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## Australian citizenship: a chronology of major developments in policy and law

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## Introduction

Australian citizenship was created through the *Nationality and Citizenship Act 1948*, and came into effect 26 January 1949, soon after the post-war mass migration program was launched (in 1945).<sup>1</sup> Prior to 1949, Australians could only hold the status of British subjects. The development of Australian citizenship has been intertwined with immigration since Federation. This relationship has developed formally through government administrative structures and has been demonstrated in the way that changes to citizenship law have reflected changes in immigration policies. The success of the migration program has been consistently linked to citizenship outcomes for migrants.

The original intention of Australia's migration program was that the country's population would be increased approximately one per cent per year through natural increase, and one per cent through migration.<sup>2</sup> By 1949, net overseas migration was 153 648. The nation-building effect of managed migration has been significant: since 1945, over 6.5 million people have migrated to Australia, and since 1949 over 4 million people have acquired Australian citizenship. The population has grown from around 7 million in 1945 to almost 22 million in 2009. Migration continues to shape the nation: the planning target for the permanent migration program in 2009–10 is set at 168 700 places, with a further 13 750 places for humanitarian entrants.

Australia's citizenship legislation has been amended over 30 times, as immigration policies, immigrant source countries, settlement philosophies and notions of national identity have changed. It has been amended many times to remove anomalies and discrimination, and it has been amended many times to make citizenship easier to acquire, reflecting the goal of successive governments to encourage settlers to take out citizenship quickly. However, changes to the citizenship legislation in 2007, which increased the residence requirement from two to four years, and saw the introduction of a citizenship test, represent a departure, and possibly an end to this trend.

In practical terms, citizenship has little effect on the material situation of migrants in Australia. As permanent residents, they have access to the welfare support, Medicare and public education available to the general population. Many also have access to special settlement services to assist them to participate in mainstream life as soon as possible. The instrumental advantages of citizenship for migrants are security from deportation, an Australian passport and eligibility for permanent government employment (including in the armed services). The requirements Australian citizenship imposes, mainly to enrol to vote and to vote, and possibly do jury service, are not onerous and would be considered by many

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1. All references to Acts and Bills are to those of the Commonwealth of Australia unless otherwise noted. Electronic copies of Acts made from 1973 onwards that are referred to are available from [www.comlaw.gov.au](http://www.comlaw.gov.au)
  2. A Calwell, 'Ministerial Statement: Immigration', Senate and House of Representatives, *Debates*, 8 September 1949, p. 140.

to be advantageous aspects of citizenship. In symbolic terms, citizenship has great value for the Australian population at large, in that it formally establishes membership in the national community.

In adopting more rigorous citizenship processes, Australia is following a trend set by the immigrant-receiving countries of Western Europe. Indeed, the Australian citizenship test is directly modelled on that of the United Kingdom. Following migrant settlement difficulties, unemployment and ensuing social unrest, there has been a retreat in a number of these countries from public policies of multiculturalism, in favour of a stronger focus on citizenship and on the integration of migrant populations. Renewed concerns about integration and social cohesion have also extended to other traditional immigrant countries, including the USA and Canada. At a time of significant people movements, Western governments seem concerned to signpost expectations that migrants should embrace the rights and responsibilities of liberal democracies.

The residence requirement introduced in October 2007 doubled the time during which non-citizen residents can be deported. The test introduced at the same time requires applicants to demonstrate an understanding of English and to answer questions about Australia's history, culture and values.

Critics have argued that Australia is turning the clock back to a more exclusive era, and that the recent changes are counterproductive. They maintain that the more inclusive, welcoming notion of citizenship (and multiculturalism) that had developed in earlier decades was more conducive to effective settlement and social cohesion.<sup>3</sup> Supporters argue that it is appropriate to require would-be citizens to demonstrate a capacity and willingness to integrate. They argue that easy access devalues citizenship and could erode public confidence in Australia's large and non-discriminatory migration program.<sup>4</sup>

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3. See, for example, D Haskell, 'Identity is a process, not a fixity', *Australian*, 25 July 2007, viewed 2 July 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclip%2FAERN6%22>; J Wakim, 'A new lease of life for White Australia', *Age*, 15 December 2006, viewed 3 July 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclip%2FYURL6%22>; H Irving, 'Defining citizenship', *Australian financial review*, 15 December 2006, viewed 3 July 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclip%2FDWRL6%22>
  4. See, for example, K Andrews (Minister for Immigration and Citizenship), 'Citizenship: committing to a way of life', *The Sydney papers*, vol. 19, no. 3, Winter, 2007, viewed 3 July 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library%2Fjrnart%2F27CP6%22>; A Wood, 'Multiculturalism becomes poison for social capital', *Australian*, 26 September 2007, viewed 3 July 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpress>

This Background Note comprises two discrete sections and an appendix. The first section places the key developments in citizenship law within the context of changes to Australia's immigration policies. The second section provides a chronology of the major steps in the evolution of Australian citizenship law. The appendix provides links to information on citizenship internationally.

The Background Note focuses on citizenship within the context of Commonwealth legislation and does not attempt an analysis of the meaning of Australian citizenship or different theories of citizenship. Its focus is also limited to the relationship between changes to citizenship law and changes in immigration policy in an attempt to clarify this relationship. It does not include other important developments in relation to citizenship in Australia, in particular, the granting of the same entitlements to Aboriginal and Torres Strait Islander peoples as were granted to other Australian citizens.

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[clp%2FYEE06%22](#); P Kelly, 'Citizenship model will work for PM', *Australian*, 20 September 2006.

## Major developments in Australian immigration and citizenship policy

### 1900–45

There was widespread public support for the adoption of a national immigration policy and administration upon Federation. Immigration was at the time administered separately by the states. All of the major parties involved in the new Federal Parliament held policies deliberately aimed at the exclusion of non-European migrants. The *Immigration Restriction Act 1901*, which introduced a ‘dictation test’ for those seeking to immigrate that could be given in any European language, was the beginning of what became known as the ‘White Australia Policy’. This policy remained virtually unchanged until after the Second World War.

The *Naturalisation Act 1903* introduced the conditions by which ‘aliens’ could be granted naturalisation by the Commonwealth and attain the rights and privileges of British subjects. This Act also precluded persons from Asia, Africa or the Pacific Islands from applying for naturalisation.

In the early years of the century, the number of those leaving Australia exceeded those arriving. This trend gradually reversed upwards until the First World War when immigration came to a halt.<sup>5</sup>

The Federal Government amended the *Naturalisation Act 1903* during the War so that applicants for naturalisation would have to advertise their intent, renounce their own nationality and prove they could read and write in English. The *Nationality Act 1920* introduced a definition of ‘natural born’ British subject and residence requirements for naturalisation. The nationality of most of those who may have considered themselves ‘Australians’ was solely that of British subject until 1949.

The Federal Government took on the responsibility of selecting migrants in 1920 and took over all of the migration operations in the United Kingdom the following year. Most migrants arriving from England were assisted under the *Empire Settlement Act 1922* and the ‘£34 million agreement’.<sup>6</sup> Costs were equally shared between Britain and Australia.

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5. Department of Immigration and Multicultural Affairs (DIMA), *Immigration: federation to century’s end*, DIMA, Canberra, 2001, p. 2, viewed 4 June 2009, <http://www.immi.gov.au/media/publications/statistics/federation/index.htm>

6. Department of Immigration, *Australia and Immigration*, Department of Immigration, Canberra, 1974, p. 8.

The economic depression of the early 1930s saw a downturn in migrants coming to Australia and assisted arrivals came to a virtual halt in the following years. The Second World War virtually halted immigration although large numbers of refugees began to arrive in Australia.<sup>7</sup>

## 1945–50

The years prior to the introduction of the *Nationality and Citizenship Act 1948* saw the launch of Australia's national immigration program. There was bi-partisan support for the expansion of immigration in order to meet the workforce needs of a growing economy and to combat the declining birth-rate. A vast increase in the population was seen as key to developing a defensive capability following the demonstration of Australia's military vulnerability during the Second World War, and to strengthening a workforce severely affected by the war. A popular slogan, revived at the time by the first Minister of Immigration, Arthur Calwell, was 'populate or perish'.<sup>8</sup>

The Commonwealth's Immigration Department was established in 1945 charged with administering the ambitious program designed by Calwell. A key priority was not only attracting migrants but those that were considered 'desirable'. Calwell stated at the time that he hoped 'that for every foreign migrant there will be ten from the United Kingdom'.<sup>9</sup> In order to accomplish this, a free passage scheme was initiated in 1947 for British ex-service personnel and their families as well as assisted passage schemes for all other British civilians. The schemes began successfully with 118 000 assisted arrivals in 1949, four times the number of assisted arrivals in the previous year. Assisted passage schemes were to be established with a number of European countries in following years including the Netherlands and Italy. The number of aliens admitted into the country began to exceed the number of British migrants.<sup>10</sup>

There were strong concerns expressed in the community about the use of immigration to increase the Australian population. Groups such as the Returned Services League warned at the time of, 'the danger of Australia being swamped by peoples of alien thought and dubious loyalty'.<sup>11</sup> Partly in response to such concerns, the *Aliens Act 1947* was introduced requiring aliens to report personal details and any changes to the Immigration Department. The only significant concession given to migrants from non-European countries was a change to the law in 1947 so that those who had been admitted to the country for business reasons would not have to periodically reapply for residency if they had remained in the country for 15 years previously.

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7. Department of Immigration, *Australia and Immigration*, p. 8.

8. See, for example, A Calwell, *How many Australians tomorrow?*, Reed and Harris, Melbourne, 1945, p. 1.

9. A Calwell, Senate and House of Representatives, *Debates*, 22 November 1946, p. 508.

10. A Jordens, *Redefining Australians*, Hale & Iremonger, Sydney, 1995, p. 28.

11. 'RSL alarm at new migrant plan', *Sydney morning herald*, 24 July 1947.

In February 1947, a conference was held in London to discuss conflicts between the nationality laws of the members of the British Commonwealth. The conference recommended that each member of the Commonwealth should define who were or could become its citizens and then declare its citizens and those of all other Commonwealth countries to be British subjects. These principles were based on the *Canadian Citizenship Act 1946* which was the first law passed in any Commonwealth country to create citizenship separate from that of British subject.<sup>12</sup>

The *Nationality and Citizenship Act 1948* created an Australian citizenship and the conditions by which it could be acquired. An Australian citizen was also considered a British subject. The Act introduced an oath of allegiance taken as part of a ceremony for new citizens. In introducing the Nationality and Citizenship Bill 1948 to the Parliament, Calwell described its intended effect:

It will symbolise not only our own pride in Australia, but also our willingness to offer a share in our future to the new Australians we are seeking in such vast numbers. These people are sure of a warm welcome to our shores. They will no longer need to strive towards an intangible goal, but can aspire to the honour of Australian citizenship ... My aim, and that of the Government, is to make the word, 'Australian' mean all that it truly stands for to every member of our community. We shall try to teach the children that they are fortunate to be British, and even more fortunate to be Australian.<sup>13</sup>

The first citizenship ceremony was held at the Albert Hall in Canberra in 1949.

## 1950s

With the Department of Immigration responsible for both immigration and citizenship, measurement of the two programs' achievements became intertwined. Then Secretary of the department, T.H.E. Hayes, stated in 1952 that 'a high rate of naturalisation would be evidence of the success of our immigration policies'.<sup>14</sup> He engaged the department in a process of monitoring the take-up of citizenship by migrants. However, prior to changes in 1955, the number of migrants making applications was very low: before 1952, less than half of all migrants had declared an intention to naturalise and of those who had, 75 per cent had not actually done so.<sup>15</sup>

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12. A Jordens, 'Cosmopolitan Australia and the new citizen', *Current affairs bulletin*, vol. 74, no. 1, June/July 1997, p. 22.
  13. A Calwell, 'Second reading speech: Nationality and Citizenship Bill 1948', Senate and House of Representatives, *Debates*, 30 September 1948, pp. 1065–66.
  14. A Jordens, *Promoting Australian citizenship 1949–71*, Administration, Compliance and Governability Program Working Paper No. 22, Australian National University, August 1994, p. 10.
  15. A Davidson, *From subject to citizen: Australian citizenship in the twentieth century*, Cambridge University Press, Cambridge, 1997, p. 93.



Immigration levels in the early 1950s were dramatically reduced. Labour shortages in Europe and economic problems in Australia saw a reduction in targets from those of the immediate post-war period. The number of those given assisted passage as part of the immigration program was reduced from 89 000 in 1950–51 to 38 500 in 1953–54. Refugee numbers also declined dramatically in this period, from 75 486 in 1949 to only 446 in 1953–54.<sup>16</sup>

The top five source countries for settler arrivals during the period 1949–59 were the United Kingdom and Ireland, Italy, Germany, the Netherlands and Greece.<sup>17</sup> To assist with the task of integrating new migrants, the Department of Immigration began the Good Neighbour Movement, launched in 1950 at the first Australian Citizenship Conference. The Movement was a national network formed to coordinate the activities of community groups and volunteers assisting migrants to settle in Australia.

In 1954, the General Assisted Passage Scheme was introduced to give assistance to migrants from the USA, Switzerland, Denmark, Norway, Sweden and Finland in order to bring in more migrants from European countries. However, concerns with the immigration program and the low numbers of those becoming Australian citizens persisted with articles in the press in 1955 alleging that migrants would not ‘have any truck with the Australian way of life’ and ‘did their utmost to bind their children with old national ties’.<sup>18</sup>

The *Nationality and Citizenship Act 1955* removed many of the difficulties faced by those attempting to obtain citizenship: Declarations of Intention to apply for citizenship no longer had to be made two years before the application and applications could be made six months prior to the end of the five-year residency qualifying period. Other changes included removing the requirement for intending applicants to advertise their intentions in the newspaper. These changes brought a significant rise in the number of those becoming Australian citizens with the number of naturalisations jumping from 4770 in 1954 to 49 087 in 1959. However, despite the 1955 changes, more than half of those who would have qualified did not apply for citizenship with one of the most cited reasons being the English used in the official documents.<sup>19</sup>

The *Revised Migration Act 1958* introduced a simpler system of entry permits and abolished the Dictation Test which had been a barrier for many non-Europeans attempting to migrate to Australia.

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16. M Armit, *Immigration: the waves that shaped Australia 1945–2005*, Canberra Publishing and Printing, Canberra, 2006. p. 122.

17. DIMA, *Immigration: federation to century's end*, p. 25.

18. *Truth*, 20 November 1955 and *Daily telegraph*, 21 November 1955, quoted in A Jordens, *Promoting Australian Citizenship 1949–71*, p. 18.

19. A Davidson, *From subject to citizen*, p. 93.

## 1960s

The early sixties saw a renewed push behind Australia's immigration program by the Menzies Government. This period also saw a surge in the numbers of those attaining citizenship following the introduction of a new and simplified application form in 1961: 53 211 people became citizens in 1962 which was an increase of more than 10 000 people on the previous year.<sup>20</sup> However, this number was to decline dramatically in the ensuing decade.

The Vietnam War and the introduction of a requirement for all British subjects and Australian citizens to register for conscription in 1964 became a strong disincentive for potential citizens to naturalise. However, non-British subjects who were permanent residents could also be called up for national service and be liable for overseas service. The *Nationality and Citizenship Act No. 11 1967* allowed those who were called up to be eligible for citizenship after three months service. However, a Department of Immigration survey in 1965 found that most migrants simply saw no real advantage in taking up citizenship.<sup>21</sup> Senator Kenneth Anderson explained in parliament other possible reasons for migrants not applying for citizenship:

A number of migrants indicated that their parents and speech brand them indelibly as migrants and that, irrespective of whether they became naturalised, they would still continue to be regarded as migrants.<sup>22</sup>

Immigration levels continued to rise through the decade boosted by the introduction of the Special Passage and Assistance Program in 1966 which allowed European guest workers, who had finished their contracts in Europe, to migrate to Australia. In its first year, 11 000 migrants arrived as part of the program making it the second largest after the assisted passage program for British nationals.<sup>23</sup>

A review of the policy regarding non-European migrants in 1966 sought to increase numbers:

The number of people – though limited relative to our total population – will be somewhat greater than previously, but will be controlled by the careful assessment of the individuals' qualifications, and the basic aim of preserving a homogenous population will be maintained.<sup>24</sup>

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20. Armit, p. 169.

21. K Anderson, 'Proposed expenditure: Department of Immigration', Senate, *Debates*, 21 October 1965, p. 1100.

22. K Anderson.

23. Armit, p. 194.

24. Consular Circular No. 30/66, 'Entry into Australia of non-Europeans', 15 March 1966 quoted in Armit, p. 194.

The changed policy saw the immigration program reach a peak of 185 000 people in 1969. In contrast, the number of those granted citizenship fell to 26 845 in 1969–70.<sup>25</sup> The *Citizenship Act 1969* sought to make it easier for non-British migrants to become citizens by reducing the residency requirement for aliens to two years if they could read, write, speak and understand English proficiently. The same Act sought to raise the importance of the term ‘Australian citizen’ and changed the status of citizens from being British subjects to being Australian citizens with the status of a British subject.

The main source countries for settler arrivals changed slightly over the period 1959–70 with the United Kingdom and Ireland Italy, Greece, Yugoslavia and Germany in the top five. Over forty-five percent of arrivals were from the United Kingdom and Ireland, increasing from around a third to almost a half of all settler arrivals in this decade.<sup>26</sup>

## 1970s

In 1972, the Labor Party led by Gough Whitlam won Government following 23 years in Opposition. The Labor Party’s election platform called for a non-racially based immigration policy and ratification of the *International Convention for the Elimination of All Forms of Racial Discrimination*. A declining economic situation led to the target of the planned migration program being lowered in 1971–72 to 140 000. It was further decreased in 1972–73 to 110 000 and to 80 000 in 1974–75. Priority for admission went to immediate family and workers in occupations for which there remained a demand. In 1973–74, 112 712 settlers arrived.<sup>27</sup>

Then Immigration Minister, Al Grassby, spoke in 1973 of the ‘family of a nation’ in order to describe his Government’s aim of achieving a multicultural Australia through changes to the citizenship legislation, renamed in that year as the *Australian Citizenship Act 1948*.<sup>28</sup> The same requirements relating to residence, good character, language ability, rights and duties of citizenship and the intention to live in Australia permanently were applied equally to everyone with the oath or affirmation to be taken by all. The amendments did not receive bipartisan support however, with the former minister of immigration, A.J. Forbes declaring:

... What is wrong with treating people who are differently placed? What is wrong with discrimination when there are valid overwhelming reasons to discriminate? People from

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25. Australian Bureau of Statistics (ABS), *Year Book Australia 1971*, ABS, Canberra, 1971, p. 148, viewed 17 July 2009,

<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/1301.01971?OpenDocument>

26. DIMA, *Immigration: federation to century’s end*, p. 25.

27. Department of Immigration and Ethnic Affairs (DIEA), *Review ’76*, DIEA, Canberra, 1976, p. 30.

28. A Grassby, ‘Second reading speech: Australian Citizenship Bill 1973’, House of Representatives, *Debates*, 11 April 1973, p. 1312.

Britain historically have been treated differently because they integrate more quickly into the Australian community than any other national group.<sup>29</sup>

There were a number of developments under the Whitlam Government aimed at assisting in the settling and integration of migrants such as the establishment of the Settlement Services Branch of the Department of Immigration in 1973 and the Telephone Interpreter Service in 1974. There was a significant jump in the number of people becoming citizens in this period with a record 125 151 grants of naturalisation in 1975–76. However, immigration numbers declined dramatically with an intake of 52 748 in 1975–76, the lowest since the Second World War. Net overseas migration in 1975 was only 13 515. The source countries of settler arrivals in the 1970s altered markedly from the previous decade with the largest proportion coming from the United Kingdom and Ireland (although the number declined to around a third of all arrivals) followed by Yugoslavia, New Zealand, Lebanon and Greece.<sup>30</sup>

The Fraser Coalition Government sought to increase the number of immigrants and set the target at 70 000 in 1976.<sup>31</sup> An amnesty was also offered to those who had overstayed their visas and become prohibited immigrants. In the same year, the first small boats carrying refugees from Vietnam began arriving on Australian shores.

The Australian Population and Immigration Council released a Green Paper in 1977 outlining three different levels of immigration as options for Australia.<sup>32</sup> Responses were sought from the community and the then minister reported that most supported moderate to high levels of immigration to fuel population growth.<sup>33</sup> The following year, the Government introduced new policies which included three year reviews of immigration targets, an annual net migrant intake of 70 000 and an emphasis on a non-discriminatory approach to the program. A policy focus on developing migrant entry criteria on the basis of benefit to the Australian community and on integration into Australian society saw the introduction of the first number-based migrant selection system, the Numerical Multi-Factor Assessment Scheme (NUMAS) in 1979.<sup>34</sup>

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29. AJ Forbes, 'Second reading: Australian Citizenship Bill 1973', House of Representatives, *Debates*, 9 May 1973, p. 1909.

30. DIMA, *Immigration: federation to century's end*, p. 25.

31. Armit, p. 258.

32. Australian Population and Immigration Council, *Immigration policies and Australia's population: a green paper*, AGPS, Canberra, 1977.

33. Armit, p. 261.

34. DIMA, *Immigration: federation to century's end*, p. 10.

Following the recommendations of the 1978 Galbally review of services and programs for new migrants, the Government cut funding to the Good Neighbour Movement leaving the task of assisting new migrants to the Department of Immigration and local community groups.<sup>35</sup>

## 1980s

Immigration in the 1980s was dominated by a focus on the program's economic importance and effects, partly in response to the opening up of Australian business to international competition. There was an increasing focus on immigrants with particular skills or those who aimed to establish businesses. This period also saw a rise in expressed concern over the number of immigrants arriving from Asian countries and with the idea of multiculturalism as it related to Australia's immigration and settlement policies.

The Regularisation of Status Program in 1980 encouraged those without permanent-resident status to apply for it and enabled those who had previously been refused to re-apply. New visa categories were introduced in 1981 including 'Labour Shortage and Business Migration' as well as 'Independent Migration' favouring those with needed skills and those with family already in Australia.<sup>36</sup> Assisted passages for migrants, with the exception of refugees, ended in 1982.

The new Labor Government in 1983 retained the main immigration policies of the previous Government in regards to regular review of the target intake and a non-discriminatory approach. Citing economic difficulties, the new Government maintained the target migrant intake at around 80–90 000. Settler arrivals in 1982–83 totalled 93 177. However, due to a significant number of departures, net overseas migration reached the lowest level of the 1980s at 54 995 in 1983.<sup>37</sup>

The *Australian Citizenship Amendment Act 1984* was aimed at removing discriminatory aspects of the Act in relation to sex, marital status and nationality. The English language requirement was changed from 'adequate' to basic and applicants over 50 were exempted from the English language requirement. Of particular importance, the definition of the status of British subject was repealed in order for the Act to reflect the national identity of all Australians. The following year saw a rise in the number of new citizens with 114 914 grants of naturalisation in 1985–86, an increase of 20 000 on the 1984–85 period.

There was heated debate over the number of immigrants from Asian countries in both the media and in Parliament. The 1980s saw a dramatic decline in the number of those arriving

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35. The review found that the Good Neighbour movement had not adapted to the changing needs of migrants, and was now largely irrelevant to these needs. F Galbally, *Report of the Review of Post-arrival Programs and Services for Migrants*, (Galbally Review), Australian Government Publishing Service, Canberra, May 1978, p. 75.

36. Armit, p. 286.

37. DIMA, *Immigration: federation to century's end*, p. 23.

from the United Kingdom, falling to 20 per cent of settler arrivals, whilst Vietnam, the Philippines and Malaysia became the first Asian nations to be included in the list of the top five source countries for settler arrivals.<sup>38</sup> For the first time, the total number of settlers from Asia overtook the total number from the United Kingdom.

Amid calls to increase the percentage of immigrants from European countries the Prime Minister Bob Hawke made a defence of the immigration policy of the time:

I do not believe that one can honestly say that there is an immutably right figure for any migrant group within the overall intake. Rather the approach of the Labor Government reflects the application of economic criteria in determining the total intake and of economic and humanitarian factors in breaking down this total among different categories of migrants. This Government does not consider that a balance or mix in our migration program determined on racial grounds can have any place in our society.<sup>39</sup>

A major economic study released in 1985, *The Economic Effects of Immigration on Australia*, highlighted many of the positive effects of immigration on the Australian economy.<sup>40</sup> A 1985 Immigration Department survey indicated that, on average, 14 jobs had been generated by each migrant to the country and large sums of money were being generated by migrants' businesses.<sup>41</sup> The planned intake for 1986–87 was increased to 115 000 with the aim of maintaining Australia's economic development by bringing in more skilled workers. There were also concerns with the ageing of the population as well as with low fertility rates.

Amendments to the *Australian Citizenship Act 1948* in 1986 meant that not all children born in Australia would automatically have citizenship conferred upon them. The requirement for new citizens to renounce other allegiances was also deleted. This renunciation was never legally enforceable and, as some countries do not allow their citizens to divest themselves of their citizenship through renunciation, some migrants could become dual-Australian citizens. Removing the renunciation requirement formalised the toleration of migrants in this situation (but still did not allow Australians migrating overseas to become dual citizens).

The latter part of the decade saw a large increase in the migrant intake, seen as essential for economic development. One change saw some migrants granted three-year resident return visas which were intended to allow those with businesses to gradually transfer their

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38. DIMA, *Immigration: federation to century's end*, p. 25.

39. B Hawke, 'Ministerial statement', House of Representatives, *Debates*, 10 May 1984, p. 2226.

40. NR Neville and KF Meikle, *The economic effects of immigration to Australia*, P series, no. 26, Committee for Economic Development of Australia, Melbourne, 1985.

41. Armit, p. 309.

operations to Australia.<sup>42</sup> Net overseas migration reached 172 794 in 1988, the highest point in the twentieth century.<sup>43</sup>

In 1988, a committee headed by Dr Stephen FitzGerald released an influential report *Immigration: A Commitment to Australia* which found that there were major problems with migrant selection mechanisms, widespread community mistrust of the immigration program and that citizenship was undervalued. The report examined key issues relating to immigration in Australia, particularly public perceptions of the program, non-European migration and the notion of multiculturalism. It made recommendations regarding the size and scale of the program but also on how best to educate the Australian public on the aims and benefits of immigration. It also recommended that Australia's economic and social interests be examined in the course of developing immigration policy, that social harmony be a key consideration and that the non-discriminatory nature of the policy in terms of individuals' ethnic background, sex and religion be emphasised. The issue of multiculturalism was approached as a problem:

Perhaps part of the problem is the word itself. Perhaps too much is expected of the concept. It appears it cannot accommodate the many definitions which are forced upon it by exponents and opponents... Just as Australia is a democracy but it has its own identity, so also is it multicultural, but nonetheless identifiably Australian. It is the Australian identity that matters most in Australia. And if the Government will affirm that strongly, multiculturalism might seem less divisive or threatening.<sup>44</sup>

The debate over the merits of multiculturalism and its usefulness as a concept in guiding immigration and settlement policy was to continue over the following two decades.

The year 1989 was declared the Year of Citizenship by the then Prime Minister and a letter was sent to every household in the country encouraging those eligible, to apply for citizenship. An advertising campaign was launched as well as a telephone hotline. The publicity saw 130 312 people granted citizenship in 1989–90, the most in any year in the twentieth century.<sup>45</sup>

The same year saw the *Migration Amendment Act 1989* receive Royal Assent. This Act established a statutory entitlement to a particular visa or permit based on the satisfaction of selection criteria. It also provided for a statutory two-tier merits review system of migration

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42. DIMA, *Immigration: federation to century's end*, p. 12.

43. DIMA, *Immigration: federation to century's end*, p. 23.

44. Committee to Advise on Australia's Immigration Policies, *Immigration: a commitment to Australia* (S FitzGerald, chair), Department for Immigration, Local Government and Ethnic Affairs, Canberra, 1988, p. 11.

45. Department of Immigration, Local Government and Ethnic Affairs (DILGEA), *Annual Report 1990–91*, DILGEA, Canberra, 1991, p. 136.

decisions. The points selection system was introduced for a number of migration categories under new regulations which gave greater weight to different criteria.

The Senate Standing Committee on Employment Education and Training released two reports focusing on the idea of 'active' citizenship in 1989 and 1991.<sup>46</sup> These reports outlined concern with the lack of political knowledge and civics education amongst the Australian population.

## 1990s

The early 1990s saw the onset of recession and a reduction in migration targets from the high rates of previous years. The number of occupations which were considered to be on the priority list was reduced from eleven to four. The target in 1992–93 was reduced to 80 000, down from 111 000 in the previous year.<sup>47</sup> The focus on immigration was narrowed to specific aims such as certain labour shortages rather than a rapid increase in population. There were increasing concerns over the number of boats carrying asylum seekers arriving on the shores of Australia. Net overseas migration fell to 34 822 in 1993, one of the lowest figures since the Second World War.<sup>48</sup>

The *Migration Reform Act* passed in 1992 codified the immigration program into law through the introduction of a universal visa system. It also expanded the review process relating to migration decisions. The intention of the legislation was to 'regulate, in the national interest, the entry and presence in Australia of persons who are not Australian citizens', to have all non-citizens enter the country via one visa system, and to set out an effective means of 'regulating entry, detention and removal of people who do not establish an entitlement to be in Australia'.<sup>49</sup>

In November 1993, in what became referred to as the '1 November' decision, permanent residence status was provided to a large number of people who were temporarily residing in Australia and those applying for refugee status.<sup>50</sup> This decision was mainly aimed at Chinese nationals who had been in Australia on temporary entry permits, many of whom had come

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46. Senate Standing Committee on Employment, Education and Training, *Education for Active Citizenship in Australian Schools and Youth Organisations*, Commonwealth of Australia, Canberra, 8 March 1989; Senate Standing Committee on Employment, Education and Training, *Active Citizenship Revisited*, Commonwealth of Australia, Canberra, 14 March 1991.

47. Armit, p. 366.

48. DIMA, *Immigration: federation to century's end*, p. 23.

49. G Hand, 'Second reading speech: Migration Reform Bill 1992', House of Representatives, *Debates*, 4 November 1992, p. 2620, viewed 16 July 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F1992-11-04%2F0177%22>

50. DIMA, *Immigration: federation to century's end*, p. 14.



following the 1989 Tiananmen Square massacre, as well those from war-torn Sri Lanka and the former Yugoslavia.

The idea of Australian citizenship came under renewed scrutiny following the publication of the report, *Australians All – Enhancing Australia Citizenship*, in 1994. This report, from the Joint Standing Committee on Migration, recommended the widespread promotion of citizenship coordinated by the Commonwealth:

Such promotion should serve the dual purpose of encouraging non-citizens to become Australian citizens and increasing awareness among all Australians about the meaning and value of Australian citizenship.<sup>51</sup>

In response to this report, then Minister for Immigration, Senator Nick Bolkus, outlined plans to rewrite the *Australian Citizenship Act 1948* to make it clearer and more relevant as well to increase the promotional activities encouraging migrants to become citizens.<sup>52</sup> A Senate committee discussion paper in 1996 also examined the idea of citizenship as an activity rather than a legal status, one that constitutes the national identity.<sup>53</sup> The growing push towards a republic during the early part of this decade also brought the idea of citizenship to the fore in public debate.

This period saw a greater focus on business migration with an increase from 500 places to 2100 and other initiatives to raise the number of those migrating for business. During the period from 1990–2000, the number of settlers from the United Kingdom fell to 13.3 per cent of the total whilst those from New Zealand increased to 12.5 per cent. There was an equivalent number arriving from Asian countries with those from Hong Kong and China together making up 11.9 per cent and Vietnam 5.7 per cent of the total number of settlers.<sup>54</sup>

The election of the Coalition Government in 1996 saw overall migration numbers remain at similar levels to previous years but an increase in the percentage of skilled migrants from 29 per cent in 1995–96 to 38 per cent in 1996–97. Family reunion declined as a percentage of the immigration program from close to 69 per cent in 1995–96 down to approximately 47 per

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51. Joint Standing Committee on Migration, *Australians All—Enhancing Australian Citizenship*, Parliament of the Commonwealth of Australia, Canberra, 1994, p. xvii.

52. N Bolkus (Minister for Immigration), *The ties that bind: a 4-year plan for Australian citizenship*, media release, 4 September 1995.

53. Senate Legal and Constitutional Reference Committee, *National well-being: a system of national citizenship indicators and benchmarks*, Senate Printing Unit, Canberra, 1996, p. 13 in J Walter and M MacLeod, *The citizens' bargain: a documentary history of Australian views since 1980*, UNSW Press, Sydney, 2002, p. 275.

54. DIMA, *Immigration: federation to century's end*, p. 25.

cent in 1996–97.<sup>55</sup> The family stream was to continue to decline as a percentage of the program over the following decade.

Temporary work movements into Australia have grown rapidly since the 1990s. The increase in temporary migrants coming to Australia is part of a significant shift in migration policy as these migrants are not points-tested in the same way as other skilled migrants, there are no numerical limits and a considerable number have sought to remain in the country as permanent residents. The new Coalition Government abolished the labour-market testing requirement for temporary skilled workers and introduced the ‘457’ long term temporary business (employer sponsored) visas in 1996.

The Coalition Government also made a number of immediate changes to migration services following the 1996 election. These included the extension on the six month waiting period for access to welfare benefits, except Medicare, for all non-humanitarian arrivals (introduced by the Keating Government) to two years as well as the abolition of the Office of Multicultural Affairs and the Bureau of Immigration, Multicultural and Population Research in 1996.

In 1998, the Australian Citizenship Council, chaired by Sir Ninian Stephen, was established to advise the Government on citizenship matters.

The arrival of a number of boats carrying asylum seekers in the latter period of the decade saw most public and government attention drawn to the issue of unauthorised arrivals and to Australia’s system of mandatory detention. In 1999, the Howard Government introduced a system of temporary protection visas (TPVs) for those unauthorised arrivals granted asylum in Australia as part of a larger effort to dissuade further boat arrivals. The visas were granted for periods of up to three years at the end of which holders could apply for permanent protection or were obliged to return home.

Net overseas migration declined sharply from 97 444 in 1996 to 72 365 in 1997 but began to rise steadily in the following years. The latter part of the decade also saw a drop in the number of those becoming citizens with only 70 836 grants of naturalisation in 1999–2000, down from 128 554 in 1992–93.<sup>56</sup>

## 2000s

Immigration policy in the early part of the decade was focussed primarily on the issue of unauthorised boat arrivals. A number of incidents focussed Australian and world attention on border protection policies including the MV Tampa’s rescue of a boatload of asylum seekers in the weeks before the 2001 federal election and the refusal of the Government to allow them to disembark on Christmas Island; the passing of legislation to exclude a number of

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55. DIMA, *Immigration: federation to century’s end*, p. 14.

56. Department of Immigration, Multicultural and Indigenous Affairs (DIMIA), *Consolidated Statistics*, DIMIA, Canberra, 2002, p. 27.

external territories from the Migration Zone in 2001; the establishment of detention centres for unauthorised arrivals on Nauru and Manus Island, known as the ‘Pacific Solution’; and, in October of that year, the sinking of the boat, later known as SIEV-X, where 353 people drowned. The number of unauthorised arrivals was to decline dramatically in the months following this tragedy and boats carrying asylum seekers arriving on the Australian shore were to become a rarer occurrence. However, the treatment of those placed in mandatory detention came under increased criticism from a number of churches, community groups as well as human rights agencies.

In 2000, the Australian Citizenship Council released its report, *Australian Citizenship for a New Century* which examined both the concept of citizenship and recommended changes to modernise citizenship law.<sup>57</sup> One of the key recommendations of this report was for Section 17 of the *Australian Citizenship Act 1948* to be repealed so that Australians would not lose their citizenship upon the acquisition of another country’s citizenship. This had been a contentious aspect of the law for many years and the subject of much lobbying, particularly from the expatriate community.<sup>58</sup> As part of its response to this report, the Government made major amendments to the Citizenship Act in 2002 including the introduction of dual nationality for Australian citizens and the extension of citizenship by descent provisions for children born overseas to an Australian citizen so that they were able to register as an Australian up until the age of 25.

Debate over multiculturalism came to the fore in the middle of the decade, particularly in regard to Muslim Australians and the proposed introduction of a more rigorous citizenship test. The September 11 terrorist attacks in the United States, bombings in Bali, high profile rape cases in Sydney involving men from families of Lebanese background and racially motivated riots in Cronulla in 2005 became focal points for public debate over assimilation, immigration, racism and a perceived conflict between Islam and ‘mainstream’ Australian values. A number of senior political figures, including the then Prime Minister, John Howard, repeatedly raised as an issue the failure of small sections of the Islamic community in Australia to integrate and to learn English.<sup>59</sup> The threat of terrorism in Australia was also

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57. Australian Citizenship Council, *Australian citizenship for a new century*, DIMA, Canberra, 2000.

58. See, for example, the Southern Cross Group, which describes itself as a ‘support organisation for the Australian Diaspora’ and which was heavily involved in the debate over dual nationality, viewed 16 July 2009, <http://www.southern-cross-group.org/>. For background to the debate on dual nationality see A Millbank, *Dual citizenship in Australia*, Current Issues Brief, no. 5, 2000–01, Parliamentary Library, Canberra, 2000, viewed 16 July 2009, <http://www.aph.gov.au/library/pubs/CIB/2000-01/01cib05.htm>

59. See, for example, R Kerbaj, ‘PM tells Muslims to learn English’, *Australian*, 1 September 2006 viewed, 4 June 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpress%2F4GQK6%22>; A Fraser, ‘Howard, Costello raise Muslim ire’, *Canberra times*, 4 September 2006, viewed, 4 June 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpress%2FC3RK6%22>

cited by the then Prime Minister in proposing an increase in the residency requirement for citizenship.<sup>60</sup>

In 2006, the Department of Immigration and Multicultural Affairs released a discussion paper on the merits of introducing a citizenship test, *Australian citizenship: much more than a ceremony*. In his foreword to the discussion paper, then Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs, Andrew Robb, stated that Australia has ‘successfully combined people into one family with one overriding culture, based on a set of common values’ and that it was critical that new immigrants ‘understand the Australian way of life and our shared values and demonstrate a commitment to contributing to that way of life and accepting those values’.<sup>61</sup> The discussion paper examined citizenship testing arrangements overseas, particularly the ‘Life in the UK’ test which had been introduced in Britain in 2005. It described the merits of a test as encouraging integration, promoting the value of citizenship and ensuring applicants had appropriate English language skills. In January 2007, the Department of Immigration and Multicultural Affairs was renamed the Department of Immigration and Citizenship.

The *Australian Citizenship Act 2007* significantly restructured the 1948 Act. It introduced a number of measures relating to national security as well as the extension of the residency requirement to four years including a 12 month period of permanent residence before making the application. The *Australian Citizenship Amendment (Citizenship Testing) Act 2007* introduced the new test requirements for citizenship applicants. The test consists of 20 multiple choice questions drawn from a larger pool of questions and based upon information on Australian history, culture and values contained in a resource booklet. A person’s English language skill is assessed by their ability to pass the test in English. The stated aim of the test was that it ‘would encourage prospective citizens to obtain the knowledge they need to support successful integration into Australian society’.<sup>62</sup>

In 2006–07, 169 123 people were approved to become Australian citizens by grant, descent and resumption—the highest annual number since Australian citizenship was introduced in

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60. J Howard (Prime Minister), *Counter-terrorism laws strengthened*, media release, 8 September 2005, viewed 16 July 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2FM98H6%22>

61. Australian Government, *Australian citizenship: much more than a ceremony*, Discussion paper, Department of Immigration and Multicultural Affairs, September 2006, p. 5, viewed 3 July 2009, <http://nla.gov.au/nla.arc-64133>

62. K Andrews, ‘Second reading speech: Australian Citizenship Amendment (Citizenship Testing) Bill 2007’, House of Representatives, *Debates*, 30 May 2007, viewed 16 July 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F2007-05-30%2F0010%22>

1949.<sup>63</sup> Reasons for this particularly high number are likely to have included the new residency requirements which were due to come into effect in July 2007 and the more rigorous citizenship test, which began in October 2007.

In 2007, the permanent migration program target was set at 158 000, the highest level for 20 years. Net overseas migration for 2007, at 184 438 was the highest on record.<sup>64</sup> The main source countries for settlers in Australia in 2007–08 were the UK (15 per cent), New Zealand (13.4 per cent), India (11 per cent), China (10.3 per cent) and South Africa (3.8 per cent).<sup>65</sup> This is the first decade since 1949 that South Africa has appeared in the top five source countries for permanent settlers.<sup>66</sup>

In November 2007, the Rudd Labor Government was elected with a commitment to end the ‘Pacific Solution’ and the temporary protection visa regime, providing all holders of these visas with permanent protection visas. The 2008–09 permanent migration program’s target was set at the record level of 190 000 with an intense focus on skilled migration.<sup>67</sup> The current economic downturn associated with the impact of the Global Economic Crisis has seen this target reduced to 168 700 for 2009–10.<sup>68</sup> The Rudd Government has also made a commitment to change the Australian Citizenship Test following a review in 2008 entitled, *Moving forward...Improving Pathways to Citizenship*.<sup>69</sup> The review found that the test was ‘flawed, intimidating to some and discriminatory’ and that the resource booklet needed to be rewritten in basic English to fit with the legislative requirements of the test.<sup>70</sup> The Minister announced that the resource book for the test will be rewritten, that the pass mark would be raised and that questions would focus on knowledge relevant to the *Pledge of Commitment*

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63. Department of Immigration and Citizenship (DIAC), *Population flows: immigration aspects 2006–07*, DIAC, Canberra, 2008, p. 14.

64. Australian Bureau of Statistics (ABS), *Australian demographic statistics*, Cat no. 3101.0, ABS, Canberra, 2008. Note that the ABS changed its methodology for estimating net overseas migration in September 2006 and estimates from earlier years cannot be accurately compared.

65. DIAC, *Immigration update 2007–08*, DIAC, Canberra, 2008, p. 1.

66. DIMA, *Immigration: federation to century’s end*, p. 25.

67. C Evans (Minister for Immigration and Citizenship), *Record skilled migration program to boost economy*, media release, 13 May 2008.

68. C Evans (Minister for Immigration and Citizenship), *Budget 2009–10- migration program: the size of the skilled and family programs*, media release, 12 May 2009.

69. Australian Citizenship Test Review Committee, *Moving forward...improving pathways to citizenship* (R Woolcott, chair), Australian Citizenship Test Review Committee, 2008, viewed 14 June 2009, [http://www.citizenship.gov.au/test/changes/\\_pdf/moving-forward-report.pdf](http://www.citizenship.gov.au/test/changes/_pdf/moving-forward-report.pdf)

70. Australian Citizenship Test Review Committee, p. 3.

rather than on broader general knowledge of Australian history and culture.<sup>71</sup> A new citizenship course will be developed and those suffering as a result of torture and trauma prior to their arrival in Australia will be added to the list of those eligible for a testing exemption.<sup>72</sup> The Australian Citizenship Amendment (Citizenship Test Review and Other Measures) Bill 2009 was introduced to the Senate on the 25 June 2009 and proposes to amend the legislation to introduce this new testing exemption; to allow for time limits on when the test must be completed following a citizenship application; and, to prevent those under the age of 18 from being eligible for citizenship by conferral if they are not permanent residents.<sup>73</sup>

In 2007-08, 107 662 people were approved to become Australian citizens by conferral, descent or resumption.<sup>74</sup>

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71. C Evans (Minister for Immigration and Citizenship), *New citizenship test to focus on responsibilities and privileges*, media release, 22 November 2008, viewed 14 June 2009, <http://www.minister.immi.gov.au/media/media-releases/2008/ce08110.htm>.

72. See Department of Immigration and Citizenship (DIAC), 'Changes to the citizenship test', DIAC website, viewed 17 July 2009, <http://www.citizenship.gov.au/test/changes/>

73. P Wong, 'Second reading speech: Australian Citizenship Amendment (Citizenship Test Review and Other Measures) Bill 2009', Senate, *Debates*, 25 June 2009, p. 4.

74. DIAC, *Annual Report 2007-08*, DIAC, Canberra, 2008, p. 180, viewed 4 June 2009, <http://www.immi.gov.au/about/reports/annual/2007-08/pdf/>

## Developments in Australian citizenship law

1903

### *Naturalization Act 1903*

Under section 51(xix)(naturalization and aliens) of the Constitution, the Commonwealth enacted the *Naturalization Act 1903*. The Commonwealth was then invested with the exclusive right to issue certificates of naturalisation instead of the colonies as previously. Persons who were naturalised previously and given State and colonial naturalisations were deemed to be naturalized. The Act introduced the conditions under which aliens could acquire the rights and privileges of British subjects. A standard was established which a person was required to meet before they could obtain letters of naturalisation. Persons from Asia, Africa or the Pacific Islands were precluded from applying for naturalisation. Persons were required to be resident in the Commonwealth for two years prior to their application. A person with a United Kingdom certificate of naturalisation or letters of naturalisation could also apply to the Governor-General for a certificate of naturalisation.

1920

### *Nationality Act 1920*

Part III of the *Nationality Act 1920* (the Act) was based on Part II of the British *Nationality and Status of Aliens Act 1914* as amended which enabled the recognition of a uniform naturalisation certificate issued within the Empire in countries where similar legislation had been enacted. The Act adopted Part II of the British Act which was set out in the First Schedule to the 1920 Act. It became known as the “common code system”. The Act introduced a definition of ‘natural born’ British subject. It included:

- a person born within His Majesty’s dominions and allegiance
- a person born outside His Majesty’s dominions and whose father was a British subject or had been naturalized
- a person born on a British ship.

Residence requirements were introduced for naturalisation:

- resided in His Majesty’s dominions for five years or have been in the service of the Crown for five within the last eight years
- good character and an adequate knowledge of English
- intention to reside in His Majesty’s dominions or enter or continue in the service of the Crown.

1948

*Nationality and Citizenship Act 1948*

This Act created an Australian citizenship and anyone who was an Australian citizen was also a British subject. Citizens of other British Commonwealth countries were recognised as British subjects. This Act implemented a principle contained in the United Kingdom *Nationality Act 1948* that people of self-governing countries within the British Commonwealth had a particular status as a citizen of their country as well as having the wider status of a British subject. Australian citizenship could be acquired by:

- birth or descent
- citizenship by registration for British subjects and Irish citizens
- citizenship by naturalisation
- loss of Australian citizenship in certain circumstances
- deprivation of Australian citizenship.

Previously, women who lost their British nationality if they married aliens or if their husband acquired another nationality could regain their citizenship if they were resident in Australia. This Act introduced an oath of allegiance to be taken in public before a judicial officer and to be part of a ceremony designed to impress upon applicants the responsibilities and privileges of Australian citizens.

1955

*Nationality and Citizenship Act 1955*

This Act removed many difficulties in obtaining citizenship. It was no longer compulsory to make a Declaration of Intention to apply for naturalisation two years before the final application for naturalisation was lodged with the Department of Immigration. The new procedure allowed new settlers to make applications for naturalisation six months before their residence qualification was complete (five years). The Minister was given discretionary powers to waive the residence requirement or shorten the period for husbands and wives of Australians. This Act made it no longer necessary for intending applicants for naturalisation to advertise in the newspaper their intention to apply for naturalisation.



1958

*Nationality and Citizenship Act 1958*

This Act removed provisions relating to situations where naturalized persons could lose their citizenship in certain circumstances such as living overseas for more than seven years and not notifying an Australian consulate annually of their desire to retain Australian citizenship or being deemed by the minister to be of bad character. These were replaced by provisions that determined that if a person was guilty of an offence by making false representations or concealing information and the minister considered it in the public interest to do so, then the Minister could deprive that person of their citizenship. Persons who had lost their citizenship under repealed provisions could apply to the Secretary of the Department with a declaration that they wished to resume their citizenship.

1966

*Nationality and Citizenship Act 1966*

This Act amended the residency requirement for spouses of naturalisation applicants. Where a husband or wife is qualified to be a citizen but the partner is not, the eligible partner is granted naturalisation and the non-qualified partner, as the spouse of an Australian citizen then becomes eligible for naturalisation without having to comply with the normal five year residence requirement. This Act made it possible for an Australian citizen and the spouse of the citizen to be naturalised together at the same ceremony.

This Act also incorporated into the oath of allegiance the following words: ‘renouncing all other allegiance’. Previously, during naturalisation ceremonies, applicants were required to renounce their allegiance to their former countries before swearing allegiance to the Queen. Renunciation of allegiance was then a prominent and separate part of the naturalisation ceremony. The Minister claimed the change resulted in a shorter ceremony and ‘eliminated the emotional disturbance felt by candidates due to their natural and rightful love of their homelands’.<sup>75</sup>

1967

*Nationality and Citizenship Act 1967*

This Act reduced the residential qualification for citizenship of non-British subjects (call up did not extend to aliens) who were also permanent residents and who were called up for national service. If called up, they were also liable for overseas service. The Act provided that they would be eligible for citizenship after three months service, regardless of their period of residence in Australia. Persons who were called up and did not finish the three

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75. H Opperman, ‘Second reading speech: Nationality and Citizenship Bill 1966’, House of Representatives, *Debates*, 31 March 1966, p. 833.

months service and were discharged as medically unfit because of their service were also eligible for citizenship. Extending the call-up to non-British citizens meant that Irish citizens, who were neither British subjects nor aliens, were also liable to do national service.

1969

### *Citizenship Act 1969*

In 1968 a general revision of the legislation was undertaken. The Act changed the status of citizens from being British subjects to Australian citizens 'having the status of a British subject' (aliens were defined until 1987 as those not having the status of a British subject and who were not an Irish citizen or protected person). The Act gave primacy to the term 'Australian citizen'. People with permanent residence who were citizens of other Commonwealth countries and who had lived in Australia for five years could have a simplified means of acquiring Australian citizenship. The residency requirement was changed to two years for aliens who could read and write English proficiently and speak and understand it.

1973

### *Australian Citizenship Act 1973*

The title of the Act was changed from the *Citizenship Act 1948* to the *Australian Citizenship Act 1948*. The same requirements in relation to residence, good character, knowledge of the language and rights and duties of citizenship and intention to live in Australia permanently were applied equally to everyone. The residence requirement was three years. The oath or affirmation was to be taken by all. Everyone still had the status of a British subject.

1984

### *Australian Citizenship Amendment Act 1984*

The aim of the legislation was to remove discrimination between persons on the basis of their sex, marital status and present or previous nationality. The residence requirement was reduced from three to two years for citizenship by grant. Applicants were required to have a basic knowledge of English (previously adequate), recognising the difficulty many older persons have in learning a new language. Applicants over 50 were exempt from the 'basic English' requirement. The definition of the status of British subject was repealed to accord with the Government's aim that the Act reflects the national identity of all Australians. The Act also allowed for appeals to the Administrative Appeals Tribunal on a number of grounds where a person was denied or deprived of their citizenship under the Act.

1986

[Australian Citizenship Amendment Act 1986](#)

Prior to this Act, citizenship was conferred automatically on children born in Australia. Under this Act, children born to illegal immigrants, visitors and others temporarily in Australia do not automatically become Australian citizens. However, the Government ensured that any child born in Australia who would otherwise become stateless would gain Australian citizenship. Automatic citizenship was restricted to a child born in Australia who has one parent an Australian citizen or a permanent resident at the time of the child's birth. Resumption of Australian citizenship was to be available to any former Australian citizen subject to the condition that the person concerned should demonstrate a commitment to Australia. Reference to the renunciation of other allegiances was deleted as well as the requirement for applicants to state their names when taking the oath or the affirmation. Some applicants had thought that it meant renouncing their cultural background and all other ties with their country of origin.<sup>76</sup>

For further information see [Australian Citizenship Amendment Bill 1986, Bills digest, no. 14, 1986](#), Parliamentary Library, Canberra, 1986.<sup>77</sup>

1993

[Australian Citizenship Amendment Act 1993](#)

This Act incorporated a preamble into the *Australian Citizenship Act 1948* to recognise the significance of Australian citizenship as a common bond uniting all Australians involving reciprocal rights and obligations. The preamble makes clear that these rights and obligations are enshrined in the Constitution and our laws. The Act introduced a *Pledge of Commitment* to replace the old oath or affirmation of allegiance. The 'distinctively Australian' pledge was intended to give effect to the intent of the preamble by calling on applicants to commit to the Australian nation and people rather than pledging allegiance to the sovereign.<sup>78</sup>

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76. M Hurford, 'Second reading speech: Australian Citizenship Amendment Bill 1986', House of Representatives, *Debates*, 19 February 1986, p. 868, viewed 17 July 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F1986-02-19%2F0096%22>

77. *Australian Citizenship Amendment Bill 1986*, Bills digest, no. 14, 1986, Parliamentary Library, Canberra, 1986, viewed 4 June 2009, <http://www.aph.gov.au/library/pubs/bd/1986/1986bd014.pdf>

78. J Faulkner, 'Second reading speech: Australian Citizenship Amendment Bill 1993', Senate, *Debates*, 6 May 1993, p. 208, viewed 17 July 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansards%2F1993-05-06%2F0052%22>

For further information see [Australian Citizenship Amendment Bill 1993, Bills digest, 6 May 1993](#), Parliamentary Library, Canberra, 1993.<sup>79</sup>

1997

[\*Migration Legislation Amendment Act \(No. 1\) 1997\*](#)

The Government considered that Australian citizenship should not be undermined by allowing a grant of citizenship to stand where it had been obtained by fraud or deception. This Act amended the *Australian Citizenship Act 1948* and the *Migration Act 1958* to allow deprivation of citizenship without time limitation of future grants of Australian citizenship obtained as a result of migration-related fraud. The fraud may have occurred at the time of immigration or at the time application for citizenship.

For further information see E Perdikogiannis, [Migration Legislation Amendment Bill \(No. 3\) 1996](#), Bills digest, no. 53, 1996–97, Parliamentary Library, Canberra, 1996.<sup>80</sup>

2001

[\*Migration Legislation Amendment \(Application of Criminal Code\) Act 2001\*](#)

This Act inserted a new provision into the *Australian Citizenship Act 1948* to clarify the application of Chapter 2 of the Criminal Code to all offences against the *Australian Citizenship Act 1948*. Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility. From 1 January 1997 Chapter 2 applied to all new offences against the Criminal Code and from 15 December 2001 it applied to all pre-existing Commonwealth offences.

For further information see J Norberry, [Migration Legislation Amendment \(Application of Criminal Code\) Bill 2001](#), Bills digest, no. 136, 2000–01, Parliamentary Library, Canberra, 2001.<sup>81</sup>

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79. *Australian Citizenship Amendment Bill 1993*, Bills digest, 6 May 1993, Parliamentary Library, Canberra, 1993, viewed 4 June 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillsdgs%2F6E910%22>

80. Elen Perdikogiannis, *Migration Legislation Amendment Bill (No. 3) 1996*, Bills digest, no. 53, 1996–97, Parliamentary Library, Canberra, 1996, viewed 4 June 2009, <http://www.aph.gov.au/library/pubs/bd/1996-97/97bd053.htm>

81. Jennifer Norberry, *Migration Legislation Amendment (Application of Criminal Code) Bill 2001*, Bills digest, no. 136, 2000–01, Parliamentary Library, Canberra, 2001, viewed 2 July 2009, <http://www.aph.gov.au/library/pubs/bd/2000-01/01BD136.htm>

2002

[Australian Citizenship Legislation Amendment Act 2002](#)

This Act was part of the Government's response to the Australian Citizenship Council's report *Australian Citizenship for a New Century*.<sup>82</sup> The response, entitled *Australian citizenship ... a common bond*, was released in May 2001.<sup>83</sup> This Act introduced dual nationality for Australian citizens. It repealed section 17 with the effect that Australian citizens would not lose their Australian citizenship on the acquisition of citizenship of another country. It also extended the citizenship by descent provisions to allow children born overseas to an Australian citizen parent to be eligible for registration as an Australian citizen by descent until they turn 25 years of age. The Act also contained provisions for young persons who renounced their citizenship to be eligible to resume their Australian citizenship until 25 years of age. Specific reference is made to 'people smuggling' offences and the possibility of a person being deprived of their citizenship if they are imprisoned for more than 12 months.

For further information see the I Ireland, [Australian Citizenship Legislation Amendment Bill 2002](#), Bills digest, no. 78, 2001–02, Parliamentary Library, Canberra, 2002.<sup>84</sup>

2007

[Australian Citizenship Act 2007](#)

The *Australian Citizenship Act 2007* restructured the 1948 Act in accordance with recommendations made by the Joint Standing Committee on Migration, *Australians all: enhancing Australian Citizenship*, 1994 and the Australian Citizenship Council's report, *Australian Citizenship for a New Century* in 2000. Among the recommendations made by the Joint Committee was that the 1949 Act be redrafted using simple language and be recast in a modern drafting style which reflects what was stated by the Minister in his second reading speech on the Bill. The aim of the new Act was to deliver a better structured, clearer and more accessible law, drafted in twenty-first century language.

Major changes to the Act include a framework for the collection, use and storage of personal identifiers to increase the Government's ability to accurately identify people seeking to become citizens. The Act also provides for a prohibition on the Minister approving

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82. Australian Citizenship Council, *Australian citizenship for a new century*, DIMA, Canberra, 2000.

83. Australian Government, *Australian citizenship ... a common bond: Government response to the Australian Citizenship Council*, Commonwealth of Australia, 2001, viewed 4 June 2009, <http://www.citizenship.gov.au/pdf/0501report.pdf>

84. Ian Ireland, *Australian Citizenship Legislation Amendment Bill 2002*, Bills digest, no. 78, 2001–02, Parliamentary Library, Canberra, 2002, viewed 8 July 2009, <http://www.aph.gov.au/library/pubs/bd/2001-02/02bd078.htm>

applications where the applicant has been assessed by Australian Security and Intelligence Organisation as being a direct or indirect risk to Australia's security. The residence requirement was changed to four years in Australia prior to the application being made with a 12 month period as a permanent resident before making the application. There are exemptions for people engaged in activities outside Australia that are beneficial to Australia. Eligibility is not affected for periods of time up to 12 months in the four years that includes three months in the 12 months prior to application. Spouses of Australian citizens need to meet the same eligibility criteria but the Minister has a discretion to treat periods of time spent overseas by spouses of Australian citizens who are permanent residents (includes de facto, widow and widower), as time spent in Australia. This also applies to people in interdependent relationships.

For further information see A Palmer, R Bell, A Martyn, P O'Neill and P Prince, [\*Australian Citizenship Bill 2005 and Australian Citizenship \(Transitionals and Consequentials\) Bill 2005\*](#), Bills digest, nos. 72–73, 2005–06, Parliamentary Library, Canberra, 2005.<sup>85</sup>

### [\*Australian Citizenship Amendment \(Citizenship Testing\) Act 2007\*](#)

This Act requires that prospective applicants for Australian citizenship undertake a citizenship test to ensure that they understand Australia's laws, values and the community generally. The aim of introducing a citizenship test was to aid the integration of new citizens into the community.

For further information see S Harris Rimmer, [\*Australian Citizenship Amendment \(Citizenship Testing\) Bill 2007\*](#), no. 188, 2006–07, Parliamentary Library, Canberra, 2007, viewed 19 August 2009.<sup>86</sup>

## 2009

### [\*Australian Citizenship Amendment \(Citizenship Test Review and Other Measures\) Bill 2009\*](#)

In April 2008, the Australian Government appointed an independent committee, the Citizenship Test Review Committee chaired by Richard Woolcott AC, to examine the operation and effectiveness of the test since its introduction on 1 October 2007. The report of

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85. A Palmer, R Bell, A Martyn, P O'Neill and P Prince, *Australian Citizenship Bill 2005 and Australian Citizenship (Transitionals and Consequentials) Bill 2005*, Bills digest, nos. 72–73, 2005–06, Parliamentary Library, Canberra, 2005, viewed 19 August 2009, <http://www.aph.gov.au/library/pubs/bd/2005-06/06bd072.pdf>

86. S Harris Rimmer, *Australian Citizenship Amendment (Citizenship Testing) Bill 2007*, no. 188, 2006–07, Parliamentary Library, Canberra, 2007, viewed 19 August 2009, <http://www.aph.gov.au/library/pubs/bd/2006-07/07bd188.pdf>

the Committee, *Moving Forward ... Improving Pathways to Citizenship*, made 34 recommendations of which 26 were agreed to by the Government.<sup>87</sup>

The recommendations of the Committee focussed on improvements to the content and administration of the test, the citizenship application process, and ensuring that vulnerable and disadvantaged people were not excluded from becoming citizens because of the test.<sup>88</sup>

The Bill proposes to allow those who have a physical or mental incapacity resulting from torture or trauma to be eligible for citizenship without having to sit the citizenship test; to streamline administrative procedures by allowing the minister to determine a timeframe within which the test must be successfully completed; and, to stipulate that persons under the age of 18 now have to be permanent residents at the time they make their application and when the decision is made. The proposed change removes the ability of children under the age of 18 years and who are not permanent residents to be eligible to apply for citizenship. The stated purpose of the amendment affecting eligibility for citizenship by conferral is to:

... prevent children who are in Australia unlawfully, or, who along with their families, have exhausted all migration options, from applying for citizenship in an attempt to prevent their removal from Australia.<sup>89</sup>

The provision allowing non-permanent resident children under the age of 18 to be eligible for Australian citizenship by conferral has been a part of the legislation since the *Nationality and Citizenship Act 1948* up until the passing of the *Australian Citizenship Act 2007*.

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87. Australian Citizenship Test Review Committee, *Moving forward...improving pathways to citizenship* (R Woolcott, chair), Australian Citizenship Test Review Committee, 2008, viewed 14 June 2009, [http://www.citizenship.gov.au/test/changes/\\_pdf/moving-forward-report.pdf](http://www.citizenship.gov.au/test/changes/_pdf/moving-forward-report.pdf)

88. P Wong, 'Second reading speech: Australian Citizenship Amendment (Citizenship Test Review and Other Measures) Bill 2009', Senate, *Debates*, 25 June 2009, p. 2.

89. P Wong, 'Second reading speech: Australian Citizenship Amendment (Citizenship Test Review and Other Measures) Bill 2009', Senate, *Debates*, 25 June 2009, p. 4.

## Appendix: Key resources on eligibility requirements for citizenship

### Australia

The [Department of Immigration and Citizenship](#) (DIAC) details citizenship eligibility requirements, statistics and information on the Citizenship Test.

### Canada

[Citizenship and Immigration Canada](#) provides information on becoming a Canadian citizen including eligibility requirements and required knowledge for the citizenship test.

### Denmark

The [Ministry of Refugee, Immigration and Integration Affairs](#) provides information on how to acquire Danish nationality (citizenship) including the Danish citizenship test.

### France

Information on the acquisition of French nationality is available (in French) from the [Ministry of Foreign and European Affairs](#).

Further information on the legal provisions regarding French Nationality and the means by which to acquire it is available in the English language version of the [French Civil Code](#).

### Germany

Information on who can become a German citizen and the requirements of naturalisation are available from the [Federal Ministry of the Interior](#).

### Netherlands

Information on attaining Dutch citizenship and the civic integration examination can be accessed from [Department of Justice, Immigration and Naturalisation](#).

### New Zealand

The [Department of Internal Affairs](#) provides information on citizenship requirements, applications and grants.

### Norway

Information regarding Norwegian citizenship can be obtained from the [Norwegian Directorate of Immigration](#).



## Sweden

[The Swedish Migration Board](#) provides information on matters concerning Swedish Citizenship.

## United Kingdom

[The UK Border Agency](#), an executive agency of the Home Office, provides information on acquiring British citizenship, probationary citizenship and the [Life in the UK](#) test.

## United States

[U.S. Citizenship and Immigration Services](#), part of the Department of Homeland Security, provide detail on obtaining citizenship and the U.S. Naturalisation Test.

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