

Committee Secretary
Parliamentary Joint Committee on Intelligence and Security
PO Box 6021
Parliament House
Canberra ACT 2600

Email: pjicis@aph.gov.au

FECCA submission regarding the Australian Citizenship Amendment (Strengthening the Citizenship Loss Provisions) Bill 2018

The Federation of Ethnic Communities' Councils of Australia (FECCA) is the national peak body representing Australia's culturally and linguistically diverse (CALD) communities and their organisations.

FECCA provides advocacy, develops policy and promotes issues on behalf of its constituency to Government and the broader community. FECCA strives to ensure that the needs and aspirations of Australians from diverse cultural and linguistic backgrounds are given proper recognition in public policy.

FECCA supports multiculturalism, community harmony, social justice and the rejection of all forms of discrimination and racism so as to build a productive and culturally rich Australian society. FECCA's policies are developed around the concepts of empowerment and inclusion and are formulated with the common good of all Australians in mind.

FECCA would welcome the opportunity to expand on this submission as required. For enquiries please contact FECCA Acting CEO Mohammad Al-Khafaji at mohammad@fecca.org.au or on (02) 6282 5755.

Key Points

- FECCA opposes the Australian Citizenship Amendment (Strengthening the Citizenship Loss Provisions) Bill 2018.
- FECCA believes that the Minister should be obligated to ensure that the person is a national or citizen of a country other than Australia at the time when the Minister makes the determination - not merely be "satisfied" of this fact.
- FECCA is concerned that this amendment will restrict the availability for review where, despite the Minister being 'satisfied that the person would not... become a person who is not a national or citizen of any country,' the cessation of their Australian citizenship would result in the person becoming stateless.
- It is FECCA's view that, given the devastating and long lasting impact on the individual, their family and community, citizenship loss provisions must be limited only to the most serious crimes as judged by the courts on the bases of the penalty applied by the judicial system proportionate to the details of the crime.
- FECCA believes the removal of an individual from Australia – including some who have spent their whole lives in this country – can have a devastating impact on the individual, their family and community.

Discussion

The explanatory memorandum states - 35A(1)(b) “adjusts the threshold for dual citizenship to capture Australian citizens who the Minister is satisfied will not become a person who is not a national or citizen of any country as a result of cessation of citizenship. This is consistent with other provisions of the Citizenship Act.” FECCA believes that whether (35A(1)(b) a person would, if their Australian citizenship was ceased, become a person who is not a national or citizen of any country is not a subjective matter just as the requirement that (35A(1)(a) “the person has a relevant terrorism conviction or a relevant other conviction.” As both are objective facts, and the potential for devastating and long lasting impact on the individual, their family and community, FECCA believes the threshold for this determination of cessation of citizenship should not be lowered to simply the Minister’s satisfaction. The recent decision to cease Neil Prakash’s Australian citizenship highlights the difficulty in determining the dual national/citizen status of a person and the requirement for a more rigorous process to ensure no Australian becomes stateless.

FECCA is concerned that the proposed amendments may lead to grave injustice in the cessation of citizenship and the eroding of individual human rights and freedoms. Removing the requirement for a 6 year imprisonment sentence for the Minister to make a determination to cease a person’s Australian citizenship allows the Minister and the Department to assume the role of the court in assessing criminal conduct. Instead, the established law enforcement processes in states and territories in determining the seriousness of each individual crime and the details surrounding this should be relied upon when making a determination with such dire consequences.

FECCA wishes to state its expertise is not in legal matters, FECCA endorses and urges the committee to refer to the submission from the Law Council of Australia and the Australian Human Rights Commission for further information on the technicalities of the proposed amendments.