



Australian Citizenship Amendment (Allegiance to Australia) Act 2015

No. 166, 2015

An Act to amend the *Australian Citizenship Act 2007*, and for related purposes

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	2
4	Purpose of this Act.....	2
Schedule 1—Main amendments		3
	<i>Australian Citizenship Act 2007</i>	3
Schedule 2—Other amendments		20
	<i>Australian Citizenship Act 2007</i>	20
	<i>Independent National Security Legislation Monitor Act 2010</i>	22
	<i>Intelligence Services Act 2001</i>	22



Australian Citizenship Amendment (Allegiance to Australia) Act 2015

No. 166, 2015

An Act to amend the *Australian Citizenship Act 2007*, and for related purposes

[Assented to 11 December 2015]

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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	12 December 2015

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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.

Schedule 1—Main 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 aged 14 or older 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 1: The Minister may, in writing, exempt the person from the effect of this section in relation to certain matters: see subsection (14).

Note 2: This section does not apply to conduct of Australian law enforcement or intelligence bodies, or to conduct in the course of certain duties to the Commonwealth: see section 35AB.

- (2) Subject to subsections (3) to (5), 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) Subsection (1) applies to conduct specified in any of paragraphs (2)(a) to (h) only if the conduct is engaged in:
- (a) with the intention of advancing a political, religious or ideological cause; and
 - (b) with the intention of:
 - (i) coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or
 - (ii) intimidating the public or a section of the public.
- (4) A person is taken to have engaged in conduct with an intention referred to in subsection (3) if, when the person engaged in the conduct, the person was:
- (a) a member of a declared terrorist organisation (see section 35AA); or
 - (b) acting on instruction of, or in cooperation with, a declared terrorist organisation.
- (5) To avoid doubt, subsection (4) does not prevent the proof or establishment, by other means, that a person engaged in conduct with an intention referred to in subsection (3).
- (6) 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. However (to avoid doubt) this does
-

not include the fault elements that apply under the *Criminal Code* in relation to those provisions of the *Criminal Code*.

- (7) This section does not apply in relation to conduct by a person unless:
- (a) the person was not in Australia when the person engaged in the conduct; or
 - (b) the person left Australia after engaging in the conduct and, at the time that the person left Australia, the person had not been tried for any offence related to the conduct.
- (8) 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).
- (9) 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).

Minister to give notice

- (10) If the Minister becomes aware of conduct because of which a person has, under this section, ceased to be an Australian citizen, the Minister:
- (a) must give, or make reasonable attempts to give, written notice to that effect to the person:
 - (i) as soon as practicable; or
 - (ii) if the Minister makes a determination under subsection (12)—as soon as practicable after the Minister revokes the determination (if the Minister does so); and
 - (b) may give notice to that effect to such other persons and at such time as the Minister considers appropriate.

Note: A person may seek review of the basis on which a notice under this subsection was given in the High Court of Australia under section 75 of the Constitution, or in the Federal Court of Australia under section 39B of the *Judiciary Act 1903*.

- (11) A notice under paragraph (10)(a) must set out:
- (a) the matters required by section 35B; and

- (b) the person's rights of review.
- (12) The Minister may determine in writing that a notice under paragraph (10)(a) should not be given to a person if the Minister is satisfied that giving the notice could prejudice the security, defence or international relations of Australia, or Australian law enforcement operations. The Minister must consider whether to revoke such a determination:
 - (a) no later than 6 months after making it; and
 - (b) at least every 6 months thereafter until 5 years have passed since the determination was made.

Minister's power to rescind notice and exempt person

- (13) Subsections (14) to (19) apply only if a person has renounced his or her citizenship under this section.
- (14) At any time after a person has renounced his or her citizenship under this section, the Minister may make a determination to:
 - (a) rescind any notice given under subsection (10) in respect of the person; and
 - (b) exempt the person from the effect of this section in relation to the matters that were the basis for the notice, or in relation to matters that would have been the basis for giving a notice in respect of the person under paragraph (10)(a), but for the operation of subsection (12).
- (15) The Minister does not have a duty to consider whether to exercise the power under subsection (14) in respect of any person, whether the Minister is requested to do so by the person who has renounced his or her citizenship under this section, or by any other person, or in any other circumstances.
- (16) To avoid doubt, in deciding whether to consider exercising the power in subsection (14), the Minister is not required to have regard to any of the matters referred to in subsection (17).
- (17) If the Minister decides to consider whether to exercise the power in subsection (14), then, in that consideration, the Minister must have regard to the following:
 - (a) the severity of the matters that were the basis for any notice given in respect of the person under subsection (10), or of matters that would have been the basis for giving a notice in

-
- respect of the person under paragraph (10)(a), but for the operation of subsection (12);
- (b) the degree of threat posed by the person to the Australian community;
 - (c) the age of the person;
 - (d) if the person is aged under 18—the best interests of the child as a primary consideration;
 - (e) whether the person is being or is likely to be prosecuted in relation to matters referred to in paragraph (a);
 - (f) the person’s connection to the other country of which the person is a national or citizen and the availability of the rights of citizenship of that country to the person;
 - (g) Australia’s international relations;
 - (h) any other matters of public interest.
- (18) If the Minister makes a determination under subsection (14), the Minister must cause to be laid before each House of the Parliament, within 15 sitting days of that House after the Minister makes the determination, a statement that:
- (a) sets out the determination; and
 - (b) sets out the reasons for the determination, referring in particular to the Minister’s reasons in relation to the matters set out in subsection (17).
- (19) If the Minister thinks that it would not be in the public interest to publish the name of the person or of any other person connected in any way with the matter concerned, the statement under subsection (18) must not include those names or any information that may identify those persons.

General provisions relating to Minister’s powers

- (20) The powers of the Minister under this section may only be exercised by the Minister personally.
- (21) Section 47 applies to a decision by the Minister to make, or not make, a determination under subsection (14), but does not apply to any other decision of the Minister under this section (including any decision whether to consider exercising the power in subsection (14) to make a determination).

- (22) The rules of natural justice apply to a decision by the Minister to make, or not make, a determination under subsection (14), but do not apply to any other decision, or the exercise of any other power, by the Minister under this section (including any decision whether to consider exercising the power in subsection (14) to make a determination).
- (23) An instrument exercising any of the Minister's powers under this section is not a legislative instrument.
- (24) To avoid doubt, a person's citizenship is taken never to have ceased under this section because of particular conduct if:
 - (a) in proceedings under section 75 of the Constitution, or under this Act or another Commonwealth Act, a court finds that the person did not engage in the conduct or have the requisite intention under subsection (3) of this section; or
 - (b) in proceedings under section 75 of the Constitution, or under this Act or another Commonwealth Act, a court finds that the person was not a national or citizen of a country other than Australia at the time of the conduct; or
 - (c) the Minister makes a determination under subsection (14) in relation to the conduct to exempt the person from the effect of this section; or
 - (d) a declaration under section 35AA is disallowed by either House of the Parliament, and the person's citizenship would not have ceased under this section if that declaration had not been made.

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 aged 14 or older 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 (see section 35AA); and
- (c) the person's service or fighting occurs outside Australia.

Note 1: The Minister may, in writing, exempt the person from the effect of this section in relation to certain matters: see subsection (9).

Note 2: This section does not apply to conduct of Australian law enforcement or intelligence bodies, or to conduct in the course of certain duties to the Commonwealth: see section 35AB.

- (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) For the purposes of subparagraph (1)(b)(ii) and without limitation, a person is not in the service of a declared terrorist organisation to the extent that:
 - (a) the person's actions are unintentional; or
 - (b) the person is acting under duress or force; or
 - (c) the person is providing neutral and independent humanitarian assistance.

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:
 - (a) must give, or make reasonable attempts to give, written notice to that effect to the person:
 - (i) as soon as practicable; or
 - (ii) if the Minister makes a determination under subsection (7)—as soon as practicable after the Minister revokes the determination (if the Minister does so); and
 - (b) may give notice to that effect to such other persons and at such time as the Minister considers appropriate.

Note: A person may seek review of the basis on which a notice under this subsection was given in the High Court of Australia under section 75 of the Constitution, or in the Federal Court of Australia under section 39B of the *Judiciary Act 1903*.

- (6) A notice under paragraph (5)(a) must set out:
 - (a) the matters required by section 35B; and
 - (b) the person's rights of review.
- (7) The Minister may determine in writing that a notice under paragraph (5)(a) should not be given to a person if the Minister is satisfied that giving the notice could prejudice the security, defence or international relations of Australia, or Australian law enforcement operations. The Minister must consider whether to revoke such a determination:
 - (a) no later than 6 months after making it; and
 - (b) at least every 6 months thereafter until 5 years have passed since the determination was made.

Minister's power to rescind notice and exempt person

- (8) Subsections (9) to (14) apply only if a person has ceased to be a citizen under this section.
- (9) At any time after a person has ceased to be a citizen under this section, the Minister may make a determination to:
 - (a) rescind any notice given under subsection (5) in respect of the person; and
 - (b) exempt the person from the effect of this section in relation to the matters that were the basis for the notice, or in relation to matters that would have been the basis for giving a notice in respect of the person under paragraph (5)(a), but for the operation of subsection (7).
- (10) The Minister does not have a duty to consider whether to exercise the power under subsection (9) in respect of any person, whether the Minister is requested to do so by the person who has ceased to be a citizen under this section, or by any other person, or in any other circumstances.
- (11) To avoid doubt, in deciding whether to consider exercising the power in subsection (9), the Minister is not required to have regard to any of the matters referred to in subsection (12).

-
- (12) If the Minister decides to consider whether to exercise the power in subsection (9), then, in that consideration, the Minister must have regard to the following:
- (a) the severity of the matters that were the basis for any notice given in respect of the person under subsection (5), or of matters that would have been the basis for giving a notice in respect of the person under paragraph (5)(a), but for the operation of subsection (7);
 - (b) the degree of threat posed by the person to the Australian community;
 - (c) the age of the person;
 - (d) if the person is aged under 18—the best interests of the child as a primary consideration;
 - (e) whether the person is being or is likely to be prosecuted in relation to matters referred to in paragraph (a);
 - (f) the person's connection to the other country of which the person is a national or citizen and the availability of the rights of citizenship of that country to the person;
 - (g) Australia's international relations;
 - (h) any other matters of public interest.
- (13) If the Minister makes a determination under subsection (9), the Minister must cause to be laid before each House of the Parliament, within 15 sitting days of that House after the Minister makes the determination, a statement that:
- (a) sets out the determination; and
 - (b) sets out the reasons for the determination, referring in particular to the Minister's reasons in relation to the matters set out in subsection (12).
- (14) If the Minister thinks that it would not be in the public interest to publish the name of the person or of any other person connected in any way with the matter concerned, the statement under subsection (13) must not include those names or any information that may identify those persons.

General provisions relating to Minister's powers

- (15) The powers of the Minister under this section may only be exercised by the Minister personally.

- (16) Section 47 applies to a decision by the Minister to make, or not make, a determination under subsection (9), but does not apply to any other decision of the Minister under this section (including any decision whether to consider exercising the power in subsection (9) to make a determination).
- (17) The rules of natural justice apply to a decision by the Minister to make, or not make, a determination under subsection (9), but do not apply to any other decision, or the exercise of any other power, by the Minister under this section (including any decision whether to consider exercising the power in subsection (9) to make a determination).
- (18) An instrument exercising any of the Minister's powers under this section is not a legislative instrument.
- (19) To avoid doubt, a person's citizenship is taken never to have ceased under this section because of the person serving or fighting as set out in subsection (1) if:
 - (a) in proceedings under section 75 of the Constitution, or under this Act or another Commonwealth Act, a court finds that the person did not so serve or fight (whether because of subsection (4) of this section or for any other reason); or
 - (b) in proceedings under section 75 of the Constitution, or under this Act or another Commonwealth Act, a court finds that the person was not a national or citizen of a country other than Australia at the time the person served or fought; or
 - (c) the Minister makes a determination under subsection (9) in relation to the conduct to exempt the person from the effect of this section; or
 - (d) a declaration under section 35AA is disallowed by either House of the Parliament, and the person's citizenship would not have ceased under this section if that declaration had not been made.

35AA Declared terrorist organisation

Declaration of declared terrorist organisation

- (1) 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, by legislative instrument, declares is a declared terrorist organisation for the purposes of this section.

- (2) Before declaring that an organisation is a declared terrorist organisation, the Minister must be satisfied on reasonable grounds that the organisation:
- (a) either:
 - (i) is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or
 - (ii) advocates the doing of a terrorist act; and
 - (b) is opposed to Australia, or to Australia's interests, values, democratic beliefs, rights or liberties, so that if a person were to fight for or be in the service of such an organisation the person would be acting inconsistently with their allegiance to Australia.
- (3) The making of a declaration under subsection (1) is taken not to be prescribed administrative action for the purposes of Part IV of the *Australian Security Intelligence Organisation Act 1979*.

Review of declaration by Parliamentary Joint Committee on Intelligence and Security

- (4) The Parliamentary Joint Committee on Intelligence and Security may:
- (a) review a declaration made under subsection (1) as soon as possible after the declaration is made; and
 - (b) report the Committee's comments and recommendations to each House of the Parliament before the end of the period during which the House may disallow the declaration.

35AB Sections 33AA and 35 do not apply to conduct of Australian law enforcement or intelligence bodies or in course of certain duties to the Commonwealth

- (1) Sections 33AA and 35 do not apply to conduct engaged in by:
- (a) a person in the proper performance of a function of an Australian law enforcement or intelligence body; or
 - (b) a person acting in the course of the person's duty to the Commonwealth in relation to the defence, security or international relations of Australia.

(2) In this section:

Australian law enforcement or intelligence body means a body, agency or organisation of the Commonwealth, or of a State or Territory, that is responsible for, or deals with, law enforcement, criminal intelligence, criminal investigation, fraud, security intelligence, foreign intelligence or financial intelligence.

5 After section 35

Insert:

35A Conviction for terrorism offences and certain other offences

Cessation of citizenship on determination by Minister

- (1) The Minister may determine in writing that a person ceases to be an Australian citizen if:
- (a) the person has been convicted of an offence against, or offences against, one or more of the following:
 - (i) a provision of Subdivision A of Division 72 of the *Criminal Code*;
 - (ii) a provision of section 80.1, 80.1AA or 91.1 of the *Criminal Code*;
 - (iii) a provision of Part 5.3 of the *Criminal Code* (except section 102.8 or Division 104 or 105);
 - (iv) a provision of Part 5.5 of the *Criminal Code*;
 - (v) section 24AA or 24AB of the *Crimes Act 1914*;
 - (vi) section 6 or 7 of the repealed *Crimes (Foreign Incursions and Recruitment) Act 1978*; and
 - (b) the person has, in respect of the conviction or convictions, been sentenced to a period of imprisonment of at least 6 years, or to periods of imprisonment that total at least 6 years; and
 - (c) the person is a national or citizen of a country other than Australia at the time when the Minister makes the determination; and
 - (d) the Minister is satisfied that the conduct of the person to which the conviction or convictions relate demonstrates that the person has repudiated their allegiance to Australia; and

-
- (e) having regard to the following factors, the Minister is satisfied that it is not in the public interest for the person to remain an Australian citizen:
- (i) the severity of the conduct that was the basis of the conviction or convictions and the sentence or sentences;
 - (ii) the degree of threat posed by the person to the Australian community;
 - (iii) the age of the person;
 - (iv) if the person is aged under 18—the best interests of the child as a primary consideration;
 - (v) the person's connection to the other country of which the person is a national or citizen and the availability of the rights of citizenship of that country to the person;
 - (vi) Australia's international relations; and
 - (vii) any other matters of public interest.

Note: A person may seek review of a determination made under this subsection in the High Court of Australia under section 75 of the Constitution, or in the Federal Court of Australia under section 39B of the *Judiciary Act 1903*.

- (2) The person ceases to be an Australian citizen at the time when the determination is made.
- (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) For the purpose of paragraph (1)(b):
- (a) the reference to being sentenced to a period of imprisonment does not include a suspended sentence; and
 - (b) if a single sentence of imprisonment is imposed in respect of both an offence against a provision mentioned in paragraph (1)(a) and in respect of one or more other offences, then:
 - (i) if it is clear that only a particular part of the total period of imprisonment relates to the offence against the provision mentioned in paragraph (1)(a)—the person is taken to have been sentenced to imprisonment in respect of that offence for that part of the total period of imprisonment; and

- (ii) if subparagraph (i) does not apply—the person is taken to have been sentenced to imprisonment in respect of the offence against the provision mentioned in paragraph (1)(a) for the whole of the total period of imprisonment.

Minister to give notice

- (5) If the Minister makes a determination under subsection (1) because of which a person ceases to be an Australian citizen, the Minister:
 - (a) must give, or make reasonable attempts to give, written notice to that effect to the person:
 - (i) as soon as practicable; or
 - (ii) if the Minister makes a determination under subsection (7)—as soon as practicable after the Minister revokes the subsection (7) determination (if the Minister does so); and
 - (b) may give notice to that effect to such other persons and at such time as the Minister considers appropriate.
- (6) A notice under paragraph (5)(a) must set out:
 - (a) the matters required by section 35B; and
 - (b) the person's rights of review.
- (7) The Minister may determine in writing that a notice under paragraph (5)(a) should not be given to a person if the Minister is satisfied that giving the notice could prejudice the security, defence or international relations of Australia, or Australian law enforcement operations. The Minister must consider whether to revoke the determination:
 - (a) no later than 6 months after making it; and
 - (b) at least every 6 months thereafter until 5 years have passed since the determination was made.

Minister must revoke determination if conviction overturned

- (8) The Minister must, in writing, revoke a determination made under subsection (1) in relation to a person if:
 - (a) a conviction because of which the determination was made is later overturned on appeal, or quashed, by a court; and

-
- (b) that decision of that court has not been overturned on appeal;
and
 - (c) no appeal, or further appeal, can be made to a court in
relation to that decision.
- (9) If the Minister revokes the determination, the person's citizenship is taken never to have ceased under this section because of that determination.

General provisions relating to Minister's powers

- (10) The powers of the Minister under this section may only be exercised by the Minister personally.
- (11) Except for the powers of the Minister under subsection (1), the rules of natural justice do not apply in relation to the powers of the Minister under this section.
- (12) Section 47 does not apply in relation to the exercise of the powers of the Minister under this section.
- (13) An instrument exercising any of the Minister's powers under this section is not a legislative instrument.

35B Matters to be set out in notices to persons who have ceased to be Australian citizens

- (1) A notice that is given to a person under paragraph 33AA(10)(a) or 35(5)(a) must:
 - (a) state that the Minister has become aware of conduct because of which the person has, under section 33AA or 35, ceased to be an Australian citizen; and
 - (b) contain a basic description of that conduct.
- (2) A notice that is given to a person under paragraph 35A(5)(a) must:
 - (a) state that the Minister has determined under section 35A that the person has ceased to be an Australian citizen; and
 - (b) include the reasons for the decision to make the determination.
- (3) However, a notice given to a person under paragraph 33AA(10)(a), 35(5)(a) or 35A(5)(a) must not contain information, or content of a document, if:

- (a) the information or content includes any operationally sensitive information (within the meaning of the *Independent National Security Legislation Monitor Act 2010*); or
- (b) the disclosure of the information or content would or might prejudice:
 - (i) the security, defence or international relations of Australia; or
 - (ii) the performance by a law enforcement or security agency (within the meaning of the *Independent National Security Legislation Monitor Act 2010*) of its functions; or
- (c) the disclosure of the information or content would or might endanger a person's safety; or
- (d) the disclosure of the information or content would be likely to be contrary to the public interest for any other reason.

6 Paragraph 36(1)(a)

Omit “, 34A or 35”, substitute “or 34A”.

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 subsections 33AA(14) and (24), 35(9) and (19) and 35A(8) and (9)) 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):
 - (a) applies in relation to persons who became Australian citizens before, on or after the commencement of this item; and
 - (b) does not apply in relation to a conviction of a person before the commencement of this item unless:
 - (i) the conviction occurred no more than 10 years before the commencement of this item; and
 - (ii) the person was sentenced to a period of imprisonment of at least 10 years in respect of that conviction.

Schedule 2—Other amendments

Australian Citizenship Act 2007

1 After section 51A

Insert:

51B Reports to Parliament

- (1) As soon as practicable after each reporting period, the Minister must table a report in each House of the Parliament that sets out:
 - (a) the number of notices given by the Minister under paragraph 33AA(10)(a), 35(5)(a) or 35A(5)(a) during the reporting period; and
 - (b) the number of notices the Minister unsuccessfully attempted to give under paragraph 33AA(10)(a), 35(5)(a) or 35A(5)(a) during the reporting period; and
 - (c) for each notice given or attempted to be given under paragraph 33AA(10)(a) or 35(5)(a)—a brief statement of the matters that are the basis for the notice; and
 - (d) for each notice given or attempted to be given under paragraph 35A(5)(a)—a brief statement of the matters that are the basis for the determination under subsection 35A(1) to which the notice relates.
- (2) The report must not contain information, or content of a document, if:
 - (a) the information or content includes any operationally sensitive information (within the meaning of the *Independent National Security Legislation Monitor Act 2010*); or
 - (b) the disclosure of the information or content would or might prejudice:
 - (i) the security, defence or international relations of Australia; or
 - (ii) the performance by a law enforcement or security agency (within the meaning of the *Independent National Security Legislation Monitor Act 2010*) of its functions; or

-
- (c) the disclosure of the information or content would or might endanger a person's safety; or
 - (d) the disclosure of the information or content would be likely to be contrary to the public interest for any other reason.
- (3) For the purposes of this section, *reporting period* means:
- (a) the period of 6 months beginning on the day this section commences; and
 - (b) each subsequent 6-month period.

51C Briefing of Parliamentary Joint Committee on Intelligence and Security

- (1) This section applies if any of the following events occurs:
- (a) the Minister gives or unsuccessfully attempts to give a notice under paragraph 33AA(10)(a) or 35(5)(a);
 - (b) the Minister gives or unsuccessfully attempts to give a notice under paragraph 35A(5)(a);
 - (c) the Minister makes a determination under subsection 33AA(12), 35(7) or 35A(7).
- (2) The Minister must, as soon as practicable after the occurrence of the event, inform the Parliamentary Joint Committee on Intelligence and Security in writing.
- (3) Before the later of:
- (a) the end of 20 sittings days of the House of Representatives after the occurrence of the event; and
 - (b) the end of 20 sittings days of the Senate after the occurrence of the event;
- the Minister must, if requested to do so by the Parliamentary Joint Committee on Intelligence and Security, arrange for the Committee to be briefed on the event.
- (4) The briefing may be done orally or in writing.
- (5) The briefing must include details of the following:
- (a) for an event mentioned in paragraph (1)(a):
 - (i) the matters that are the basis for the notice; and
 - (ii) whether the Minister has rescinded the notice and exempted the person to whom the notice related from

- the effect of the section in relation to the matters that were the basis for the notice;
- (b) for an event mentioned in paragraph (1)(b):
- (i) the matters that are the basis for the determination under subsection 35A(1) to which the notice relates;
 - (ii) whether the Minister has revoked under subsection 35A(8) the determination to which the notice relates; and
- (c) for an event mentioned in paragraph (1)(c)—the matters that are the basis for the determination.

Independent National Security Legislation Monitor Act 2010

2 Section 4 (before paragraph (a) of the definition of counter-terrorism and national security legislation)

Insert:

- (aa) sections 33AA, 35 and 35A of the *Australian Citizenship Act 2007* and any other provision of that Act as far as it relates to those sections;

Intelligence Services Act 2001

3 Section 3

Insert:

Immigration and Border Protection Department means the Department administered by the Minister administering the *Australian Citizenship Act 2007*.

4 Before paragraph 29(1)(c)

Insert:

- (ca) to review, by 1 December 2019, the operation, effectiveness and implications of sections 33AA, 35, 35AA and 35A of the *Australian Citizenship Act 2007* and any other provision of that Act as far as it relates to those sections; and

5 Paragraph 29(3)(g)

Omit “ONA or AFP”, substitute “ONA, AFP or the Immigration and Border Protection Department”.

6 At the end of section 30

Add:

; (e) the Secretary of the Immigration and Border Protection Department.

7 Clause 1A of Schedule 1 (definition of *agency*)

Omit “or AFP”, substitute “, AFP or the Immigration and Border Protection Department”.

8 Clause 1A of Schedule 1 (at the end of the definition of *agency head*)

Add:

; or (f) the Secretary of the Immigration and Border Protection Department.

9 Application of amendments

The amendments of the *Independent National Security Legislation Monitor Act 2010* and the *Intelligence Services Act 2001* made by this Schedule apply in relation to sections 33AA, 35 and 35A of the *Australian Citizenship Act 2007* as in force on and after the commencement of this Act.

[*Minister’s second reading speech made in—
House of Representatives on 24 June 2015
Senate on 30 November 2015*]

(125/15)
