

Public Submission regarding the provisions of the proposed
Australian Citizenship Amendment (Citizenship Testing) Bill 2007.

from
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Thankyou for the invitation to comment on the proposed legislation and associated regulations and processes.

I agree with the principle that prospective citizens should undertake a test as part of the process of becoming an Australian citizen, and while it is desirable for them to have a working knowledge of Australia's system of government and values, it is just as important to promote a better level of understanding about the obligations of citizens to each other and the government, and the obligations of government to citizens.

However, I do not believe this bill is necessarily the best means of achieving these desirable ends, and may even lead to unfair treatment, which is against Australian values as most people understand them.

My concerns can be grouped into three areas:

1. The lack of specificity about the nature of the test
2. The lack of constraints on the minister or administrative review
3. The lack of measures catering for those with special needs

A. Nature of the Test

There is no description in the legislation of the content covered by the test and criteria for determining the degree of difficulty required to pass.

The legislation should outline relevant content and limit it to two subject areas

1. **The political system:** This could include the nature of the parliament and the executive, that we are a federation of states, the electoral process, and the doctrine of separation of powers.
2. **Core values:** This could include an outline of freedoms and duties, including the obligations of citizens to each other and the government, and the obligations of the government to the citizens. However, it is invalid to ask questions about such freedoms and duties until they are codified (preferably in the constitution and thus binding on all states), and made readily available in a form understandable by the general public. A good example of such codification that is readily understandable is Part II of the draft constitution of the European Union ([Charter of Fundamental Rights](#)). I believe this charter is the most complete statement available about the “western values” we hold dear, and hope all citizens understand.
3. **Degree of difficulty:** An indication of the degree-of-difficulty should be included in the legislation. This should not be more detailed than expected of a natural-born citizen able to vote (e.g. you should not have to be a constitutional lawyer to pass any sections on the political system, nor a professional ethicist to pass any sections about core values).

While [discussion at the citizenship.gov.au site](#) indicates that knowledge equivalent to that of natural Australians who have attended primary schools is any guide, if the pass-rate is set at 60%, and if this reflected the statistical mean of knowledge of the average Australian (which is only fair), then the test would be meaningless (for example, many Australians mistakenly believe we have a bill or charter of rights, which, unfortunately, is untrue at a federal level).

4. **Mode and Cost of Administration:** The increase in the costs for applications (from \$120 to \$240 may be prohibitive to those worthy of being citizen but relatively poor) and seems quite high if the proposed computer-based provides appropriate efficiency gains, and suggests that administration of the test by any person qualified to witness a statutory declaration would be just as cheap, and possibly more convenient for potential citizens.

B. Ministerial Prerogatives

1. There seems to be no restriction on the minister making determinations on the content, passing grades, means of administration or eligibility to set the test on an individual-by-individual basis, opening up the possibility for abuse similar to that a few decades ago when a test “in a language of the British Isles” was given to a continental European in Gaelic, rather than English (which he did understand).
2. As a “passing grade” does not oblige the commonwealth to grant citizenship, it is unreasonable for the minister to decide who may sit the test. Indeed, it may be useful for people in other countries to choose to sit the test in our consulates (or over the internet) before they decide whether they would like to move to, or even visit, Australia.
3. The subject matter, form of the questions, passing criteria and means of administration of the test, whenever modified by the minister or the department, should be properly gazetted, and subject to review within a reasonable time by an Administrative Appeals tribunal if objections are raised by appropriate persons or bodies outside of the government (for example, a group of lawyers concerned about human rights and civics matters).

C. Special Circumstances

1. While there is some discussion on the citizenship.gov.au site of the possibility of oral administration of the test where the prospective citizen has a learning difficulty, there is no guidance in the legislation as to what circumstances stances quality for oral administration, or even the use of simplified language constructs.
2. It may also be unfair if immigrant parents both pass the test and become citizens while their child (by youth, or if an adult in their care, severe communication difficulties) are precluded from also becoming citizens.
3. Similar considerations would apply to elderly parents of new citizens who, because of age, will have difficulties acquiring a new language, yet are capable of acting as useful members of society, and contributing to the well-being of future generations of Australians (for example by supplying care to grandchildren).
4. Another class of people who do not seem to be acknowledged in the legislation, yet would place a great store in the values of the rule of law and a democratic society are those who have come to Australia from repressive regimes. Such people often have great gaps in their education that would make learning a new language and sitting a test difficult without special administration, even though they are able to gain useful employment in a number of fields.