

(Statutory Rule
Administering
documents in
secretariat in co



by In
Sec-
ation.

Ex. Co. Secretariat: please complete this copy by
insertion of signatures and date of making, and send
to: Legislative Services Section,
Commercial & Drafting Division, Attorney-General's
Department.



Statutory Rules 1987 No. 1

87/

Australian Citizenship Regulations² (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Australian Citizenship Act 1948*.

Dated 21 May 1987.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

M. J. Young
Minister of State for Immigration
and Ethnic Affairs

Commencement

1. These Regulations shall come into operation on 1 June 1987.

Principal Regulations

2. In these Regulations, "Principal Regulations" means the Australian Citizenship Regulations.

Repeal of regulations 5, 5A and 6

3. Regulations 5, 5A and 6 of the Principal Regulations are repealed.

Register of Citizenship by Descent

4. Regulation 7 of the Principal Regulations is amended by adding at the end of subregulation (2) "and shall be completed and signed by an authorized officer".

Application for registration

5. Regulation 7A of the Principal Regulations is amended:

- (a) by omitting from subregulation (1) “is not duly made unless the application contains” and substituting “shall contain”;
- (b) by omitting paragraph (1) (a) and substituting the following paragraphs:
 - “(a) the full name of the person at the time when the application is made;
 - (ab) the full name of the person at the time when the birth of the person was registered;”;
- (c) by omitting paragraph (1) (d) and substituting the following paragraphs:
 - “(d) the full name, the usual residential address, and the postal address, of the applicant;
 - (da) the full names, at the time when the application is made, of the natural parents of the person;
 - (db) the full names, at the time of the birth of the person, of the natural parents of the person;”;
- (d) by omitting subparagraph (1) (f) (ii) and substituting the following subparagraph:
 - “(ii) in the case of any parent who was, at the time of the birth of the person, an Australian citizen—the manner in which the citizenship was acquired and:
 - (A) if the citizenship was acquired by descent—the periods of residence (if any) of the parent in Australia; or
 - (B) if the citizenship was acquired by registration before 8 October 1951 or the parent became a naturalised person before that date—the periods (if any) during which the parent resided outside Australia and New Guinea during the period commencing on 26 January 1949 and ending on the expiration of 7 October 1958.”.

6. Regulation 7D of the Principal Regulations is repealed and the following regulation substituted:

Extract of entry in register

“7D. (1) An extract of an entry in the register shall not be given to a person otherwise than in accordance with this regulation.

“(2) Upon the registration of the name of a person at an Australian consulate for the purposes of section 10B of the Act, an authorized officer shall give to the person who applied for the registration an extract of the entry in the register relevant to the registration.

“(3) Where an error in, or an omission from, an entry in the register (in this regulation referred to as an ‘original entry’) has been corrected in

accordance with regulation 7B, an authorized officer shall give an extract of the entry as corrected to the person who made the application that resulted in the original entry being made in the register or, if that person is dead, to the person in relation to whom the original entry was made if, and only if:

- (a) the person has returned to the authorized officer any extract of the original entry in the possession of the person; or
- (b) the authorized officer is satisfied that any extract of the original entry previously given to the person has been lost or destroyed.

“(4) Where:

- (a) a document purporting to be a copy, or an extract, of an entry in the register has (whether before or after the commencement of this regulation) been given to a person by an authorized officer; and
- (b) that document, by reason of an error or omission, is not an exact copy of the entry in the register of which it purports to be an extract;

an authorized officer shall give an extract of the relevant entry to the person who made the application that resulted in the entry being made in the register or, if that person is dead, to the person in relation to whom the entry was made if, and only if, the person:

- (c) has made an application for such an extract;
- (d) has returned the document referred to in paragraph (a) to the returning officer; and
- (e) does not have in his or her possession any other extract of the relevant entry.”.

Declaratory certificate of citizenship issued on application

7. Regulation 8 of the Principal Regulations is amended:

- (a) by omitting subregulation (1) and substituting the following subregulation:

“(1) Subject to subregulations (7) and (8), an authorized officer shall, upon application made by a person in accordance with this regulation, issue to the person a declaratory certificate of citizenship in accordance with such form as is approved by the Minister.”;

- (b) by omitting paragraph (3) (g) and substituting the following paragraphs:

“(g) whether, at the time of the applicant’s birth:

- (i) in the case of an applicant born before 22 November 1984—the father of the applicant was a diplomatic or consular representative in Australia of a foreign country;
- (ii) in the case of an applicant born on 22 November 1984 or after that day but before 20 August 1986—a parent of the applicant was a diplomatic or consular representative in Australia of a foreign country and

- that parent, or the other parent, of the applicant was an Australian citizen or a permanent resident; or
- (iii) in the case of an applicant born on or after 20 August 1986—a parent of the applicant was an Australian citizen or a permanent resident;
- (ga) in the case of a person who has acquired Australian citizenship by registration under subsection 23D (1) of the Act—particulars of the registration;”;
- (c) by omitting paragraph (4) (a) and substituting the following paragraph:
- “(a) if the applicant had, at any time before 1 May 1987, the status of a British subject—particulars establishing that status;”;
- (d) by omitting paragraph (4) (f); and
- (e) by adding at the end the following subregulation:
- “(8) Where an application for a declaratory certificate of citizenship is made by a person to whom a declaratory certificate of citizenship has previously been issued, the authorized officer shall not issue to the applicant a declaratory certificate of citizenship unless:
- (a) the applicant has returned to the authorized officer the declaratory certificate previously issued to the applicant; or
- (b) the authorized officer is satisfied that the declaratory certificate previously issued to the applicant has been lost or destroyed.”.

Prescribed matters for the purposes of subsection 36 (1) of the Act

8. Regulation 11 of the Principal Regulations is amended:

- (a) by omitting paragraph (a) and substituting the following paragraphs:
- “(a) the name of the applicant as set out in any travel document of the applicant;
- (ab) the former names (if any) of the applicant;
- (ac) the sex of the applicant;
- (ad) the country of which the applicant is, at the time when the application is made, a national or citizen;
- (ae) the height, colour of the hair and eyes, and any visible distinguishing marks, of the applicant;”;
- (b) by inserting after paragraph (d) the following paragraphs:
- “(da) the periods during which the applicant was present in Australia as a permanent resident;
- (db) the periods, being periods ending before 16 September 1975, during which the applicant was ordinarily resident in Papua or New Guinea;

87/

- (dc) the periods, being periods commencing on or after 16 September 1975 and ending before 16 September 1978, during which the applicant was ordinarily resident in the Independent State of Papua New Guinea;”;
- (c) by omitting paragraphs (h) and (i) and substituting the following paragraph:
 - “(h) the name, and the date and place of birth, of each of the applicant’s parents and the maiden name of the applicant’s mother;”;
- (d) by inserting after paragraph (k) the following paragraphs:
 - “(ka) if the applicant was born in Australia before 20 August 1986:
 - (i) a statement whether a parent of the applicant was, at the time of the applicant’s birth, a diplomatic or consular representative in Australia of a foreign country; and
 - (ii) if a parent of the applicant was at that time such a representative—the name of the parent and of the country of which the parent was such a representative and a further statement whether that parent, or the other parent, of the applicant was, at the time of the applicant’s birth, an Australian citizen or a permanent resident;
 - (kb) if the applicant was born in Australia on or after 20 August 1986—a statement whether, at the time of the applicant’s birth, a parent of the applicant was an Australian citizen or a permanent resident;
 - (kc) if the applicant is, or has at any time been, engaged in relevant defence service—the service number and enlistment date of the applicant and, if applicable, the date of, and reason for, his or her discharge from relevant defence service;
 - (kd) if the applicant has previously applied for the grant of a certificate of Australian citizenship—the date on which and the place at which the previous application, or each of the previous applications, was lodged and the decision made in respect of that application or each of those applications;
 - (ke) if the applicant was, at any time before making the application, an Australian citizen—the date on which, and the qualification by virtue of which, the applicant became an Australian citizen;
 - (kf) if the applicant has at any time before making the application, ceased to be an Australian citizen—the date on which, and the reason why, the applicant ceased to be an Australian citizen;”;

(e) by omitting paragraph (1a) and substituting the following paragraph:

“(1a) if the applicant has been found guilty of an offence in Australia or elsewhere—particulars of the offence, the court before which it was prosecuted, the date on which the applicant was found guilty and the sentence imposed (if any);”;

(f) by omitting from paragraph (1b) “particulars of the confinement” and substituting “particulars of the criminal proceedings and the place in which, and the period during which, the person was confined”;

(g) by inserting in paragraph (1d) “(including proceedings by way of appeal or review)” after “Territory”; and

(h) by adding at the end the following paragraph:

“(n) if the applicant is applying for the inclusion, in the certificate of Australian citizenship, of the name of a child who has not attained the age of 16 years and of whom the applicant is a responsible parent:

(i) the name, date and place of birth, and sex, of the child;

(ii) the same particulars in respect of the child as are referred to in relation to the applicant in paragraphs (ad), (b), (c), (1a), (1b) and (1c);

(iii) if the applicant is aware of any proceedings pending against the child for an offence against a law of the Commonwealth, a State or Territory (including proceedings by way of appeal or review)—particulars of those proceedings; and

(iv) if there is in force any court order in respect of the custody of the child—details of that order.”.

9. After regulation 13A of the Principal Regulations the following regulation is inserted:

Minister may require information for the purposes of section 23AA of the Act

“13B. (1) For the purposes of subsection 23AA (1) of the Act, the Minister may require a person who furnishes, in accordance with that subsection, a declaration that the person wishes to resume Australian citizenship to furnish at the same time to the Minister the following information:

(a) whether the person has, after ceasing to be an Australian citizen, either in Australia or elsewhere, been found guilty of any offence and, if the person has been so found guilty of an offence, particulars of the offence, the court before which it was prosecuted, the date on which the person was found guilty and the sentence imposed (if any);

- (b) whether the person has, after ceasing to be an Australian citizen, been confined either in Australia or elsewhere in a prison or psychiatric institution by order of a court made in connection with criminal proceedings against the person and, if the person has been so confined in a prison or psychiatric institution, particulars of the criminal proceedings and the place in which, and the period during which, the person was confined; and
- (c) whether at the time when the declaration is furnished there are, either in Australia or elsewhere, any proceedings pending against the person in respect of any criminal offence and, if there are at that time any such proceedings pending, particulars of the proceedings and of the offence.

“(2) For the purposes of subsection 23AA (2) of the Act, the Minister may require a person making an application in accordance with that subsection for the inclusion of the name of a child referred to in that subsection in a declaration registered under subsection 23AA (1) of the Act to furnish at the same time to the Minister in respect of the child the same information as is referred to in relation to the person who furnished the declaration in paragraphs (1) (a), (b) and (c).”.

10. Regulations 16, 17, 18 and 20 of the Principal Regulations are repealed and the following regulations substituted:

Fee payable in respect of declaration of desire to resume citizenship

“16. A fee of \$50 is payable in respect of a declaration furnished for the purposes of section 23AA, 23A or 23B of the Act.

Declaratory certificate of citizenship to be issued to person resuming Australian citizenship

“17. Where a person again becomes an Australian citizen in accordance with subsection 23AA (1) or (2), 23A (2) or 23B (2) of the Act, an authorized officer shall issue to the person a declaratory certificate of citizenship in accordance with such form as is approved by the Minister.

Fee payable in respect of application under subsection 44A (2) of the Act

“18. A fee of \$30 is payable in respect of an application under subsection 44A (2) of the Act for the issue of an evidentiary certificate in relation to the Australian citizenship of a person.

Prescribed fee for the purposes of paragraph 46A (1) (c) of the Act

“19. For the purposes of paragraph 46A (1) (c) of the Act, the prescribed fee is \$30.”.

Second Schedule

11. The Second Schedule to the Principal Regulations is amended by omitting Forms 1 and 11.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on / 1987.
2. Statutory Rules 1960 No. 62 as amended by 1961 No. 120; 1964 No. 1; 1965 Nos. 8 and 146; 1967 No. 149; 1968 No. 129; 1969 No. 72; 1970 Nos. 9 and 189; 1973 Nos. 29 and 196; 1975 No. 181; 1976 No. 269; 1978 No. 272; 1979 No. 143; 1980 No. 339; 1981 No. 112; 1982 No. 118; 1983 No. 68; 1984 Nos. 252 and 351; 1985 No. 260; 1986 Nos. 209, 210, 223 and 306.

27 May/