

Tuesday, 1 September 2020

Vital safeguards missing from citizenship cessation laws

Vital safeguards are missing from legislation providing for the cessation of Australian citizenship on terrorism-related grounds, the Law Council of Australia has warned.

The Parliamentary Joint Committee on Intelligence and Security (**PJCIS**) has been reviewing the [Australian Citizenship Amendment \(Citizenship Cessation\) Bill 2019](#) since its introduction in September 2019, and has this afternoon tabled its report. The Bill proposes to make significant amendments to existing, extraordinary provisions of the *Australian Citizenship Act 2007* (Cth) that deal with the circumstances in which Australian dual citizens will lose their Australian citizenship, if convicted of a serious terrorism offence, or have engaged in other terrorism-related activities.

The Law Council welcomes some of the proposed amendments in the Bill, which were also supported by the PJCIS, that implement recommendations of the third Independent National Security Legislation Monitor (**INSLM**), Dr James Renwick SC. This includes the repeal of 'self-executing' provisions for the automatic loss of citizenship by conduct, which the third INSLM found were not a necessary or proportionate response to the threat of terrorism.

However, the Bill fails to implement vital amendments recommended by the third INSLM, including merits review rights for findings made by the Minister for Home Affairs that a person has engaged in conduct that triggers citizenship loss.

"The Bill also proposes to lower the thresholds for citizenship loss, by lowering the maximum penalty for terrorism offences that trigger the citizenship cessation provisions, from six years' imprisonment to three years' imprisonment," said Law Council of Australia President Pauline Wright.

"The Bill also weakens safeguards against rendering a person stateless, casting further doubt on the human rights compatibility of the citizenship loss scheme."

The Law Council recommended multiple amendments to the Bill to strengthen safeguards and thereby ensure its proportionality and human rights compatibility. However, the PJCIS recommended the passage of the Bill with only modest amendments to the matters that the Minister must take into account in assessing whether the relevant factual circumstances exist, in order to trigger citizenship loss.

"While those amendments are improvements, they are minor and insufficient to address serious concerns about the regime," Ms Wright said.

The PJCIS has also recommended that it conducts a further review of the citizenship cessation regime in three years' time.

"The regime could have been improved through amendments to the Bill currently before the Parliament, rather than deferring the matter for another three years," Ms Wright said.

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