



1 November 2019

Mr Andrew Hastie MP
Chair
Parliamentary Joint Committee on Intelligence and Security ('the Committee')
By email: pjcis@aph.gov.au

**Response to Questions on Notice from Committee – sent 23 October 2019
re: Australian Citizenship Amendment (Citizenship Cessation) Bill 2019**

Dear Chair,

I thank the Committee for the questions sent through following my appearance at the inquiry, held on Friday 18 October 2019, into the above Bill ('the hearing'). I note that the questions were not raised at the hearing.

At the hearing the Chair (Mr Hastie MP) thanked me for my "directness and clarity", Senator Keneally stated that my submission was "excellent", and Mr Dreyfus MP thanked me for my three submissions to, and two appearances before, the Committee in the last 12 months, and my submission and appearance before the Independent National Security Legislation Monitor's concurrent review of the citizenship deprivation powers.

The guidance attending the questions from the Committee was:

To the extent possible, the Committee would be assisted if you could provide "yes" or "no" answers to the following questions. To the extent that you consider it absolutely necessary to qualify your responses, the Committee would be assisted if such qualifications could be provided in the briefest - and clearest - terms possible, and directly address the question being asked.

In providing answers to these questions, the Committee asks that you focus on how the Bill could operate (as a matter of law) rather than offering a prediction about how the Bill would operate in practice.

I can offer limited assistance to the Committee at this time with respect to the 22 questions asked. My assistance to the Committee is in a private capacity, in addition to core research and teaching commitments. On reviewing the questions, I can only answer five in the above terms, ie with an unqualified or lightly qualified yes/no answer, and accordingly only answer those five questions. Questions as asked by the Committee are italicised, my response following in bold.

...

*2. Under clause 36B of the bill, would it be necessary for a person to have ever been convicted - or even charged - with a criminal offence in order for the Minister to cancel that person's citizenship under clause 36B(1)? - **No, it would not be necessary.***

...

*4. Do the rules of natural justice apply in relation to the Minister's decision to cancel a person's citizenship under clause 36B(1) of the Bill - **No, the rules of natural justice do not apply to a decision made under s 36B(1), see clause 36B(11).***

*5. Under clause 36B(1), is the Minister required to inform a person of the case against them or provide them with an opportunity to be heard prior to making a decision to cancel their Australian citizenship? - **No.***

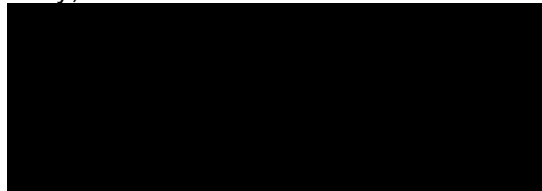
...

*20. Under the bill, the Minister must not make a determination to cancel a person's Australian citizenship under either clause 36B or clause 36D if "the Minister is satisfied that the person would, if the Minister were to make the determination, become a person who is not a national or citizen of any country". Is that formulation contrary to Australia's obligations under the Convention on the Reduction of Statelessness? - **Yes, that formulation is inconsistent with Australia's obligations under the***

1961 Statelessness Convention, which employs the definition of statelessness contained in Art 1(1) of the 1954 Statelessness Convention.

21. If this bill were to become law, would it be possible for the Minister to lawfully render a person stateless? - If 'lawfully' is defined with reference to Australian domestic law alone, yes, it would be possible.

Yours sincerely,



Dr Rayner Thwaites
Senior Lecturer in Public and Administrative Law
University of Sydney