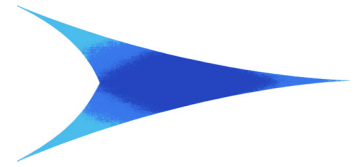


The Southern Cross Group

Promoting Mobility in the Global Community
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MEDIA RELEASE

Senate Committee Disappoints on Citizenship Bill

The Southern Cross Group (SCG) today expressed disappointment with various expat-relevant findings made by the Senate's Legal and Constitutional Legislation Committee on the *Australian Citizenship Bill 2005*. The Committee's Report following its inquiry into the provisions of the Bill was tabled in the Senate on 27 February 2006.

The Bill as tabled on 9 November 2005 will make the resumption of Australian citizenship possible for approximately 2000 Australian-born individuals living in Malta who had to formally renounce it in years past using Section 18 of the *Australian Citizenship Act 1948* in order to retain Maltese citizenship in adulthood. The SCG welcomes this wholeheartedly.

The SCG and several hundred families in Malta as well as many in the Maltese community in Australia and others appealed to the Senate Committee to recommend that children born in Malta to these people and other offspring of Section 18 victims around the world born after their parent's renunciation of Australian citizenship ("Section 18 offspring") also be given a right to acquire Australian citizenship under the Bill. If their Australian-born parents had still been Australian citizens at the time of their birth overseas, these offspring would have been Australian citizens by descent.

The government-dominated Senate Committee has failed to make such a recommendation. A minority report from the Australian Labor Party does recommend the inclusion of these people. However, this Opposition recommendation is now highly unlikely to result in an amendment that is adopted as part of the final legislation because the government presently controls both the House of Representatives and the Senate.

Other omissions from the Bill pointed out by the SCG during the Inquiry have also been ignored by the Senate Committee.

- People now aged 18 or over who were adopted under the laws of other countries as children by Australian citizens have no access to Australian citizenship.
- Children born outside Australia to individuals who themselves automatically lost their Australian citizenship as minors under Section 23 (rather than the now-repealed Section 17) have also been excluded from the Bill.
- Additionally, a number of individuals who lost British nationality before 26 January 1949 together with their overseas-born children, remain excluded from Australian citizenship. This mainly affects a small number of Australian war brides who became US citizens before 26 January 1949.

The SCG takes the view that the Bill in the form that it is now likely to be passed in the coming weeks fails to include a number of groups of individuals who have a legitimate claim to full membership of the Australian community because of their close ties to the nation in various ways. It is to be hoped that the present government and future governments will keep an open mind on such cases as they arise. While the SCG agrees with the Government that the current Bill will bring about "very significant, indeed historic changes, to our citizenship law", it stresses that the deficits of the current Bill mean that further amendments to the new legislation will be necessary in the medium term if Australia wishes its citizenship law to fully embrace the global Australian community.

The Bill as tabled on 9 November 2005 contains many of the expat "fixes" the SCG has been lobbying for over a number of years. For that reason it urges the speedy adoption of the Bill by both Houses of Parliament and prompt subsequent implementation. Thousands in the Australian diaspora will be provided with access to Australian citizenship for the first time under its provisions, and many former Australian citizens living abroad will also be able to apply to resume their Australian citizenship.

27 February 2006

Notes:**Section 18 Offspring**

Offspring born outside Australia to a person who had previously lost their Australian citizenship under the now-repealed Section 17 (acquisition of another citizenship) rather than Section 18 (formal renunciation), will be provided with access to Australian citizenship under the Bill.

The SCG notes that the Government's exclusion of Section 18 offspring from the Bill still leaves affected families with a migration route to Australian citizenship for the youngsters concerned. Once the Australian-born parent resumes their Australian citizenship, they will in most cases be able to sponsor their spouse and dependent children for visas to migrate to Australia. After the applicable residence period in Australia both spouse and children will eventually be able to apply for Australian citizenship by conferral/naturalisation. The SCG pointed out in its contributions to the Senate Inquiry that this more limited option will not be able to be taken up by all Maltese families, for various reasons, both financial and family.

Section 23 Offspring

Section 23 of the *Australian Citizenship Act 1948* provided or provides for the automatic loss of Australian citizenship by minors where their responsible parent or parents forfeited or forfeits their Australian citizenship under Sections 17 or 18. Many parents acquired another citizenship by naturalisation abroad and lost their Australian citizenship under Section 17 until 4 April 2002. Their minor children (often born in Australia) usually automatically lost their citizenship at the same time under Section 23. Some of these children are themselves now adults and have overseas-born children. Although Section 23 victims will be able to resume their lost Australian citizenship under the Bill, their overseas-born children will have no access to Australian citizenship. The SCG estimates that several thousand individuals will be impacted by this omission.

Australian War Brides

Prior to 26 January 1949 Australian citizenship did not exist and everyone was a British subject. People born in Australia generally became Australian citizens on 26 January 1949 unless they had lost their British subject status prior to that date for some reason (e.g. as a result of naturalisation in the US). The act of marriage to a US citizen did not automatically confer US citizenship on Australian war brides. US naturalisation had to be formally and voluntarily applied for.

Where an Australian war bride took US citizenship on or after 26 January 1949, or where she never took US citizenship, her US-born children, whether born before or after 26 January 1949, will have access to Australian citizenship under the Bill.

Australian war brides themselves, where they survive, if they lost their Australian citizenship due to US naturalisation on or after 26 January 1949, will also be able to resume their Australian citizenship. A number of elderly war brides still living in the United States have told the SCG that they wish to become Australian citizens again before they die.

Timing of the Legislation

The Bill is expected to be debated and voted upon in both the House and the Senate in the coming weeks. Once adopted by both Houses of Parliament, it must be assented to by the Governor-General. The provisions in the new legislation allowing applications to be made for Australian citizenship will come into force on a date set by Proclamation, or if no date is set by Proclamation, six months after the date of assent. The earliest date on which the provisions could come into effect at this stage would appear to be 1 July 2006. However, the SCG stresses that this date could be later.

Further Information:

Senate Committee's Report:

http://www.aph.gov.au/senate/committee/legcon_ctte/citizenship/report/index.htm

Text of the *Australian Citizenship Bill 2005*:

<http://parlinfoweb.aph.gov.au/piweb/Repository/Legis/Bills/Linked/09110503.pdf>

Australian Government Citizenship Website Explaining the *Citizenship Bill and tracking developments*:

http://www.citizenship.gov.au/citz_bill_2005/index.htm

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The Southern Cross Group is a global non-profit volunteer-run advocacy and support organisation for the Australian diaspora.