

Chapter 2

Background to the bill

2.1 There has been a significant amount of activity in the citizenship policy arena over recent years. This chapter will outline recent policy development and consultations that have informed the Australian Citizenship Legislation Amendment (Strengthening the Requirements for Australian Citizenship and Other Measures) Bill 2017 (the bill).

2014 bill

2.2 On 23 October 2014 the Hon Paul Fletcher MP, on behalf of the former Minister for Immigration and Border Protection, the Hon Scott Morrison MP, introduced the Australian Citizenship and Other Legislation Amendment Bill 2014 (2014 bill) into Parliament.¹ Large parts of the 2014 bill are replicated in the current bill. This includes the following provisions:

- Limiting automatic acquisition of citizenship at ten years of age to certain people
- Ministerial power to defer an applicant making the pledge for up to two years
- Ministerial power to cancel approval of citizenship prior to pledge if an applicant is no longer eligible or if the pledge is not made within 12 months
- Extending the good character requirement to applicants under 18 years of age
- Ministerial discretion to revoke citizenship on grounds of fraud or misrepresentation in migration or citizenship processes, without requirement for prior conviction of relevant criminal offences
- Ministerial discretion to revoke citizenship by descent
- Personal decisions made by the Minister in the public interest not being subject to merits review
- The Minister having the power to set aside decisions of the Administrative Appeals Tribunal (AAT) concerning identity and character, in the public interest²

2.3 The 2014 bill was referred to the Legal and Constitutional Affairs Legislation Committee (the committee) for inquiry and report.³ The committee made three recommendations—to clarify whether the provision relating to the revocation of citizenship due to fraud could render a child stateless; to clarify the discretionary nature of the Minister's power to revoke citizenship under this provision; and subject

1 Hon Paul Fletcher MP, *House of Representatives Hansard*, No. 17, 23 October 2014, p. 11743.

2 Department of Immigration and Border Protection, *Submission 453*, p. 28.

3 *Journals of the Senate*, No. 63, 30 October 2014, pp. 1689–1691.

to the first two recommendations, that the 2014 bill be passed.⁴ In April 2016 the 2014 bill lapsed on prorogation of the Parliament.

National Consultation on Citizenship

2.4 On 26 May 2015 the Government commissioned a National Consultation on Citizenship which was led by the then Parliamentary Secretary for Social Services, Senator the Hon Concetta Fierravanti-Wells, and the Hon Phillip Ruddock MP, Special Envoy for Citizenship and Community Engagement. Feedback was sought over a number of months and held consultations with key stakeholders in Canberra, Melbourne and Sydney; held public consultations in New South Wales, Queensland, Victoria, Northern Territory, South Australia, Western Australia and Tasmania; and received 2,544 responses to an online survey and more than 400 written submissions.⁵

2.5 On 2 May 2016, the final report of the National Consultation, *Australian Citizenship: Your right, your responsibility*, was presented to the Prime Minister and made 15 recommendations, which largely related to strengthening the requirements for citizenship.⁶ The recommendations are listed at appendix 3 of this report.

2.6 The committee notes that this survey reflects the views of the wider public as represented by their federal parliamentarians.

Government's response to the National Consultation

2.7 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 that the Government would be introducing changes to strengthen the integrity of Australian citizenship.⁷ The Prime Minister explained that the changes were informed by feedback received from the National Consultation on Citizenship and on the Productivity Commission's 2016 report, *Migrant Intake into Australia*.⁸

2.8 The announcement coincided with the release of a discussion paper, *Strengthening the Test for Australian Citizenship*, which sought submissions by 1 June 2017. The discussion paper noted that the new citizenship-related legislation would be introduced in Parliament by the end of 2017; that the legislation would be

4 The Senate Legal and Constitutional Affairs Committee, *Australian Citizenship and Other Legislation Amendment Bill 2014 [Provisions]*, 1 December 2014, p. 42.

5 Senator the Hon. Concetta Fierravanti-Wells and the Hon. Philip Ruddock, *Australian Citizenship—Your right, your responsibility*, National Consultation on Citizenship, Final Report, 2015, p. 6.

6 Senator the Hon. Concetta Fierravanti-Wells and the Hon. Philip Ruddock, *Australian Citizenship—Your right, your responsibility*, National Consultation on Citizenship, Final Report, 2015, pp. 22–23.

7 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.

8 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.

informed by responses to the discussion paper; and that the reforms would apply to applications received on or after 20 April 2017.⁹ The paper sought submissions in relation to the following areas:

- increasing the general residence requirement to a minimum of four years permanent residence immediately prior to their application for citizenship;
- introducing an English language test to demonstrate competent English language listening, speaking, reading and writing skills prior to being able to sit the citizenship test;
- strengthening the Australian Values Statement to include reference to allegiance to Australia and require applicants to make an undertaking to integrate into and contribute to the Australian community;
- introduction of a new test for Australian citizenship;
- introduce a requirement for applicants to demonstrate their integration into the Australian community;
- strengthening the pledge of commitment and extending the requirement to applicants aged 16 years and extending the requirement for all streams of citizenship application take the pledge.¹⁰

2.9 The above policy proposals largely form the proposed additional requirements for people seeking to obtain citizenship by conferral. The current bill incorporates elements of the discussion paper, alongside proposed measures made by the 2014 bill, as well as feedback from parliamentary members.

9 The Hon Malcom Turnbull, Prime Minister, and the Hon Peter Dutton, Minister for Immigration and Border Protection, *Strengthening the test for Australian citizenship*, April 2017, p. 19.

10 The Hon Malcom Turnbull, Prime Minister, and the Hon Peter Dutton, Minister for Immigration and Border Protection, *Strengthening the test for Australian citizenship*, April 2017, pp. 6–7.

