



Law Council
OF AUSTRALIA

Office of the President

1 February 2019

Mr Andrew Hastie MP
Chair
Parliamentary Joint Committee on Intelligence and Security
PO Box 6021
Parliament House
CANBERRA ACT 2600

By email: pjicis@aph.gov.au

Dear Mr Hastie

Supplementary Submission to the inquiry into the Australian Citizenship Amendment (Strengthening the Citizenship Loss Provisions) Bill 2018

1. Thank you for the opportunity for the Law Council to provide an additional written submission to the Parliamentary Joint Committee on Intelligence and Security's (**the Committee**) inquiry into the Australian Citizenship Amendment (Strengthening the Citizenship Loss Provisions) Bill 2018 (**the Bill**). The views expressed in this supplementary submission are the views of the Queensland Law Society (**the Society**).
2. Regarding proposed paragraph 35A(1)(b), 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'. The Society considers that the determination process should be specified in the Bill. In this regard, it recommends 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*,¹ which was created under the 1954 *Convention Relating to the Status of Stateless Persons*.²
3. The Society understands that, in practice, the Citizenship Loss Board (**the Board**) makes decisions regarding whether dual nationals can be stripped of their Australian citizenship. It notes that while the composition of the Board has not been released, it appears that it is comprised of intelligence officers, police officers and officials from a range of government departments. The Society considers that 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.
4. The Society also expresses concern about the fact that the rules of evidence and procedure under which the Board operates are also not publicly available. It

¹ The United Nations High Commissioner for Refugees, *Handbook on the Protection of Stateless Persons: Under the 1954 Convention Relating to the Status of Stateless Persons* (2014).

² *Convention Relating to the Status of Stateless Persons*, 360 UNTS 117 (entered into force 6 June 1960).

understands that proceedings might be heard ex parte, which undermines the rule of law and procedural fairness.

5. The Society recommends that the Government make publicly available the composition, rules, procedures and decisions of the Board.
6. Please contact Dr Natasha Molt, Director of Policy, on (02) 6246 3754 or at natasha.molt@lawcouncil.asn.au in the first instance, if you require further information or clarification.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Moses'.

Arthur Moses SC
President