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The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Australian Citizenship Amendment  
(Allegiance to Australia) Bill 2015**

**No.     , 2015**

*(Immigration and Border Protection)*

**A Bill for an Act to amend the *Australian  
Citizenship Act 2007*, and for related purposes**



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**A Bill for an Act to amend the *Australian  
Citizenship Act 2007*, and for related purposes**

The Parliament of Australia enacts:

**1 Short title**

This Act may be cited as the *Australian Citizenship Amendment  
(Allegiance to Australia) Act 2015*.

**2 Commencement**

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The day after this Act receives the Royal Assent.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### **3 Schedules**

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

### **4 Purpose of this Act**

This Act is enacted because the Parliament recognises that Australian citizenship is a common bond, involving reciprocal rights and obligations, and that citizens may, through certain conduct incompatible with the shared values of the Australian community, demonstrate that they have severed that bond and repudiated their allegiance to Australia.

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## Schedule 1—Amendments

### *Australian Citizenship Act 2007*

#### **1 Section 32A**

Omit:

- you serve in the armed forces of a country at war with Australia: see section 35; or

substitute:

- you engage in various kinds of conduct inconsistent with allegiance to Australia: see sections 33AA, 35 and 35A; or

#### **2 Section 33 (heading)**

Repeal the heading, substitute:

#### **33 Renunciation by application**

#### **3 After section 33**

Insert:

#### **33AA Renunciation by conduct**

##### *Renunciation and cessation of citizenship*

- (1) Subject to this section, a person who is a national or citizen of a country other than Australia renounces their Australian citizenship if the person acts inconsistently with their allegiance to Australia by engaging in conduct specified in subsection (2).

Note: The Minister may, in writing, exempt the person from the effect of this section in relation to certain matters: see subsection (7).

- (2) Subsection (1) applies to the following conduct:
- (a) engaging in international terrorist activities using explosive or lethal devices;
  - (b) engaging in a terrorist act;

- (c) providing or receiving training connected with preparation for, engagement in, or assistance in a terrorist act;
  - (d) directing the activities of a terrorist organisation;
  - (e) recruiting for a terrorist organisation;
  - (f) financing terrorism;
  - (g) financing a terrorist;
  - (h) engaging in foreign incursions and recruitment.
- (3) Words and expressions used in paragraphs (2)(a) to (h) have the same meanings as in Subdivision A of Division 72, sections 101.1, 101.2, 102.2, 102.4, 103.1 and 103.2 and Division 119 of the *Criminal Code*, respectively.
- (4) Subsection (1) applies to a person who is an Australian citizen regardless of how the person became an Australian citizen (including a person who became an Australian citizen upon the person's birth).
- (5) Where a person renounces their Australian citizenship under this section, the renunciation takes effect, and the Australian citizenship of the person ceases, immediately upon the person engaging in the conduct referred to in subsection (2).

Note: A child of the person may also cease to be an Australian citizen: see section 36.

*Minister to give notice*

- (6) If the Minister becomes aware of conduct because of which a person has, under this section, ceased to be an Australian citizen, the Minister must give written notice to that effect at such time and to such persons as the Minister considers appropriate.

*Minister's power to rescind notice and exempt person*

- (7) Where the Minister has given a notice under subsection (6) relating to a person, the Minister may, if he or she considers it in the public interest to do so:
- (a) rescind the notice; and
  - (b) exempt the person from the effect of this section in relation to the matters that were the basis for giving the notice.



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- (8) The Minister does not have a duty to consider whether to exercise the power under subsection (7), whether he or she is requested to do so by any person, or in any other circumstances.

*General provisions relating to Minister's powers*

- (9) The powers of the Minister under this section may only be exercised by the Minister personally.
- (10) The rules of natural justice do not apply in relation to the powers of the Minister under this section, and section 47 does not apply in relation to the exercise of those powers.
- (11) An instrument exercising any of the Minister's powers under this section is not a legislative instrument.
- (12) Section 39 of the *Australian Security Intelligence Organisation Act 1979* does not apply in relation to this section.

#### **4 Section 35**

Repeal the section, substitute:

### **35 Service outside Australia in armed forces of an enemy country or a declared terrorist organisation**

*Cessation of citizenship*

- (1) A person ceases to be an Australian citizen if:
- (a) the person is a national or citizen of a country other than Australia; and
  - (b) the person:
    - (i) serves in the armed forces of a country at war with Australia; or
    - (ii) fights for, or is in the service of, a declared terrorist organisation; and
  - (c) the person's service or fighting occurs outside Australia.

Note: The Minister may, in writing, exempt the person from the effect of this section in relation to certain matters: see subsection (6).

Note 2: A child of the person may also cease to be an Australian citizen: see section 36.

- (2) The person ceases to be an Australian citizen at the time the person commences to so serve or fight.
- (3) Subsection (1) applies to a person who is an Australian citizen regardless of how the person became an Australian citizen (including a person who became an Australian citizen upon the person's birth).
- (4) A **declared terrorist organisation** is any terrorist organisation, within the meaning of paragraph (b) of the definition of **terrorist organisation** in subsection 102.1(1) of the *Criminal Code*, that the Minister declares, in writing, is a declared terrorist organisation for the purposes of this section.

*Minister to give notice*

- (5) If the Minister becomes aware of conduct because of which a person has, under this section, ceased to be an Australian citizen, the Minister must give written notice to that effect at such time and to such persons as the Minister considers appropriate.

*Minister's power to rescind notice and exempt person*

- (6) Where the Minister has given a notice under subsection (5) relating to a person, the Minister may, if he or she considers it in the public interest to do so:
  - (a) rescind the notice; and
  - (b) exempt the person from the effect of this section in relation to the matters that were the basis for giving the notice.
- (7) The Minister does not have a duty to consider whether to exercise the power under subsection (6), whether he or she is requested to do so by any person, or in any other circumstances.

*General provisions relating to Minister's powers*

- (8) The powers of the Minister under this section may only be exercised by the Minister personally.
- (9) The rules of natural justice do not apply in relation to the powers of the Minister under this section, and section 47 does not apply in relation to the exercise of those powers.

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- (10) An instrument exercising any of the Minister's powers under this section is not a legislative instrument.
- (11) Section 39 of the *Australian Security Intelligence Organisation Act 1979* does not apply in relation to this section.

## **5 After section 35**

Insert:

### **35A Conviction for terrorism offences and certain other offences**

#### *Cessation of citizenship*

- (1) A person ceases to be an Australian citizen if:
- (a) the person is convicted of an offence mentioned in subsection (3); and
  - (b) at the time of the conviction, the person is a national or citizen of a country other than Australia.
- Note 1: The Minister may exempt the person from the effect of this section in relation to certain matters: see subsection (6).
- Note 2: A child of the person may also cease to be an Australian citizen: see section 36.
- (2) The person ceases to be an Australian citizen at the time of the conviction.
- (3) For the purposes of paragraph (1)(a), the offences are the following:
- (a) an offence against Subdivision A of Division 72 of the *Criminal Code*;
  - (b) an offence against section 80.1, 80.1AA or 80.2, subsection 80.2A(1) or 80.2B(1) or section 80.2C or 91.1 of the *Criminal Code*;
  - (c) an offence against Part 5.3 of the *Criminal Code* (except section 102.8 or Division 104 or 105);
  - (d) an offence against Part 5.5 of the *Criminal Code*;
  - (e) an offence against section 24AA, 24AB, 25 or 26, subsection 27(1) or section 29 of the *Crimes Act 1914*.
- (4) Subsection (1) applies to a person who is an Australian citizen regardless of how the person became an Australian citizen

(including a person who became an Australian citizen upon the person's birth).

*Minister to give notice*

- (5) If the Minister becomes aware of a conviction because of which a person has, under this section, ceased to be an Australian citizen, the Minister must give written notice to that effect at such time and to such persons as the Minister considers appropriate.

*Minister's power to rescind notice and exempt person*

- (6) Where the Minister has given a notice under subsection 33AA(6) or 35(5), or subsection (5) of this section, relating to a person the Minister may, if he or she considers it in the public interest to do so:
- (a) rescind the notice; and
  - (b) exempt the person from the effect of this section in relation to the matters that were the basis for giving the notice.
- (7) The Minister does not have a duty to consider whether to exercise the power under subsection (6), whether he or she is requested to do so by any person, or in any other circumstances.

*General provisions relating to Minister's powers*

- (8) The powers of the Minister under this section may only be exercised by the Minister personally.
- (9) The rules of natural justice do not apply in relation to the powers of the Minister under this section, and section 47 does not apply in relation to the exercise of those powers.
- (10) An instrument exercising any of the Minister's powers under this section is not a legislative instrument.
- (11) Section 39 of the *Australian Security Intelligence Organisation Act 1979* does not apply in relation to this section.

**6 Paragraph 36(1)(a)**

Omit "section 33, 34, 34A or 35", substitute "section 33, 33AA, 34, 34A, 35 or 35A".

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**7 At the end of Division 3 of Part 2**

Add:

**36A No resumption of citizenship if citizenship ceases under section 33AA, 35 or 35A**

If under section 33AA, 35 or 35A a person ceases to be an Australian citizen, then Divisions 1 and 2 of this Part do not apply in relation to the person on and after the time of that cessation.

Note: The effect of this section is that (subject to the Minister's powers under subsections 33AA(7), 35(6) and 35A(6)) the person can never become an Australian citizen again.

**8 Application provisions***Application of section 33AA*

- (1) Section 33AA of the *Australian Citizenship Act 2007* (as amended by this Schedule) applies in relation to:
- (a) persons who became Australian citizens before, on or after the commencement of this item; and
  - (b) conduct engaged in on or after the commencement of this item (whether the conduct commenced before, on or after the commencement of this item).

*Application of section 35*

- (2) Section 35 of the *Australian Citizenship Act 2007* (as amended by this Schedule) applies in relation to:
- (a) persons who became Australian citizens before, on or after the commencement of this item; and
  - (b) fighting for, or being in the service of, a declared terrorist organisation that occurs on or after the commencement of this item (whether the fighting or service commenced before, on or after the commencement of this item).
- (3) If the fighting or service commenced before the commencement of this item, the person ceases to be an Australian citizen at the time this item commences.

*Application of section 35A*

- (4) Section 35A of the *Australian Citizenship Act 2007* (as amended by this Schedule) applies in relation to:
- (a) persons who became Australian citizens before, on or after the commencement of this item; and
  - (b) convictions that occur after the commencement of this item, whether the conduct constituting the offence occurred before, on or after that commencement.