

CHAPTER 2

PROVISIONS

2.1 Item 1, 3 and 4 provide that certain people who have suffered torture or trauma outside Australia and who have a physical or mental incapacity (which need not be permanent) may meet the requirements for citizenship by conferral. The word 'permanent' is removed (by Item 1) from the simplified outline in section 19G to ensure that the explanation is consistent with the amendments made by items 25 and 27 (items 3 and 4).

2.2 Taken together, the amendments provide that a person will satisfy the requirements for application for citizenship under subsection 21(3) if the applicant has a physical or mental incapacity at the time the person makes the application, as a result of the person having suffered torture or trauma outside Australia and the person:

- is not capable of understanding the nature of the application at the time the person made the application; or
- is not capable of demonstrating a basic knowledge of the English language at that time; or
- is not capable of demonstrating an adequate knowledge of Australia and of the responsibilities and privileges of Australian citizenship at that time.

2.3 The Explanatory Memorandum explains that the new provisions have been inserted in response to a recommendation of the CTRC, which considered that the current exemption criteria do not take into consideration the effect of severe and chronic symptoms resulting from the experience of torture and trauma. The purpose of new subsection 21(3B) is to ensure that certain people who have a physical or mental incapacity as a result of having suffered torture or trauma outside Australia are exempted from the requirement to sit a citizenship test.¹

2.4 Item 2 replaces existing subsection 21(2A), removing the current requirement that the citizenship test be successfully completed prior to application for citizenship is made. Instead, the new provision will require that an eligible person successfully takes the test and completes it within a prescribed period. The amendment is consistent with the amendment made by item 32, which provides that the Minister may determine the period within which a person must start the test and for the period within which a person must complete the test, and with the recommendations of the CTRC that the process of applying for citizenship and sitting the test be streamlined. By removing the requirement to sit and successfully complete the test before applying for citizenship, the amendments will allow eligible applicants in many circumstances to meet all the requirements for citizenship on the same day, including successfully completing the test. However, to ensure that a person will not be eligible for

¹ Explanatory Memorandum, p. 6.

citizenship if they are unable to successfully complete the test within a reasonable period of time, the amendments allow the Minister to specify a period of time within which a person must start the test and complete the test.

2.5 Item 5 repeals the current subsection 21(5) and substitutes a new subsection. The current subsection provides that a person is eligible to become an Australian citizen if the Minister is satisfied that the person is under 18 years of age at the time the person made the application, whereas the new provision provides that a person is eligible to become an Australian citizen if the Minister is satisfied that the person is under 18 years of age at the time of application and is a permanent resident at the time of application and at the time of the Minister's decision. The implication of this amendment would be to require an applicant for Australian citizenship who is under 18 to hold a permanent resident visa before their application can be proceeded with.

2.6 Item 6 would allow the Minister to specify a time period within which an applicant for citizenship by conferral must start and complete the test, with a view to streamlining the application process in line with the CTRC's recommendations.

2.7 Item 7 amends provisions relating to the requirement to pledge commitment to Australia, and reflects the amendments made in Items 1, 3 and 4. Under the amendment, an applicant will not be required to pledge commitment to Australia if they have suffered physical or mental trauma outside Australia, and meet one or more of the conditions set out under paragraph 2.2 of this chapter.

2.8 Item 8 relates to the charging of consistent application fees, in the context of the amendments to section 21. Item 9 relates to application, and makes provision for persons who successfully sat a citizenship test prior to the commencement of the amendments to be excused from sitting another test should their application for citizenship be made after the commencement of the amendments.