

**EXPLANATORY STATEMENT**

***Australian Citizenship Act 2007***

**AUSTRALIAN CITIZENSHIP (PERMANENT RESIDENT STATUS)**

(SUBSECTION 5(2))

1. This Instrument is made under subsection 5(2) of the *Australian Citizenship Act 2007* ('the Act').
2. Subsection 5(2) of the Act provides that the Minister may, by legislative instrument, determine that:
  - a. persons who hold a special category visa or special purpose visa; or
  - b. persons who have held a special category visa; or
  - c. persons who are present in Norfolk Island or the Territory of Cocos (Keeling) Islands;and who satisfy specified requirements are, or are during a specified period, persons to whom this subsection applies.
3. The purpose of the Instrument is to determine certain persons to be permanent residents for the purposes of the Act.
4. The Instrument operates to determine that certain New Zealand citizens, being those who hold or have held a special category visa at a specified period and who satisfy specified requirements or who hold certain special purpose visas, on the basis of being an airline crew member or airline positioning crew member ordinarily resident in Australia, are considered to be permanent residents for the purposes of Australian citizenship. The Instrument also determines that certain persons present in Norfolk Island or the Territory of Cocos (Keeling) Islands, who satisfy specified requirements, are permanent residents for the purposes of the Act.

5. The Instrument replaces IMMI 07/037, which sunsets on 1 October 2017. This instrument substantially maintains the arrangements in that IMMI 07/037, with the following amendments:
  - a. An amendment to Item 1 of Schedule 1 ensures consistency across whole of government classification of eligible New Zealand citizens. This aligns with changes made to the definition of eligible New Zealand citizen under the *Migration Regulations 1994*.
  - b. An amendment to Item 5 of Schedule 1 is required due to Norfolk Island becoming part of the migration zone for immigration purposes on 1 July 2016. This change continues arrangements for those who were permanent residents on Norfolk Island prior to the commencement of this instrument.
6. Consultation was not considered necessary as this instrument does not substantially alter existing arrangements.
7. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 21588).
8. Under section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, the instrument is exempt from disallowance and therefore a Statement of Compatibility with Human Rights is not required.
9. The Instrument, IMMI 17/108, commences on 1 October 2017.