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Law Council warns against handing Home Affairs Minister power to render Australians stateless

The Law Council of Australia has told a parliamentary inquiry today that the government's proposed new citizenship-stripping laws would create the potential for the Home Affairs Minister, Peter Dutton, to render Australians stateless.

[Representatives from the Law Council warned the Parliamentary Joint Committee on Intelligence and Security](#), that the proposed changes may be inconsistent with our international obligations.

Under the proposed legislation as it is drafted, the Minister can strip anyone convicted of terrorism-related offences of their Australian citizenship regardless of the severity of the conviction. The proposed legislation stipulates the Minister need only be 'satisfied' that the person would have another citizenship – a much lower and vaguer threshold.

Current laws allow individuals to lose citizenship if they are convicted of a terrorism-related offence with a prison sentence of at least six years, and have citizenship of another country.

The President of the Law Council of Australia, Arthur Moses SC, said that measures to remove citizenship challenge key legal principles on which our democracy was founded.

"We completely understand the necessity of laws to keep Australians safe. But the laws must be proportionate, backed by evidence and adhere to our international obligations. This bill misses the mark in all of these areas," Mr Moses said.

"The proposed changes create a real risk that a person could have their citizenship removed while possessing no other citizenship, thus rendering them stateless.

"As the recent history demonstrates, in both the case of members of Parliament and the Prakash case, determining existing foreign citizenship can be extremely difficult. Determinations based on predictions about future foreign citizenship, which may include decisions by foreign governments, are obviously fraught.

"We also do not believe that the proposed laws are proportionate to the threat faced. The current thresholds to strip dual citizens of their Australia citizenship was the subject of extensive inquiry by the Committee in 2015. Since then the national threat level has not changed."

Mr Moses said it was the recommendation of the Law Council that the bill not be passed, but if Parliament was still going to proceed, there must be considerable amendments.

"The current six-year imprisonment threshold should be maintained. An individual convicted of associating with a terrorist organisation, for example, should not be subject to having their citizenship stripped at the discretion of the Minister," Mr Moses said.

"The Minister should also be required to verify that an individual stripped of Australian citizenship, is a citizen – or immediately eligible to become a citizen – of another nation. Furthermore, a decision of the Minister to deprive a person of their Australian citizenship should afford procedural fairness and should be subject to judicial and merits review."

[You can read the Law Council's earlier submission here.](#)

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The Law Council of Australia is the national voice of the legal profession, promoting justice and the rule of law.