important process.

227. The intention is to highlight the importance of English language from settlement to permanent residence and finally to citizenship.

228. As explained above, exemptions for the English language test will apply for those applicants who:

- have a permanent or enduring physical or mental incapacity
- are aged over 60 or have a hearing, speech or sight impairment
- are aged under 16
- applied under the born in Papua, born to a former Australian citizen or statelessness provisions.

229. Citizens of the United Kingdom, the United States of America, Canada, New Zealand or the Republic of Ireland when they apply for citizenship will not be required to provide evidence of English language proficiency. This is consistent with how the Department currently determines competent English for the purposes of skilled visas.

230. There will be limited exemptions for applicants who have undertaken specified English language studies at a recognised Australian education institution.<sup>2</sup>

### Minimum proficiency in listening, speaking, reading and writing English

231. Some respondents asked why competent English language proficiency in all four skills of listening, speaking, reading and writing, is necessary.

232. The reason is that all four skills are important for a migrant to integrate into the Australian community successfully.

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## Impact on skilled migrants

233. Respondents who are skilled visa holders raised concerns about the need to sit a separate English language test before being able to apply for citizenship.
234. Skilled migrants have a higher English level on entry to Australia than other visas.
235. There is an expectation that this group will continue to maintain and potentially to improve their English the longer they spend in Australia and as they move towards Australian citizenship.

## Impact on families

236. Some individuals responding to the Australian Government's discussion paper on the reforms, expressed a concern that the reforms will 'split' families.
237. The requirement will not split families whose members hold a permanent visa. It might mean that a family does not acquire citizenship all at the same time, but it will not prevent a family being together in Australia on a permanent visa.

## Impact on refugees and humanitarian entrants

238. A number of refugee advocates argued that the introduction of a new separate English language test and the increase in the English language requirements from 'basic' to 'competent' will impact disproportionately on refugees and humanitarian entrants to Australia, and in particular, on vulnerable women refugees.
239. The Government's position is that a competent level of English language is important for all migrants' ability to successfully integrate into the Australian community, including refugees.
240. The Government wants all migrants and aspiring citizens to take an ongoing approach to improving their English language, from arrival through to permanent residency and subsequently to citizenship.
241. This will contribute to stronger settlement outcomes—feelings of belonging and value, greater economic opportunities and social cohesion.
242. Aspiring citizens will have at least four years to continue to develop their English language ability.
243. The Government recognises the particular challenges for refugees and humanitarian entrants. There is a range of Settlement Services and English language, literacy and numeracy programmes available for such vulnerable migrants to access. Technical colleges and other English language courses and programmes are also widely available.

## Chapter Seven

### Australian values statement

#### Changes through history to the Australian values statement

244. On 11 December 2006 the Australian Government announced a new Australian citizenship test and the intention to require prospective migrants to make a statement (Australian values statement) before being granted a visa. The statement required prospective migrants to agree to respect the Australian way of life and abide by Australian laws. Aspiring citizens would also be asked to sign a statement of commitment to Australia.
245. Upon the announcement the then Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs, the Hon Andrew Robb AO MP, stated:
- It is important that the Australian community is comfortable that members of the community who are not Australian citizens, but are here for an extended period of time, understand and respect our way of life.<sup>65</sup>
246. The requirement to sign a values statement has been in place for certain visa applicants since 15 October 2007.
247. Applicants for provisional, permanent and a small number of temporary visas are required to have read, or had explained to them, material made available by the Australian Government on life in Australia. This includes the *Life in Australia* book.
248. Applicants are also asked to understand what may be required of them if they later apply for Australian citizenship. This statement is included in visa application forms and all applicants aged 18 years or over are required to sign the statement.
249. There are two different Australian values statements that are included in visa application forms.

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<sup>65</sup> The Hon Andrew Robb AO MP, Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs, 11 December 2006, *Australia to introduce citizenship test*. Received at [http://parlinfo.aph.gov.au/parlInfo/download/media/pressrel/VFQL6/upload\\_binary/vfq162.pdf;fileType=application%2Fpdf#search=%22PARLIAMENTARY%20SECRETARY%20-%20IMMIGRATION%20AND%20MULTICULTURAL%20AFFAIRS%22](http://parlinfo.aph.gov.au/parlInfo/download/media/pressrel/VFQL6/upload_binary/vfq162.pdf;fileType=application%2Fpdf#search=%22PARLIAMENTARY%20SECRETARY%20-%20IMMIGRATION%20AND%20MULTICULTURAL%20AFFAIRS%22) on 11 July 2017.

250. Certain temporary visa applicants are required to sign a short form Australian values statement, as follows:

Australian Values—short form

I will respect Australian values during my stay in Australia and will obey the laws of Australia.

251. Provisional and Permanent visa applicants are required to sign a long form Australian values statement, as follows:

Australian Values—long form

I confirm that I have read, or had explained to me, information provided by the Australian Government on Australian society and values.

I understand:

- Australian society values respect for the freedom and dignity of the individual, freedom of religion, commitment to the rule of law, parliamentary democracy, equality of men and women and a spirit of egalitarianism that embraces mutual respect, tolerance, fair play and compassion for those in need and pursuit of the public good;
- Australian society values equality of opportunity for individuals, regardless of their race, religion or ethnic background;
- the English language, as the national language, is an important unifying element of Australian society.

I undertake to respect these values of Australian society during my stay in Australia and to obey the laws of Australia.

I understand that, if I should seek to become an Australian citizen:

- Australian citizenship is a shared identity, a common bond which unites all Australians while respecting their diversity;
- Australian citizenship involves reciprocal rights and responsibilities. The responsibilities of Australian citizenship include obeying Australian laws, including those relating to voting at elections and serving on a jury.

If I meet the legal qualifications for becoming an Australian citizen and my application is approved I understand that I would have to pledge my loyalty to Australia and its people.

252. For citizenship applicants, the Australian values statement is incorporated in the Declaration that applicants sign on their citizenship application form.

253. The Bill makes it clear that the absence of a completed Australian values statement will make any application invalid. The relevant part of the Declaration is as follows:

#### Citizenship form—Declaration—relevant component

I recognise that by becoming an Australian citizen I will become a formal member of the community of the Commonwealth of Australia.

I understand that Australian citizenship is a shared identity, a common bond which unites all Australians while respecting their diversity.

I understand that:

- Australian society values respect for the freedom and dignity of the individual, freedom of religion, commitment to the rule of law, parliamentary democracy, equality of men and women and a spirit of egalitarianism that embraces mutual respect, tolerance, fair play and compassion for those in need, and the pursuit of the public good
- Australian society values equality of opportunity for individuals, regardless of their race, religion or ethnic background the English language, as the national language, is an important unifying element of Australian society.

I accept that Australian citizenship involves reciprocal rights and responsibilities. The responsibilities of citizenship include obeying Australian laws, including those relating to voting at elections and serving on a jury.

In seeking to become an Australian citizen, I undertake to accept these responsibilities and respect the values of Australian society.

I recognise that a prosperous, successful and peaceful Australia depends upon the support of all Australians, including me, for those things that we value and share.

## International comparisons

254. Each country around the world interprets values differently in their own unique cultural context.

## The case for reform

255. The Government has acknowledged the need to raise awareness of Australian values in the citizenship context as part of promoting community understanding and respect for Australian citizenship as recommended by the National Consultation on Citizenship.

256. The shared Australian values are:

- Respect – for example, the rule of law, civic duty, and allegiance to Australia.
- Equality – for example, equality of men and women and opportunity for all; and

- Freedom – for example, freedom of thought, speech, religion, enterprise and association, parliamentary democracy.<sup>66</sup>

257. The Government's position is that requiring a commitment to Australian values promotes social cohesion and is in the best interests of the Australian people.
258. For this reason the Government has decided to make signing the Australian values statement a requirement of a valid application for citizenship. The requirement to sign the Australian values statement will be brought to the forefront of the citizenship application process and will mean that an aspiring citizen will not be able to lodge a citizenship application without signing the Australian values statement.

## Australia's new requirements

259. The Government will strengthen the Australian values statement in the Declaration made when applying for Australian citizenship, to include reference to allegiance to Australia and to require applicants to make an undertaking to integrate into and contribute to the Australian community.
260. This undertaking will be tested as part of the integration framework, discussed below. The Department will administer the integration framework as part of the citizenship application process. This will involve applicants signing a new strengthened values statement which will be consistent with integration requirements, at the visa and citizenship stages.
261. The Minister can change the wording of the Declaration without an amendment to the *Australian Citizenship Act 2007*.
262. As previously noted above, the Bill will make it a validity requirement to sign the Declaration on lodging an application. This means an aspiring citizen will not be able to lodge a citizenship application without signing the values statement.
263. Relevant material including the *Life in Australia* publication will be updated to reflect these changes and to set out details on Australian values which will form part of the material aspiring citizens will need to familiarise themselves with in preparation for the new citizenship test.

## Responses to the reforms

264. As noted in Chapter 4, of the 3693 email responses the Department received in response to the Government's discussion paper on the reforms, less than one per cent of respondents raised concerns in relation to the changes to values and other citizenship test questions, and in relation to integration.
265. There has been some criticism regarding how to measure Australian values through a multiple-choice test. The Government's position is that the new multiple-choice test

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<sup>66</sup> Multicultural Statement released by the Australian Government for Harmony Day 2017.



for citizenship containing questions on Australian values is only one part of the assessment of an aspiring citizen.

266. An applicant will be required to provide evidence of abiding by Australian values over the course of their time in Australia, including the four-year permanent residency period, under the integration framework.

## Chapter Eight

### Citizenship test

#### Changes through history on citizenship testing

267. In 2006, the Government sought submissions from the public on whether a citizenship test should be introduced and how important it was that people seeking Australian citizenship demonstrate knowledge of Australia, English language skills and the commitment to Australia's way of life and values.<sup>67</sup>
268. Following public consultations, the Australian citizenship test was introduced on 1 October 2007. The test consisted of 20 multiple choice questions based on Australian history, culture and values.<sup>68</sup> The aim of the test was to 'encourage prospective citizens to obtain the knowledge they would need to support successful integration into Australian society'.<sup>69</sup>
269. In April 2008, the Government appointed a Citizenship Test Review Committee to examine the operation and effectiveness of the citizenship test. The recommendations of the Committee focussed on improvements to the content and administration of the test, the citizenship application process, and ensuring that vulnerable and disadvantaged people were not excluded from becoming citizens because of the test.<sup>70</sup>
270. The Government subsequently agreed to a number of the recommendations in the Committee's report and introduced changes to the citizenship test in 2009. The Government subsequently agreed that the pledge of commitment should be the centrepiece for citizenship testing, to enhance people's understanding of the responsibilities and privileges of citizenship.<sup>71</sup>

#### International comparisons

271. Approaches to citizenship testing vary from country to country. However, language and civic knowledge testing are common.
272. Canada and the United Kingdom have a knowledge-based test and require evidence of proficiency in a national language from a certified language authority.

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<sup>67</sup> Australian Government. (2006). *Australian citizenship: much more than a ceremony*, Discussion paper, Department of Immigration and Multicultural Affairs, p. 7.

<sup>68</sup> Klapdor, M., Coombs, M. & Bohm, C. (2009). *Australian citizenship: A chronology of major developments in policy and law*, Canberra: Parliament of the Commonwealth of Australia, p. 17.

<sup>69</sup> Andrews, K. (30 May 2007), Second reading speech: Australian Citizenship Amendment (Citizenship Testing) Bill 2007, *Debates*, House of Representatives.

<sup>70</sup> Klapdor, M., Coombs, M. & Bohm, C. (2009). *Australian citizenship: A chronology of major developments in policy and law*, Canberra: Parliament of the Commonwealth of Australia, p. 27.

<sup>71</sup> Australian Government (2008). *Moving forward...Improving Pathways to Citizenship*. Government Response to the Report by the Australian Citizenship Test Review Committee, p. 3.

273. New Zealand and the United States of America assess an applicant's knowledge of civics and their English language ability through an interview, although this may not be required in the case of New Zealand, depending on the applicant's employment and previous face-to-face interactions with the government.
274. Among European countries, language tests or certificates of attainment are commonly required. For Denmark the language level was increased in 2015; France, and Germany require level B2 in the Common European Framework of Reference for Languages (CEFR); and The Netherlands requires level A2 (CEFR) Dutch.
275. There are tests on civic knowledge in these European countries too: in Denmark, Germany and The Netherlands it is a written test, but in France it is determined by an interview with a local government official.
276. In Denmark, applicants must sign declarations of allegiance to Denmark and on their criminal history, and demonstrate economic independence over four and a half of the previous five years. In France, at the end of the citizenship interview, applicants must sign a charter of rights and duties of French citizens.
277. Various exemptions apply across all the jurisdictions for a range of factors including age and disability.

## Australia's current requirements

278. The current citizenship test was designed primarily to assess whether an applicant has an adequate knowledge of Australia and the responsibilities of citizenship.
279. The current test consists of 20 multiple-choice questions chosen randomly from a bank of about 100 questions relating to:
- Australia and its people<sup>72</sup>
  - Australia's democratic beliefs, rights and liberties; and
  - Government and the law in Australia.
280. A maximum of 45 minutes is allowed to complete a standard test. The pass mark is 75 per cent. To answer questions in the test, applicants need to know and understand information in the testable section of the citizenship test resource book *Australian Citizenship: Our Common Bond*.
281. A practice test is available on the Department's website to help applicants prepare.
282. The actual test questions are held in strict confidence to maintain the integrity of the test, and are therefore are not publicly available.
283. Exemptions to the citizenship test apply for those applicants who:
- have a permanent or enduring physical or mental incapacity; or

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<sup>72</sup> This includes questions on Australian history.

- are aged 60 or over or have a hearing, speech or sight impairment; or
- are aged under 18; or
- applied under the ‘born in Papua, born to a former Australian citizen or statelessness’ provisions.

## The case for reform

284. The Government’s position is that the current citizenship test is out-of-date and only tests applicants’ basic understanding of Australian Government and society.
285. The *National Consultation on Citizenship—Your Right, Your Responsibility* indicated strong community support for strengthening the citizenship test.
286. As mentioned in Chapter 3 above, the Final Report recommended reviewing and updating the citizenship test to include questions about allegiance and more questions about the rule of law, values, and democratic rights and responsibilities (Recommendation 11).
287. Currently, there is no limit to the number of times an applicant can sit and fail the test. Over the past three programme years (2013–2016), the highest number of test attempts by a single applicant was 47 times. Over the same period, 1830 applicants attempted the test 11 or more times and 15,401 applicants attempted the test three or more times. In 2015–16, 102,029 people sat the citizenship test and 3447 people failed the citizenship test more than three times.
288. The proportion of applicants who pass the citizenship test on first attempt is high because many applicants are skilled migrants with good English and knowledge of Australia.
289. The Final Report also recommended that the integrity of the citizenship test should be strengthened through limits on the number of times a person can sit but fail to pass the test before their application is refused (Recommendation 12).

## Australia’s new requirements

290. The proposed new test will be similar to the current computer-based multiple-choice model. The citizenship test will be strengthened with the introduction of new test questions, and by limiting the number of times a person can sit and fail the test.
291. The new test will include new questions on Australian values.
292. An applicant will be able to sit and fail the citizenship test three times before the application is refused.
293. A two-year bar will apply on making a new application for citizenship after a previous application is refused.
294. The Government will retain the existing standard test and the assisted test for applicants with physical or cognitive impairment.

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295. The Government will remove the existing course-based test for applicants who have failed the standard test or assisted test three or more times. The purpose of the course-based test was to assist applicants with below 'basic' English, to understand the citizenship test. With the introduction of a new English language test, the course based test is no longer necessary.
296. As noted above, the Department will publish new editions of the *Life in Australia* book, and the resource book for the citizenship test, *Citizenship: Our Common Bond*. The current editions contain information about Australia's democratic rights and liberties, Australia and its people, and government and the law in Australia. The new editions will also contain information about allegiance to Australia and its people, and Australian values.
297. The Department will engage expert consultants to develop the new citizenship test.

## Responses to the reforms

298. As noted in Chapter 4, of the 3693 emails the Department received in response to the Government's discussion paper on the reforms, less than one per cent raised concerns in relation to the changes to values and other citizenship test questions or in relation to integration.
299. Some concerns were raised about whether passing or failing the multiple-choice citizenship test will affect a person's permanent resident status.
300. A person who fails to meet the requirements for citizenship will remain a permanent resident unless their conduct results in the cancellation of their visa under the *Migration Act 1958*.

## Chapter Nine

### Integration requirements

#### International comparisons

301. Approaches to integration assessments vary from country to country. The one common theme they share is that integration is a core challenge in liberal democracies.<sup>73</sup>
302. As noted in Chapter 2, civic integration policies reflect the idea that successful incorporation into a host society rests not only on employment (economic integration) and civic engagement (political integration), but also on individual commitments and attainment in line with norms of national citizenship, specifically relating to country knowledge, language proficiency and liberal and social values.
303. Integration assessments commonly focus primarily on knowledge of the language of the host country, but also include other aspects of the host society, including history, political institutions, society and democratic values.
304. Frameworks that support, analyse and compare integration policies fall into two main categories: those that measure policy settings, and those that measure immigrant outcomes. In the former category, the Migration Integration Policy Index (MIPEX)<sup>74</sup> and Sara Goodman's CIVIX index<sup>75</sup> for example, focus on legal and policy settings. In the latter category, the OECD Report *Indicators of Immigrant Integration 2015–Settling In* canvasses immigrant outcomes.

#### OECD comparisons—how Australia measures against integration outcomes

305. Integration of migrants is measured relative to outcomes for the native-born population.
306. The information in the Report, drawn from official Government statistics, shows that across almost all indicators Australia compares favourably to other OECD countries:<sup>76</sup>

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<sup>73</sup> The following material about integration testing is extracted from Goodman, S. W. (2010). *Integration Requirements for Integration's Sake? Identifying, Categorising and Comparing Civic Integration Policies*, *Journal of Ethnic and Migration Studies*, 36:5, 753–772.

<sup>74</sup> Retrieved from [www.mipex.eu](http://www.mipex.eu)

<sup>75</sup> Goodman, S. W. (2010). 'Integration requirements for integration's sake? identifying, categorising and comparing civic integration policies', *Journal of ethnic and migration studies*, 36(5), pp753–772, [www.tandfonline.com/doi/pdf/10.1080/13691831003764300?needAccess=true](http://www.tandfonline.com/doi/pdf/10.1080/13691831003764300?needAccess=true)

<sup>76</sup> For Australia, sources included the Australian Census of Population and Housing, Labour Force Surveys and Education and Work Surveys from the Australian Bureau of Statistics. Most of the statistics were based on information collected between 2011 and 2013.

## Employment

- Australia had one of the lowest migrant unemployment rates in the OECD—with an unemployment rate of 5.7 per cent compared to the OECD average of 11.1 per cent.
- There was almost no difference between the unemployment rates of Australia's migrants and people born here, while across the OECD, migrants had an unemployment rate that was 2.6 percentage points higher than non-migrants.
- Only eight per cent of Australia's migrants work in low-skilled jobs. This is comparable to the figure for the Australia-born population and less than half the rate for migrants across the OECD. Furthermore, the share of migrants in Australia in highly skilled jobs has increased between 2006–07 and 2012–13.
- In Australia, 15–34 year old offspring of migrants (regardless of whether they were born in Australia or overseas) had one of the lowest rates of unemployment across the OECD.

## Education

- Australia's migrants are well educated, with almost half of those aged 15 to 64 years old having a university degree. This compares with just under 30 per cent for the Australia-born population and 34 per cent for migrants across OECD countries.
- Eighty-two per cent of Australia's migrants aged 16 to 64 have literacy skills that are above the basic level. While this is slightly less than the 89 per cent figure for people of this age range born in Australia, it is above the OECD average of 67 per cent for migrants.
- Among Australia's migrants aged 25 to 64, around 55 per cent of males and 50 per cent of females had participated in training in the past 12 months. This was slightly higher than the participation rate for migrants across the OECD and on a par with that of the Australia-born.
- For Australia, levels of reading literacy for children of migrants at aged 15 years old were well above the OECD average for children of migrants of similar age.
- This group also outperformed Australia-born children on this indicator. For offspring of migrants aged 16 to 34, levels of literacy were again above the OECD average.
- Around 40 per cent of people who arrived in Australia as a child had a university qualification, compared with just over 30 per cent of those who were born in Australia to migrant parents and 25 per cent of those who were born to Australian-born parents.

## Citizenship take up rate

- As citizenship eligibility criteria such as residency requirements vary considerably between countries, in *Indicators of Immigrant Integration 2015* the OECD

compares countries' take-up rates according to the proportion of citizenship among immigrants with 10 or more years of residency. According to this metric, Australia has one of the highest rates of citizenship acquisition (80 per cent) in the OECD.

- The acquisition of Australian citizenship is highest among migrants born in Africa, Asia and South and Central America. Rates are much lower, and below the OECD average for people from North America and Oceania.

## Australia's current requirements

307. Australia's multicultural policy statement, *Multicultural Australia—united, strong, successful*,<sup>77</sup> recognises the importance of encouraging economic and social participation of new arrivals. It sees this as compatible with and supportive of Australia's cultural, religious and linguistic diversity, and freedom, equality of opportunity and mutual respect for each person. It also sees integration as fitting with the goals of national economic and security imperatives and building harmonious and socially cohesive communities.

308. Integration occurs in different domains, including the economic, social, cultural and civic, and also in relation to identity, in particular, social identity. They are related and need to be considered together, not in isolation when designing the 'civic hardware' for integration.

## The case for reform

309. While Australia compares well against other countries on aggregated key integration measures (in particular, labour market participation, educational levels and proficiency in the host language) it does not currently test individual immigrants for integration.

## Australia's new requirements

310. A strong theme of the National Consultation on Citizenship was the importance of English language to being a citizen and full integration into Australian society.

311. Suggestions included the need for assessment and consideration of the ability of new arrivals to integrate into the Australian community before any offer of Australian citizenship.<sup>78</sup>

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<sup>77</sup> Australian Government (2017), *Multicultural Australia—united, strong, successful*, [www.dss.gov.au/settlement-and-multicultural-affairs/australian-governments-multicultural-statement/australian-governments-multicultural-statement](http://www.dss.gov.au/settlement-and-multicultural-affairs/australian-governments-multicultural-statement/australian-governments-multicultural-statement)

<sup>78</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 17.

312. The Government is introducing a new requirement for applicants to provide evidence of their integration into Australian society, which will apply to all applications for citizenship received from 20 April 2017.
313. This requirement is integral to the Government's decision to strengthen the Australian values statement in application forms for citizenship through including references to allegiance to Australia and applicants undertaking to integrate into and contribute to the Australian community.
314. Under the integration framework, an applicant will be required to provide evidence of abiding by Australian values over the course of their time in Australia, including during the four-year permanent residency period preceding citizenship acquisition.
315. This process will also include collecting information about, and assessing evidence of, applicants' integration into the Australian community. Relevant evidence could relate to maintaining competent English, sending children to school, seeking employment rather than relying on welfare, earning income and paying tax, and making social contributions to Australian communities.
316. The Department would also consider criminality and other conduct that is inconsistent with Australian values, such as that related to domestic or family violence, procuring or facilitating female genital mutilation and involvement in gangs and organised crime, in assessing an applicant's integration into Australian society.
317. An applicant who fails the integration requirements will have their application refused. Depending on the reasons for failing the new integration requirements, an applicant may be referred for consideration of visa cancellation under the existing cancellation provisions in the *Migration Act 1958*.
318. The Australian Government contends that the Australian community has higher expectations of permanent residents than temporary residents in terms of their integration into and contribution to the Australian community. The Government considers that the increased length of the qualifying period of permanent residency will enable it to examine thoroughly aspiring citizens' experience of and commitment to integrating into life in Australia, before granting citizenship.
319. It is the Government's position that there is a strong link between English ability and better outcomes for migrants, socially and economically. For a large proportion of migrants, a lack of English is the biggest barrier to employment, education, improving skills, being independent, making connections and being able to make the most of the opportunities life in Australia offers.
320. As mentioned in Chapter 4, a strong theme of the National Consultation on Citizenship was the importance of English language to being citizenship and full integration into Australian society. The Government was also informed by a Productivity Commission report in 2016 that highlighted the importance of English language proficiency for integration and settlement outcomes.<sup>79</sup>

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<sup>79</sup> Productivity Commission, (2016). *Migrant Intake into Australia*, Productivity Commission Inquiry Report No. 77.

321. As mentioned in Chapter 4, the Government encourages migrants to continue to improve their English language ability, from arrival through to permanent residence and subsequently to citizenship. This will contribute to stronger settlement outcomes—such as economic participation, integration and independence.
322. The Government’s publication on the reforms concluded that these reforms are essential for Australia’s future as a strong and successful multicultural nation, united by allegiance to Australia and commitment to freedom and prosperity.
323. The Australian Government provides a suite of world-class settlement services to eligible immigrants to help them overcome significant barriers to settlement. They include the following.
- The Australian Cultural Orientation programme (AUSCO)—provides an initial introduction to aspects of Australian life and culture to enhance entrants’ settlement prospects by helping create realistic expectations for life in Australia.
  - Humanitarian Settlement Services (HSS)—provides early practical support to humanitarian clients to strengthen their ability to participate in Australia’s economic and social life, and equip them with the skills and knowledge needed to independently access services beyond their initial settlement period.
  - The Adult Migrant English Program (AMEP)—provides eligible migrants and Humanitarian Programme entrants with 510 hours of free English language tuition in their first five years of settlement in Australia.
  - Settlement Services grants—deliver core settlement support for humanitarian entrants and other eligible migrants in their first five years of life in Australia. They support:
    - casework, coordination and the provision of settlement-related information
    - community coordination and development services that assist new arrivals to make social connections and support the development of new and emerging community organisations
    - targeted services to young migrants and refugees to assist with specific challenges faced in their settlement
    - referral services for new entrants to connect with existing networks, support groups and services
    - support for ethno-specific communities.
  - The Complex Case Support (CCS) Programme—delivers specialised and intensive case management services to humanitarian entrants with exceptional needs.
  - The Translating and Interpreting Service (TIS National)—provides fee-free interpreting services to approved individuals and organisations to help them communicate with non-English-speaking migrants and Humanitarian entrants who are Australian citizens or permanent residents.

- The Unaccompanied Humanitarian Minors (UHM) Programme—provides care, supervision and settlement support to eligible unaccompanied minors arriving under Australia’s offshore Humanitarian Programme.

324. These services demonstrate the Australian Government’s—and the Australian people’s—commitment to successful integration of new migrants. The changes to citizenship and integration policy in the Bill call for a commitment from the migrants themselves.

## Responses to the reforms

325. As noted in Chapter 4, of the 3693 email responses the Department received in response to the Government’s discussion paper on the reforms, less than one per cent of respondents raised concerns in relation to the changes to values and other citizenship test questions or in relation to integration.

326. There has also been some criticism of the requirement for an aspiring citizen to provide evidence of abiding by Australian values over the course of their time in Australia, including the four-year permanent residency period, under the integration framework.

327. The Government’s position is that the evidence that the Department will collect will be reasonable, proportionate, and the type of evidence that applicants should already have, such as tax returns and evidence of employment.

## Chapter Ten

### Pledge of allegiance

#### Changes through history to the oath/affirmation of allegiance and pledge of commitment

328. The pledge of commitment, previously known as the oath or affirmation of allegiance, has evolved since its introduction in the *Nationality and Citizenship Act 1948*, to reflect changing community concerns and views on national identity.
329. The first oath or affirmation of allegiance acknowledged the rights and responsibilities of Australian citizenship.<sup>80</sup> Only ‘aliens’ were required to take the oath or make the affirmation during naturalisation ceremonies,<sup>81</sup> and were required to separately renounce their allegiance to their former countries.<sup>82</sup>
330. In 1966, the oath or affirmation of allegiance was changed to include the words ‘renouncing all other allegiance’. In his Second Reading Speech on the 1966 Bill, the then Minister for Immigration, the Hon Hubert Opperman stated that the change would simplify the naturalisation ceremony and ‘...eliminate the emotional disturbance felt by candidates due to their national and rightful love of their homelands’.<sup>83</sup>
331. Along with major reforms to citizenship legislation in 1973, the oath or affirmation of allegiance was extended to all citizenship applicants and reference to the Queen of Australia was inserted.<sup>84</sup> At that time the Government also sought to remove the renunciation in the oath, but this was defeated in the Senate.<sup>85</sup>
332. The Government was successful in removing reference to renunciation from the oath or affirmation of allegiance in 1986, along with the requirement that candidates state their names.<sup>86</sup>
333. The oath or affirmation was replaced with a pledge of commitment in 1993, following introduction of the pledge and *Preamble* to the *Australian Citizenship Act 1948*. The pledge was intended to give effect to the intent of the *Preamble* by calling on

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<sup>80</sup> Klapdor, M., Coombs, M. & Bohm, C. (2009). *Australian citizenship: A chronology of major developments in policy and law*, Canberra: Parliament of the Commonwealth of Australia. p. 6.

<sup>81</sup> Klapdor, M., Coombs, M. & Bohm, C. (2009). *Australian citizenship: A chronology of major developments in policy and law*, Canberra: Parliament of the Commonwealth of Australia. p. 34.

<sup>82</sup> Klapdor, M., Coombs, M. & Bohm, C. (2009). *Australian citizenship: A chronology of major developments in policy and law*, Canberra: Parliament of the Commonwealth of Australia. p. 21.

<sup>83</sup> House of Representatives, *Debates*, 31 March 1966, p. 833

<sup>84</sup> Klapdor, M., Coombs, M. & Bohm, C. (2009). *Australian citizenship: A chronology of major developments in policy and law*, Canberra: Parliament of the Commonwealth of Australia. p. 22.

<sup>85</sup> McKeown, D. (19 November 2002), *Changes in the Australian Oath of Citizenship*, Department of the Parliamentary Library Research Note No. 20, p. 2.

<sup>86</sup> Klapdor, M., Coombs, M. & Bohm, C. (2009). *Australian citizenship: A chronology of major developments in policy and law*, Canberra: Parliament of the Commonwealth of Australia. p. 23.

applicants to commit to the Australian nation and people rather than pledging allegiance to the sovereign.<sup>87</sup>

Table 11. Changes to oath/affirmation of allegiance and pledge of commitment

Implementation date	Pledge requirement
26 January 1949	Oath of allegiance I, [name]; swear by Almighty God that I will be faithful and bear true allegiance to His Majesty King George the Sixth, his heirs and successors according to law, and that I will faithfully observe the laws of Australia and fulfil my duties as an Australian citizen.
6 May 1966	Oath or affirmation of allegiance I, [name], renouncing all other allegiance, [swear by Almighty God/solemnly and sincerely promise and declare] that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth the Second, Her Heirs and Successors according to law.
1 December 1973	Oath or affirmation of allegiance I, [name], renouncing all other allegiance, [swear by Almighty God/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.
20 August 1986	Oath or affirmation of allegiance I [swear by Almighty God/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.
24 January 1994	Pledge of commitment From this time forward, [under God], I pledge my loyalty to Australia and its people, whose democratic beliefs I share, whose rights and liberties I respect, and whose laws I will uphold and obey.

Source: All references to Australian Government legislation sourced from the Federal Register of Legislation [www.legislation.gov.au](http://www.legislation.gov.au)

<sup>87</sup> Faulkner, J. (1993). Second reading speech: Australian Citizenship Amendment Bill 1993, *Debates*, Senate.

## International comparisons

334. Approaches to citizenship ceremonies including the nature and form of the ceremony and the age of the applicants required to attend a ceremony vary from country to country. The information in the Table below was current as at September 2016 and is intended to give an overview of the types of requirements applied.

Table 12. International comparisons of ceremonies

Country	Type of pledge or oath	Who takes the pledge
Canada	Oath of Citizenship	All applicants over 14 years of age are required to swear or affirm the oath. <sup>88</sup>
New Zealand	Oath of allegiance or an affirmation to the same effect	Most applicants in New Zealand are automatically required to attend a public ceremony, with the exception of children under 14 years of age. <sup>89</sup>
United Kingdom	Oath of allegiance and citizenship pledge	Applicants over 18 years of age are required to swear or affirm. Minors (those under 18 years of age) are not required to. <sup>90</sup>
United States of America	Oath of renunciation and allegiance	Information not available.
Australia	Pledge of commitment	Applicants aged 16 years or over at the time of application for citizenship. Applicants who applied under the age of 16 years but who turned 16 years old during the application process are also invited to take the pledge if they wish to do so but are not obliged to do so

Source: Country information supplied by each relevant Government agency.

335. Australia's requirement for the age of applicants who make the pledge is in the middle range for the age of applicants listed above.

<sup>88</sup> As at 30 June 2017

<sup>89</sup> As at 29 June 2017

<sup>90</sup> As at 28 June 2017

## Australia's current requirements

336. The pledge reflects the way in which the Australian people view their national identity.
337. Currently, only those attaining citizenship by conferral over 16 years of age are required to make the pledge. The grant of citizenship takes effect when the aspiring citizen makes a pledge of commitment to Australia and its people.
338. The current *Pledge of commitment as a Citizen of Australia* was introduced in 1993 and required new citizens to express commitment to national unity and acknowledge the significance of Australian citizenship as a unifying force in multicultural Australia.<sup>91</sup>
339. The current pledge came into effect on 24 January 1994. The pledge was intended to give effect to the intent of the *Preamble* by calling on applicants to commit to the Australian nation and people rather than pledging allegiance to the sovereign<sup>92</sup>.
340. The responsibilities of citizenship are included in both the *Preamble* to the *Australian Citizenship Act 2007* and the *Pledge of commitment as a citizen of the Commonwealth of Australia*, set out in Schedule 1 to the Act. The responsibilities of Australian citizenship include an obligation to:
- obey the law
  - defend Australia should the need arise
  - serve on a jury if called to do so; and
  - vote in federal and state or territory elections, and in a referendum.

## The case for reform

341. The policy intent of these changes is to elevate the importance of the commitment an aspiring citizen is making to Australia when they chose to become an Australia citizen and to undertake the responsibilities of Australian citizenship.
342. The citizenship reforms will contribute to achieving Australia's national security objectives by ensuring that all aspiring citizens make a commitment of allegiance to Australia and demonstrate an understanding of and commitment to Australian values.
343. The Final Report indicated strong community support for supported strengthening the pledge, as well as the *Preamble* to the *Australian Citizenship Act 2007*, to include words about allegiance and an undertaking not to act contrary to that allegiance.<sup>93</sup>

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<sup>91</sup> Australian Citizenship Council, (2000), *Australian citizenship for a New Century*, DIMA, Canberra, p. 36.

<sup>92</sup> Faulkner, J. (1993), 'Second reading speech: Australian Citizenship Amendment Bill 1993', *Debates*, Senate.

<sup>93</sup> Fierravanti-Wells, C. & Ruddock, P. (2015), *Australian Citizenship—Your Right, Your Responsibility*, Canberra: Australian Government, p. 18.

344. As noted in Chapter 3, recommendations 5 and 13 of the Final Report stated:

**Recommendation 5**

The Citizenship Pledge should be updated to include language on allegiance to Australia.

**Recommendation 13**

The Government should ensure more individuals formally make the Pledge by reducing the exemptions from participation in citizenship ceremonies and by including the Pledge in processes whereby citizenship is gained by descent, adoption or resumption.

345. The Government has adopted these recommendations in the Bill.

346. In this context it is also important to note that the citizenship loss provisions introduced into the *Australian Citizenship Act 2007* in December 2015 recognise that citizens may, through certain conduct incompatible with the shared values of the Australian community, demonstrate that they have severed that bond and repudiated their allegiance to Australia.

347. The language of ‘allegiance’ proposed in the Bill aligns with the language used in these citizenship loss provisions.

## Australia’s new requirements

348. The Government will extend the requirement to make the pledge to all applicants aged 16 years and over in all streams of citizenship by application, including citizenship by descent, adoption and resumption.

349. The Government will keep the exemptions to making the pledge on grounds of physical or mental incapacity, or age (under 16 years of age).

350. Applicants for citizenship by conferral on the grounds of being born in Papua, born to a former citizen or under statelessness provisions, will no longer be exempt from making the pledge.

## Responses to the reforms

351. As noted in Chapter 4, of the 3693 email responses the Department received in response to the Government's discussion paper on the reforms, less than 1 per cent of respondents raised concerns in relation to the changes to values and other citizenship test questions, and in relation to integration.
352. Concerns about the proposed changes to the pledge were not raised by the respondents. Broadly many respondents were supportive of the proposed changes to the pledge.
353. Some concerns raised in response to the announcement on 20 April 2017, included questions about the significance, if any, of pledging allegiance to Australia for dual citizens.
354. The Government's proposal does not involve pledging to renounce all allegiance to any other country. Making the pledge is not likely to impact upon a person's ability to retain citizenship of another country if the other country recognises dual citizenship.
355. Most countries, including the United States of America, have formal requirements in place for renunciation, such as signing an approved form in front of an authorised person if a person wishes to renounce their citizenship.

## Chapter Eleven

### Additional key measures from the 2014 Bill

356. The Bill includes measures from the Australian Citizenship and Other Legislation Amendment Bill 2014 (the 2014 Bill). The Final Report recommended the Government progress the 2014 Bill. It was introduced into the Parliament in October 2014 but lapsed on prorogation of the Parliament prior to the federal election in 2016.
357. Further information is provided below to provide additional context for these reforms.

#### Limiting automatic acquisition of citizenship at ten years of age to certain persons

358. This measure seeks to encourage the use of lawful pathways to migration and citizenship by making citizenship under the '10-year rule' available only to those who had a right to lawfully enter, re-enter and reside in Australia throughout the 10 years. People who do not meet the proposed requirements will no longer have an incentive to delay their departure from Australia until a child born to them in Australia has turned 10 years of age, in the expectation that the child will obtain citizenship and provide an anchor for family migration or justification for a ministerial intervention request under the *Migration Act*. The measure limits automatic acquisition of citizenship under the 10-year rule so that the rule will not apply to a person in any of the following circumstances:
- where during the 10-year period a parent of the person had privileges or immunities under relevant legislation, such as a diplomat
  - where the person was present in Australia as an unlawful non-citizen at any time during the 10-year period
  - where the person did not hold a valid visa permitting them to travel to, enter and remain in Australia throughout the 10-year period (unless they were a New Zealand citizen); and
  - where a parent of the person did not hold a substantive visa at the time of the person's birth and was an unlawful non-citizen at any time between that parent's last entry into Australia and the person's birth.
359. The changes to the 10-year rule do not prevent a person applying for citizenship by a conferral process. Also, a stateless person may apply for citizenship at any time. Consequently, this measure does not trespass unduly on personal rights, nor does it impact on the individual's liberty or obligations.

## Ministerial power to defer applicant making pledge for up to two years

360. This measure enables the Minister to delay a person making the pledge of allegiance and becoming a citizen for up to two years. This is an increase from the current one year period. The Minister may delay a person from making the pledge where the Minister:
- is satisfied that the person’s visa may be cancelled under the *Migration Act 1958*; or
  - is satisfied that the person has been or may be charged with an offence under Australian law; or
  - is considering cancelling the approval given to the person to become an Australian citizen on identity or national security grounds.
361. Increasing the time period to delay a person making the pledge enables the Department more time to investigate cases that are complex in nature and may take more than 12 months to investigate.

## Ministerial power to cancel approval of citizenship prior to pledge if applicant is no longer eligible or if pledge is not made within 12 months

362. These measures require the Minister to cancel an approval where the Minister is satisfied that the person would not be approved for citizenship based on identity or character grounds. This may occur where, for example, there is a change in the person’s circumstances or where new information about the person comes to light. The mandatory nature of this new power reflects the mandatory bar on approval such that a person whose identity is in doubt, or who is of national security concern, is not entitled to become an Australian citizen. This mandatory cancellation power only exists if the person has not yet become a citizen under new section 32AD.
363. These measures also provide the Minister with a discretionary power to cancel an approval given to a person where, assuming that a decision on the application had not yet been made, the Minister is satisfied that the person would not be given an approval for reasons other than the identity and national security reasons. The Minister may choose to exercise this power where, for example, new information about the person comes to light and causes the Minister to be no longer satisfied that the person meets the eligibility criteria.
364. Further, these measures provide the Minister with a discretionary power to cancel an approval given to a person where the person has been approved to become an Australian citizen but, within 12 months after being given that approval, the person has failed to make a pledge of allegiance and the person’s reason for the failure is not one that is prescribed by the Citizenship Regulation. This reflects the policy position that, for persons required to make the pledge of allegiance in order to

become an Australian citizen, the pledge should be made within a reasonable time after being approved to become a citizen.

## Extending the good character requirement to include applicants under 18 years of age

365. This measure provides that all applicants for citizenship will need to be of good character. This amendment recognises the fact that people under the age of 18 sometimes have significant character concerns or have committed particularly serious crimes, and that the Minister should therefore have the discretion to refuse to approve such a person becoming an Australian citizen.
366. This measure would not have a significant impact on children overall, but will capture those young people who are of character concern and that the Australian community reasonably expects should not be extended the privilege of Australian citizenship at that time.

### Case example—extending the ‘good character’ requirement

Mr X was granted permanent residency as a dependant on his mother’s visa. At aged 15, he pleaded guilty to several charges of child sexual offences. Due to his age, a conviction was not recorded. However, he received a 12 month probation order.

Mr X applies for Australian citizenship when he is 17 years old. This new measure allows the Department to assess his character, regardless of his age.

## Ministerial discretion to revoke citizenship on grounds of fraud or misrepresentation in migration or citizenship processes, without requirement for prior conviction of relevant criminal offences

367. This measure provides the Minister with the discretion to revoke a person’s Australian citizenship in circumstances where the Minister is satisfied that the person became an Australian citizen as a result of fraud or misrepresentation. The fraud or misrepresentation must be associated with the person’s entry to Australia, the grant of a visa to the person (or other permission to enter and remain in Australia) or the person being approved as an Australian citizen.
368. Currently, a conviction for a specified offence is required before a person’s citizenship can be revoked. In light of competing priorities, there are often limited resources to prosecute all but the most serious cases relating to migration and citizenship fraud. In addition, the conviction must be under Australian law, which in turn requires the person’s presence in Australia. Because of these considerations and the time it can take to establish a conviction, the power to revoke a person’s citizenship on the basis of a conviction for a fraud-related offence has only been used ten times since 1949, even where the evidence of fraud is strong.

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369. The proposed standard of decision making is that the Minister must be satisfied that fraud or misrepresentation has occurred. This means that the Minister must be actually persuaded of the occurrence or existence of the fraud or misrepresentation to attain the requisite level of satisfaction. Given that there are serious consequences attached to the decision to revoke citizenship, the Minister's satisfaction must be based on findings or inferences of fact that are supported by probative material or logical grounds.

#### Case example—revocation on fraud or misrepresentation without conviction

Impostor Mr Y first entered Australia in 2000. He became a permanent resident in 2003 and an Australian citizen in 2006. Since then he has tried repeatedly to change the birthdate on his citizenship certificate by 20 years and have a replacement certificate issued.

In 2006, Mr Y arrived in Australia and was interviewed at the border due to discrepancies with his record which indicated he was already onshore and was an Australian citizen. When interviewed, he advised that in 2002 he lost his passport. This lost passport was used by Mr X to enter Australia in 2000.

The Department had suspicions that Mr Y was an impostor and conducted intensive investigations into Mr Y's real identity where amongst other findings, it was found that the birthdate used to try and update his records and citizenship certificate with was identical to the birthdate of Mr Y's real identity.

Mr Y refused to provide a statement on the loss of his passport, possibly because he provided it to Mr X as part of their involvement in an organised passport fraud. Without this statement, it was not possible to prosecute Mr Y for fraud offences. Mr Y remains an Australian citizen.

Given Mr Y became a citizen as a result of fraud, this new measure allows the Minister to revoke his citizenship.

## Ministerial discretion to revoke citizenship by descent

370. This measure gives the Minister the discretion to revoke the Australian citizenship of a person who became an Australian citizen by descent in circumstances where the Minister is satisfied that the person should not have been approved as an Australian citizen by descent. If the Minister revokes a person's citizenship under this new provision, the person ceases to be an Australian citizen at the time of revocation.
371. This new power replaces an existing provision that means that a person is automatically not a citizen by descent where the approval should not have been given. The new discretionary power will enable the Minister to consider all the relevant factors before deciding to revoke a person's citizenship.
372. It is not necessary to place a time limit on the exercise of the power because the discretionary nature of the decision means that issues such as the length of time that the person has been a citizen would be taken into account.

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## Provide that personal decisions made by the Minister in the public interest are not subject to merits review

373. This measure provides that particular decisions made by the Minister personally where the Minister is satisfied that the decision was made in the public interest, cannot be subject to merits review by the AAT.
374. As an elected Member of Parliament, the Minister represents the Australian community and has a particular insight into Australian community standards and values and what is in Australia's public interest. It is not appropriate for an unelected administrative tribunal to review such a personal decision of a Minister on the basis of merit, when that decision is made in the public interest. As a matter of practice it is expected that only appropriate cases will be brought to the Minister's personal attention, so that merits review is not excluded as a matter of course.
375. This measure provides that the Minister must notify the Parliament when the Minister makes a decision that is not reviewable by the AAT. In this way, the measure encompasses mechanisms to provide transparency and accountability in relation to the Minister's personal decisions.
376. This measure would bring the protection of personal decisions of the Minister from merits review under the *Australian Citizenship Act 2007* more in line with similar provisions under the *Migration Act 1958*. In addition, the Citizenship Act itself has a precedent for non-reviewable personal decisions of the Minister: the Minister's powers in relation to alternative residence requirements are not subject to review by the AAT.

## Provide the Minister with the power to set aside decisions of the AAT concerning identity and character, in the public interest

377. The measure described above will mean that personal decisions of the Minister made in the public interest will not be reviewable by the AAT. Complementary to that measure, this measure will enable the Minister to set aside decisions made by the AAT in relation to decisions made by departmental delegates where the Minister thinks it is in the public interest to do so. As with the personal decisions of the Minister described in the previous measure, transparency and accountability mechanisms will require the Minister to notify the Parliament that a decision of the AAT has been set aside and set out the decision that the Minister has made in place of the decision set aside, including the reasons for the Minister's decision.

#### Case example—power to set aside decisions of AAT concerning identity and character

Mr Z applied for citizenship. In assessing his application, it was found that Mr Z had a criminal record which included three convictions between 1992 and 2008 where in 2008 he was convicted and imprisoned for conspiring to import drugs into Australia and for possessing prohibited drugs for supply. In 2011 he was granted parole which he served incident-free.

Mr Z's citizenship application was refused on character grounds. He then applied to the AAT to review this refusal.

Despite accepting that Mr Z's criminal record was serious, the AAT was satisfied that he was of good character and remitted Mr Z's case for reconsideration.

This new measure allows the Minister to set aside the decisions by the AAT and refuse Mr Z's application for citizenship. The Minister would be required to notify Parliament when this occurs.