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## Reserve citizenship deprivation only for most extraordinary of cases

Citizenship deprivation must only occur in exceptional circumstances where an individual has been convicted of a serious offence by an independent, impartial and competent court, the Law Council advised the Parliamentary Joint Committee on Intelligence and Security (PJCIS) today.

“While recent reforms to citizenship deprivation laws represent an improvement on the previous framework by vesting decision-making powers in the judiciary as opposed to the executive, we must still ensure these laws are necessary, proportionate and supported by evidence,” Law Council of Australia President, Mr Greg McIntyre SC said.

Appearing before the PJCIS as part of its Review of the amendments made by the Australian Citizenship Amendment (Citizenship Repudiation) Bill 2023, the Law Council argued that citizenship deprivation challenges key political and legal principles on which our democracy was founded.

“Removing a person’s citizenship is a very serious response with very serious consequences, including potential deportation or detention, and the risk of rendering a person stateless—these provisions should have been subject to careful consideration prior to passage,” Mr McIntyre said.

“Introduction of laws concerning citizenship repudiation, at the time of sentencing, is inconsistent with our criminal justice system, which is based upon not only punishment and retribution, but the encouragement of rehabilitation for the benefit not only of the offender, but of the community.

“These provisions risk undermining consistency in sentencing of federal offenders. This is because they envisage a significant departure from orthodox principles of sentencing in respect of similar offending behaviour, only in respect of dual citizens.

“Therefore, we believe that the changes made by the 2023 Citizenship Amendment should be significantly altered to ensure the objectives of citizenship deprivation measures are achieved in a proportionate manner.

“If the 2023 Citizenship Amendment is retained, we have made a number of recommendations, including that children under the age of 18 be exempt from citizenship deprivation and that it should only be available where a person has been sentenced to six or more years of imprisonment for a serious terrorism offence, or, subject to additional justification, treason, sabotage or espionage. Concurrent sentences should not be counted cumulatively for the purpose of determining eligibility for citizenship deprivation.”

The Law Council has also criticised the retrospective application of the scheme, calling for it to apply only to convictions that pertain to conduct after the commencement date of 8 December 2023.

The Law Council of Australia’s submission to the PJCIS Review of the amendments made by the Australian Citizenship Amendment (Citizenship Repudiation) Bill 2023 is available [here](#).

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**Contact:** Kristen Connell, P. 0400 054 227, E. [kristen@talkforcemedia.com.au](mailto:kristen@talkforcemedia.com.au)

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