

Chapter 1

Introduction

1.1 On 22 June 2017 the Senate referred the provisions of the Australian Citizenship Legislation Amendment (Strengthening the Requirements for Australian Citizenship and Other Measures) Bill 2017 (the bill) to the Legal and Constitutional Affairs Legislation Committee (the committee) for inquiry and report by 4 September 2017.¹ In referring the bill for inquiry, the Selection of Bills Committee noted that the complexity of the bill required investigation.²

Purpose of the bill

1.2 On 20 April 2017, the Prime Minister, the Hon Malcom Turnbull MP, and the Minister for Immigration and Border Protection, the Hon Peter Dutton MP, announced a package of measures to reform citizenship.³ The Prime Minister explained that the changes were informed by feedback received from the National Consultation on Citizenship in 2015 and on the Productivity Commission's 2016 report, *Migrant Intake into Australia*, and would include:

- Requiring all applicants to pass a stand-alone English test, involving reading, writing, listening and speaking;
- Requiring applicants to have lived in Australia as a permanent resident for at least four years (instead of one year at present);
- Strengthening the citizenship test itself with new and more meaningful questions that assess an applicant's understanding of - and commitment to - our shared values and responsibilities;
- Requiring applicants to show the steps they have taken to integrate into and contribute to the Australian community. Examples would include evidence of employment, membership of community organisations and school enrolment for all eligible children.
- Limiting the number of times an applicant can fail the citizenship test to three (at present there is no limit to the number of times an applicant can fail the test);
- Introducing an automatic fail for applicants who cheat during the citizenship test.⁴

1 *Journals of the Senate*, No. 48, 22 June 2017, p. 1540.

2 Selection of Bills Committee, *Report No.7 of 2017*, 22 June 2017, appendix 2.

3 The Hon Malcom Turnbull, Prime Minister, and the Hon Peter Dutton, Minister for Immigration and Border Protection, 'Strengthening the Integrity of Australian Citizenship', *Media Release*, 20 April 2017.

4 The Hon Malcom Turnbull, Prime Minister, and the Hon Peter Dutton, Minister for Immigration and Border Protection, 'Strengthening the Integrity of Australian Citizenship', *Media Release*, 20 April 2017.

1.3 On 15 June 2017, in his second reading speech, Mr Dutton provided further explanation for the bill:

As a government, we are committed to maintaining strong public confidence and support for our migration and citizenship programs—through an assurance of integrity to the Australian public.

We are proud of our heritage and our generosity as a nation. We look forward to continuing to welcome new migrants—irrespective of race, of religion, of nationality or of ethnic origin—who embrace our Australian laws and our values and who seek to contribute to, rather than undermine, our society.

The measures in this bill, commencing from 20 April 2017, are the government's response to the 2015 *National consultation on citizenship: your right, your responsibility*, which indicated strong community support for strengthening the test for Australian citizenship. The Australian community expects that aspiring citizens demonstrate their allegiance to our country, their commitment to live in accordance with Australian laws and values, and be willing to integrate into and become contributing members of the Australian community.⁵

Overview of the key provisions of the bill

1.4 The bill seeks to make changes to the *Australian Citizenship Act 2007* (Citizenship Act) and the *Migration Act 1958* (Migration Act). It proposes to introduce the following additional requirements for people seeking to obtain citizenship by conferral:

- increase the general residence requirement to require applicants to have been a permanent resident for at least four years;
- require applicants to undertake an English language test by a registered provider and achieve a level of 'competent';
- require applicants to sign an Australian Values Statement;
- require applicants to demonstrate their integration in the Australian community;
- allow for the Minister to determine the eligibility criteria for sitting the citizenship test that may relate to the fact that a person has previously failed the test, did not comply with one or more rules of conduct relating to the test, or was found to have cheated during the test;
- rename the 'pledge of commitment' the 'pledge of allegiance' and require a person to pledge their allegiance to Australia and its people; and
- allow for the *Australian Citizenship Regulation 2016* or an instrument under the Act, to determine the information or documents that must be provided with a citizenship application.

5 The Hon Peter Dutton MP, Minister for Immigration and Border Protection, *House of Representatives Hansard*, No. 9, 15 June 2017, p. 6611.

1.5 These requirements would apply retrospectively from the date of the Government's announcement on 20 April 2017.

1.6 Additionally the bill would confer the following powers so that the Minister may:

- provide for the mandatory cancellation of approval of Australian citizenship if the Minister is satisfied that the person would be subject to prohibitions on approval related to identity, national security or criminal offences;
- provide for the discretionary cancellation of approval of Australian citizenship under certain circumstances;
- provide the Minister with the discretion to delay a person, for up to two years, from making the pledge of allegiance to become an Australian citizen on the basis of the applicant's identity having been assessed as a risk to security, criminal offences, or because the applicant would not meet the requirements for being approved as an Australian citizen;
- provide the Minister with the discretion to revoke a person's Australian citizenship under certain circumstances;
- confer on the Minister the power to make legislative instruments;
- provide the Minister with the power to set aside decisions of the Administrative Appeals Tribunal concerning character and identity;
- provide that certain decisions made by the Minister are not subject to merits review; and
- allow the Minister, the Secretary or an officer to use and disclose personal information obtained under the Act.

1.7 The bill also proposes changes to eligibility requirements for children applying for citizenship by:

- modifying the rules around the automatic acquisition of Australian citizenship so that in a number of cases, a child born in Australia will no longer automatically acquire Australian citizenship after residing in Australia for 10 years;
- requiring all applicants, including applicants under 18 years of age, to pass a character test; and
- modifying provisions relating to applicants for citizenship by conferral who are under 18 years of age, including provisions relating to access to merits review.

1.8 The bill also seeks to amend the Migration Act to allow for the Minister, the Secretary or an officer to use personal information obtained under the Migration Act or Regulation for the purposes of the Migration Act or Migration Regulation. Additionally, subject to a specified exception, the Minister, Secretary or an officer may also disclose personal information obtained under the Migration Act or Migration Regulations to the Minister, the Secretary or an APS employee in the Department for the purposes of the Act and the Citizenship Regulation.

Conduct of the inquiry

1.9 Details of this inquiry were advertised on the committee's website, including a call for submissions to be received by 21 July 2017.⁶ The committee also wrote directly to some individuals and organisations inviting them to make submissions. The committee received over 13,000 pieces of correspondence and has published 635 submissions. The submissions are listed at appendix 1 of this report and can be found on the committee's website.

1.10 The committee received a large number of different types of campaign letters. Due to the volume of campaign letters received, the committee decided to publish one example of each type of campaign letter. Some campaign letters used very similar words and were consequently grouped into the same type of campaign letter. Other campaign letters provided an opportunity for people to include information about their particular circumstances or to express additional comments about the bill.

1.11 The table below outlines the number of signatures received for each type of campaign letter and the respective submission number:

Campaign letter	Number received	Submission number
Campaign letter 1	239	Submission 623
Campaign letter 2	27	Submission 624
Campaign letter 3	25	Submission 625
Campaign letter 4	55	Submission 626
Campaign letter 5	50	Submission 627
Campaign letter 6	15	Submission 628
Campaign letter 7	237	Submission 629
Campaign letter 8	2,627	Submission 630
Campaign letter 9	11	Submission 631
Campaign letter 10	17	Submission 632
Campaign letter 11	28	Submission 633

6 The committee's website can be found at www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs.

Campaign letter 12	1,733	Submission 634
Campaign letter 13	8,021	Submission 635

1.12 The committee notes that as a percentage of the overall adult population of Australia the number of those objecting to the proposed bill is very low and that this can lead to the assumption that most Australians support tightening and strengthening the citizenship regime.

1.13 The committee held public hearings in Sydney, Canberra, Melbourne and Brisbane on 23, 24, 25, and 31 August 2017, respectively. A list of witnesses who appeared before the committee is listed at appendix 2. All Hansard transcripts of the hearings are available on the committee's website.

Financial implications of the proposed measures

1.14 The Explanatory Memorandum notes that the financial impact on the proposed amendments 'is low'.⁷

Reports by other committees

1.15 The Senate Standing Committee for the Scrutiny of Bills noted a number of concerns with the bill, which will be discussed in more detail in chapter 2 of this report.

1.16 The Explanatory Memorandum addresses the human rights implications of these proposed amendments.⁸ It concludes that each schedule is compatible with human rights as, 'to the extent that it may limit human rights, these limitations are reasonable, necessary and proportionate to the objectives'.⁹

Structure of this report

1.17 This report consists of three chapters:

- This chapter provides an overview of the bill, as well as the administrative details of the inquiry.
- Chapter 2 provides a brief background to the bill and other inquiries and consultations relevant to the bill.
- Chapter 3 outlines the provisions of the bill in more detail, and discusses the key issues raised by submitters about the proposed amendments, as well as providing the committee's views and recommendation.

7 Explanatory Memorandum, p. 7.

8 Explanatory Memorandum, pp. 70–88.

9 Explanatory Memorandum, p. 88

Acknowledgements

1.18 The committee thanks all organisations and individuals that made submissions to this inquiry and all witnesses who attended the public hearing.