

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

 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.*