

EXPLANATORY STATEMENT

Australian Citizenship Act 2007

Citizenship (LIN 20/084: Class of Persons Who May Receive a Pledge of Commitment) Instrument 2020

(subsections 27(4) and (5))

1. The instrument, LIN 20/084, is made under subsection 27(5) of the *Australian Citizenship Act 2007* (the Act).
2. In accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the AIA), the instrument repeals the *Australian Citizenship (LIN 19/066: Persons Who May Receive a Pledge of Commitment) Instrument 2019* (F2019L00045), made under subsection 27(5) of the Act. Subsection 33(3) of the AIA states that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.
3. The instrument operates to authorise a class of persons who are able to receive the Pledge of Commitment for Australian citizenship (pledge of commitment). Schedule 1 of the Act establishes the form in which a pledge must be undertaken. Subsection 26(1) of the Act requires a person to make a pledge of commitment to Australia before they become an Australian citizen, unless they meet the requirements set out in paragraphs 26(1)(a) to (c) of the Act.
4. The purpose of the instrument is to update the class of persons listed in Schedule 1 of the instrument, who are authorised to receive a pledge of commitment. In particular, to remove the distinction between entrusted persons of the Department located in a State, Territory or Regional Office and Headquarters. Also, to restrict the delegations of entrusted persons in the Department to officers within specified sections of the Citizenship Division.
5. Additionally, the power to authorise persons who may receive a pledge of commitment under subsection 27(4) of the Act has been removed from this instrument and a new

instrument of authorisation has been created: *Citizenship (LIN 20/151: Persons Who May Receive a Pledge of Commitment) Authorisation 2020*.

6. In accordance with paragraph 15J(2)(e) of the *Legislation Act 2003*, consultation was not considered necessary as the changes that are present in LIN 20/084 are minor and machinery in nature when compared to the previous instrument and therefore, do 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 42681).
8. Under section 42 of the *Legislation Act 2003*, the instrument is subject to disallowance and therefore a Statement of Compatibility with Human Rights has been provided in **Attachment A**.
9. The instrument commences on the day after it is registered on the Federal Register of Legislation.

Attachment A

Statement of Compatibility with Human Rights

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

Citizenship (LIN 20/084: Class of Persons Who May Receive a Pledge of Commitment) Instrument 2020

This Disallowable Legislative 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 Disallowable Legislative Instrument

The instrument operates to authorise classes of persons who are able to receive the pledge of commitment for Australian citizenship. Subsection 26(1) of the *Australian Citizenship Act 2007* (the Act) requires a person to make a pledge of commitment to Australia before they become an Australian citizen, unless they meet the requirements set out in paragraphs 26(1)(a) to (c) of the Act.

The purpose of the instrument is to update the class of persons as listed in Schedule 1 to the instrument who are authorised to receive a pledge of commitment. In particular, in order to reflect recent changes to the Department of Home Affairs organisational chart, the following references to divisions, branches and sections of entrusted persons of the Department of Home Affairs have been changed:

- Citizenship and Multicultural Programs Division and Citizenship and Multicultural Programs Branch have been changed to ‘Citizenship Division’;

An Australian Public Service Level 6, level 5 and level 4 employee in the Citizenship Division is now an authorised class of persons – regardless of geographic location.

These changes have no impact on those persons previously authorised under Schedule 1 to the *Australian Citizenship (LIN 19/066: Persons Who May Receive a Pledge of Commitment) Instrument 2019*.

This instrument does not substantially alter existing arrangements; as such changes are considered to be minor or machinery in nature. In accordance with paragraph 15J(2)(e) of the Legislation Act 2003 consultation was deemed not necessary. The changes made relate to name changes of the relevant section/branch/division/group.

Human rights implications

This Disallowable Legislative Instrument does not engage any of the applicable rights or freedoms and makes no material change to existing citizenship ceremony processes in Australia.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights as it does not raise any human rights issues.