

30 January 2019

Your ref N Molt

Our ref BDS Gen Advocacy

Dr Natasha Molt
Director of Policy
Law Council of Australia
GPO Box 1989
CANBERRA ACT 2601

By email: [REDACTED]

Dear Director [REDACTED]

Australian Citizenship Amendment (Strengthening the Citizenship Loss Provisions) Bill 2018

Thank you for the LCA memo dated 5 December 2018 and the opportunity to provide comments on the Australian Citizenship Amendment (Strengthening the Citizenship Loss Provisions) Bill 2018 (**the Bill**).

Our brief comments on the Bill follow.

1. Schedule 1—Amendments 1 - *Australian Citizenship Act 2007*

1 Subsection 35A(1)

This provision deals with the cessation of citizenship on determination by Minister. The proposed amendment states:

- (1) The Minister may determine in writing that a person ceases to be an Australian citizen if:
 - (b) the Minister is satisfied that the person would not, if the 6 Minister were to determine that the person ceases to be an 7 Australian citizen, become a person who is not a national or 8 citizen of any country;

The Society is concerned about the lack of detail as to the process the Minister must follow to determine whether the person is “not a national of any country or citizen of any country”. In our view, the determination process should be specified in the Bill. In this regard, we recommend that the determination process follow the procedure as prescribed by the United Nations High Commissioner for Refugees in its Handbook on the Protection of Stateless Persons (created under the 1954 Convention relating to the status of stateless persons).

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In practice, we understand that the Citizenship Loss Board makes decisions regarding whether dual nationals can be stripped of their Australian citizenship. We understand that the composition of the Citizenship Loss Board has not been released but it is comprised of intelligence and police officers and officials from a range of government departments. The ability of public servants to make decisions concerning an individual's citizenship status is very concerning and has serious implications for the separation of powers.

Also troubling is the fact that the rules of evidence and procedure under which the Citizenship Loss Board operates are also not publicly available. We understand that proceedings might be heard ex parte, which undermines the rule of law and the procedural fairness.

We urge the government to make the composition, rules, procedures and decisions of the Citizenship Loss Board publicly available.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team on policy@qls.com.au.

Yours faithfully



Bill Potts
President