

Friday, 20 September 2019

## Law Council supports INSLM recommendation automatic citizenship loss provision be repealed

The Law Council of Australia has welcomed the Independent National Security Legislation Monitor's (INSLM) report into citizenship stripping laws, which has recommended the 'urgent' repeal of automatic citizenship revocation.

Law Council President, Arthur Moses SC, said the INSLM had adopted several of the Law Council's key recommendations, which should be implemented by the Federal Parliament as soon as possible.

He noted the recommendation that automatic citizenship cessation be repealed addressed the Law Council's key concern in relation to the legislation.

Mr Moses said, in its current form, the *Australian Citizenship Act 2007* (Cth) sets a low threshold for citizenship loss, was not aligned with the principles of natural justice and were an overreach of executive power.

"Under the Act the conduct or behaviour leading to automatic citizenship loss is very broad and poorly defined. It would be difficult for a person to know that they had done something to trigger citizenship cessation until they received ministerial notice," Mr Moses SC said.

"There is also very limited scope for review, which prevents a person faced with having their citizenship stripped with little recourse.

"These are serious decisions and the stripping of a person's citizenship, in the Law Council's opinion, should be up to the discretion of a court, not a minister."

The Law Council has consistently supported that as a minimum there should be a clear right of merits review in relation a ministerial decision to strip citizenship, which the INSLM has recommended in his report.

The INSLM found section 35A, which requires a conviction for a terrorism-related offence before citizenship can be revoked, can remain in place. The Law Council recommended that if citizenship is to be revoked, it should only occur after conviction.

"The Law Council will examine the INLSM's other recommendations, including a the establishment of a ministerial decision-making model with proper safeguards to replace automatic provisions," Mr Moses SC said.

You can read our summary of the INSLM review [here](#).

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### Contacts

**Anne-Louise Brown**

P 0406 987 050

E Anne-Louise.Brown@lawcouncil.asn.au

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