



LIN 23/024

Australian Citizenship (Permanent Resident) Amendment Determination (LIN 23/024) 2023

I, Andrew Giles, Minister for Immigration, Citizenship and Multicultural Affairs, make this instrument under subsection 5(2) of the *Australian Citizenship Act 2007* (the *Act*).

Dated 31 May 2023

The Hon. Andrew Giles MP

Minister for Immigration, Citizenship and Multicultural Affairs

1 Name

This instrument is the *Australian Citizenship (Permanent Resident) Amendment Determination (LIN 23/024) 2023*.

2 Commencement

This instrument commences on 1 July 2023.

3 Amendment

Schedule 1 amends *Australian Citizenship (Permanent Resident) Determination (LIN 22/103) 2022*.

Schedule 1 Amendment

(s.3)

[1] Section 3, definition of *protected SCV holder*

omit

[2] Sections 4 and 5

substitute

4 Persons who hold a special category visa

- (1) For subsection 5(2) of the Act, this section applies to a person who:
 - (a) is a New Zealand citizen; and
 - (b) holds a special category visa; or
 - (c) both:
 - (i) held a special category visa on or after 1 July 2023; and
 - (ii) holds a permanent visa which was granted to the person on or after 1 July 2023.
- (2) The person is taken to have become a permanent resident on 1 July 2022 if the person was granted a special category visa before 1 July 2022.
- (3) The person is taken to have become a permanent resident on the day between 1 July 2022 and 30 June 2023 when the person was granted a special category visa for the first time.
- (4) The person is a permanent resident if the person is granted a special category visa on or after 1 July 2023.
- (5) However, this section does not apply to a person who:
 - (a) is in Australia as a diplomatic or consular representative of New Zealand; or
 - (b) is the spouse or dependent child of a diplomatic or consular representative of New Zealand.

5 Persons who have held a special category visa

- (1) For subsection 5(2) of the Act, this section applies to a person who:
 - (a) is a New Zealand citizen; and
 - (b) is outside of Australia but not because the person was removed or deported from Australia under the *Migration Act 1958*; and
 - (c) immediately before last leaving Australia, was the holder of:
 - (i) a special category visa; or
 - (ii) a special purpose visa taken to have been granted on the basis of the person's status as an airline crew member or an airline positioning crew member.
- (2) The person is taken to have become a permanent resident on 1 July 2022 if the person was granted a special category visa before 1 July 2022.
- (3) The person is taken to have become a permanent resident on the day the person was granted a special category visa for the first time if the person was granted a special category visa between 1 July 2022 and 30 June 2023.

- (4) The person is a permanent resident if subsection (1) applies to the person on or after 1 July 2023.
 - (5) However, this section does not apply to a person who, when the person was last in Australia, was in Australia as:
 - (a) a diplomatic or consular representative of New Zealand; or
 - (b) the spouse or dependent child of a diplomatic or consular representative of New Zealand.
 - (6) A reference in this section to a person who has been removed or deported from Australia under the *Migration Act 1958* does not include a person covered by subregulation 5.15A(3) of the *Migration Regulations 1994*.
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