

Law Council tells Inquiry proposed citizenship-stripping laws are deeply flawed

Proposed legislation to allow dual nationals to be stripped of their Australian citizenship on national security grounds is flawed and should be amended or reconsidered altogether, according to the Law Council of Australia.

Law Council President Mr Duncan McConnel, who addressed the Inquiry into the Australian Citizenship Amendment (Allegiance to Australia) Bill 2015 in Canberra today, said the legal profession's peak national body had serious concerns about the legislation.

"We recognise the Bill seeks to pursue the legitimate objective of addressing terrorism and providing consequences for citizens who are no longer loyal to Australia and its people. However, there are a number of problems with the proposed scheme," said Mr McConnel.

The President used the hearing to reinforce key points made in the [Law Council's written submission](#):

1. The mechanism for revocation of citizenship is clumsy; its drafting seems driven by a need to avoid constitutional invalidity rather than a workable, simple mechanism with some protection of rights.
2. The conduct or behaviour that leads to automatic loss of citizenship is very broad and imprecise. It means it would be very hard to know if someone had done something to trigger loss of citizenship until they get the notice from the Minister.
3. There is only very limited review. A person faced with loss of citizenship should have the opportunity to explain or even defend their actions, and for a reasonable decision of the Minister to follow. The Court should supervise the loss of such a fundamental and important privilege.
4. A proper decision-making process leading to revocation of citizenship would provide a means for safeguarding children and people who would be rendered stateless by such a decision.
5. The laws should not apply to past conduct, except where it relates to a conviction obtained after commencement.

Mr McConnel noted that while it was not clear to the Law Council that the stripping of citizenship was a necessary response to the threat of terrorism, responsibility for that judgement rightly lay with Parliament.

"If it is decided that the removal of citizenship is appropriate, a change of approach should be considered," Mr McConnel concluded.

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