



Immigration Advice  
and Rights Centre

04 February 2019

Committee Secretary  
Parliamentary Joint Committee on Intelligence and Security  
PO Box 6021  
Parliament House  
Canberra ACT 2600

**BY EMAIL:** [picis@aph.gov.au](mailto:picis@aph.gov.au).

**Re: Review into the Australian Citizenship Amendment (Strengthening the Citizenship Loss Provisions) Bill 2018 – question taken on notice**

At the public hearing of the Committee's review into the *Australian Citizenship Amendment (Strengthening the Citizenship Loss Provisions) Bill 2018 (Bill)* IARC took on notice the question of whether we would support the recommendation by the Law Council of Australia that in the event that the *Bill* is passed:

*"[t]he reasonable steps that the Minister should make should be set out in the legislation, including a requirement for verification of citizenship, or immediate eligibility for citizenship, of another country. The Minister should be required to be satisfied through such verification that the person will not be rendered stateless by a determination that the person has lost Australian citizenship"*<sup>1</sup>

IARC does not support the *Bill* in its current form. In the event that the Committee is minded to recommend that the *Bill* be passed we would support a recommendation to amend the *Bill* so as to impose a requirement on the Minister to obtain verification of nationality/citizenship before a state of satisfaction can be achieved under proposed s35(1)(b) of the *Australian Citizenship Act 2007 (Act)*. The requirement under s35(1)(b) of the *Act* could be drafted in the following terms:

*"The Minister, having received verification from a country that the person is considered to be a national or citizen by it under the operation of its laws, is satisfied that the person would not, if the Minister were*

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<sup>1</sup> See submission of the Law Council of Australia dated 16 January 2019 at page 15.

*to determine that the person ceases to be an Australian citizen, become a person who is not a national or citizen of any country; and”*

This approach would be more closely aligned with Article 1 of the 1954 *Convention Relating to the Status of Stateless Persons* and Article 8 of the 1961 *Convention on the Reduction of Statelessness*.

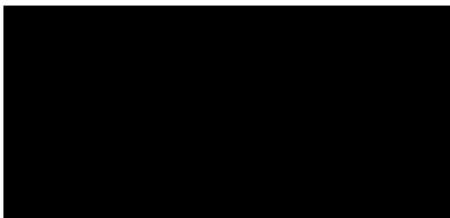
We would not support the legislation allowing the Minister to determine that a person ceases to be an Australian citizen on the basis that the Minister has received verification that the person is *eligible* to acquire the nationality or citizenship of another country. Being eligible to acquire nationality/citizenship does not offer an acceptable assurance that it will, in fact, be granted. This is particularly so where a State retains a discretion to grant citizenship and, as part of the exercise of its discretion, will have regard to matters going to national security, public interest and/or the character of the person.

It would also be appropriate, in our view, that as part of the determination under proposed s35A(1)(d) of the *Act*, the Minister be required to also have regard to the legal and practical consequences of his or her determination. These consequences might include whether:

- the person could be subject to removal or indefinite detention in Australia;
- the person could be subject to removal from Australia in breach of our international non-refoulement obligations (including to another State where there are substantial grounds for believing that they would be in danger of being subjected to torture);
- the person, if removed from Australia, could be subject to double jeopardy in breach of Article 14(7) of the *International Covenant on Civil and Political Rights*; and
- the other verified country of nationality is also giving consideration to revoking the citizenship of the person.

Thank you again for the opportunity to make a contribution to the Committee’s review.

Kind regards,



Ali Mojtahedi  
Principal Solicitor