

EXPLANATORY STATEMENT

Australian Citizenship Act 2007

INSTRUMENT OF AUTHORISATION

(Subsections 40(3), 40(4), 42(3) and 42(4))

1. This Instrument is made under subsections 40(3), 40(4) and 42(3) of the *Australian Citizenship Act 2007* (the Act). It revokes Instrument IMMI 11/089 (F2012L00558) made on 24 March 2012.
2. The purpose of the Instrument is twofold. One purpose is to authorise certain persons or classes of persons to request in writing, an applicant for Australian citizenship or a person who has sought to sit a citizenship test, to provide one or more specified personal identifiers. The other is to authorise certain persons or classes of persons to access identifying information necessary for the purposes of the Act.
3. The Instrument operates to include relevant officers from the Department of Human Services, together with course convenors who are employed by Adult Migrant English Program (AMEP), within the authorisation of certain classes of person occupying or performing the duties of specified positions to request in writing an applicant for Australian citizenship to provide one or more specified personal identifiers in support of their application.
4. The Instrument also authorises certain persons or classes of persons to access any kind of identifying information for any one or more of the following purposes:
 - assisting in the identification of, or to authenticate the identity of an applicant for Australian citizenship;
 - combating document and identity fraud in citizenship matters;
 - disclosing identifying information in accordance with Division 5 in Part 2 of the Act;
 - administering or managing the storage of identifying information;
 - making identifying information available to the applicant to whom it relates;

- modifying identifying information to enable it to be matched with other identifying information;
 - modifying identifying information for correction of errors or to ensure compliance with appropriate standards;
 - complying with Australian laws; and
 - for purposes of the Act or the *Migration Act 1958* or the regulations made under those Acts.
5. Pursuant to section 18 of the *Legislative Instruments Act 2003* consultation was not necessary. The Instrument is of a minor or machinery nature.
 6. Under section 42 of the *Legislative Instruments Act 2003* the Instrument is subject to disallowance and therefore a Statement of Compatibility with Human Rights has been provided.
 7. The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required (OBPR Ref 16866).
 8. The Instrument, IMMI 15/063, commences on 1 July 2015.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

IMMI 15/063

This instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Instrument

The Instrument revokes instrument IMMI11/089, which delegated powers of the Minister for Immigration and Border Protection concerning collection of identifying information and authorised persons and classes of persons under certain provisions of the *Australian Citizenship Act 2007* (Citizenship Act). The Instrument is made in place of revoked instrument IMMI11/089 and authorises, for the purposes of subsections 40(3), 40(4) and 42(3) of the Citizenship Act, certain persons to request one or more personal identifiers from an applicant for Australian citizenship, or a person who has sought to sit a citizenship test.

Like revoked instrument IMMI11/089, the persons authorised to request personal identifiers in the Instrument include relevant officers from the Department of Human Services, course convenors who are employed by the Adult Migrant English Program and persons occupying positions in the Department of Immigration and Border Protection that are specified in the Instrument. The main difference between revoked instrument IMMI11/089 and the current Instrument is that this Instrument authorises persons working in overseas positions by reference to a description of their position, rather than their position number.

Human rights implications

As the instrument merely specifies persons and positions authorised to request identifying information, collection of which is authorised under subsections 40(3), 40(4) and 42(3) of the Citizenship Act, it does not engage any of the applicable rights and freedoms contained in the seven core international human rights treaties.

Conclusion

The Instrument is compatible with human rights as it does not raise any human rights issues.

The Hon. Peter Dutton, Minister for Immigration and Border Protection