

**Southern Cross Group
Primary Submission to Citizenship Bill Inquiry
20 January 2006**

**Standard Communication from Minister Cobb Justifying the Exclusion of
Section 18 Offspring, January 2006**

Date: Tue, 17 Jan 2006 14:52:31 +1100
From: Ronald.Kelly@immi.gov.au
To: Ronald.Kelly@immi.gov.au
Subject: Australian Citizenship for Maltese Children
[SEC=UNCLASSIFIED]

Thank you for your email to the Minister for Citizenship and Multicultural Affairs regarding Australian Citizenship eligibility for children born in Malta to ex Australian citizens.

Attached is a letter from the Minister that explains the position of the Australian Government.

Thank you for raising this with the Minister.

Ronald Kelly
Advisor
Hon John Cobb MP
Minister for Citizenship and Multicultural Affairs Ph 02 6277 7890 Fax
02 6273 0434 Mobile 0417 862 924 (See attached file: Maltese Children
Citizenship.doc)

Attachment: Maltese Children Citizenship.doc (application/msword)

THE HON JOHN COBB MP

Minister for Citizenship and Multicultural Affairs

16 Jan 2006

Thank you for your email concerning the Australian Citizenship Bill 2005 (the Bill).

The Bill currently before the Parliament is a significant piece of legislation. The Australian Government however does not agree that children of former Australian citizens who unknowingly lost their Australian citizenship under Section 17 of the Australian Citizenship Act 1948 (the Act), and the children of former Australian citizens who knowingly renounced their citizenship under section 18 of the Act, are in the same position and should be considered as such within the Bill.

Former Australian citizens who lost their citizenship under section 17 of the Act, lost as a result of Australian citizenship law. Section 17 provided that adult Australians who did "any act or thing" the sole of dominant purpose of which and the effect of which is to acquire the nationality or citizenship of a foreign country shall upon acquisition cease to be an Australian citizen. The provision worked by operation of law and took effect as soon as an Australian acquired the new citizenship. No application was necessary and no decision was involved.

In many cases former Australian citizens were unaware that they had automatically lost their Australian citizenship by actively acquiring another. The provision for access to citizenship for the children of former citizens is consistent with the rationale for, and the repeal of, that section, that is, a change to Australian law.

As you would be aware, the law of some other countries did not allow dual nationality. Malta was one of those countries. Former Australian citizens living in Malta who renounced their Australian citizenship under section 18 of the Act did so as a requirement of Maltese law. (Australian law has never required people to renounce their other nationality when they become Australian citizens).

Unlike the many former citizens who lost their Australian citizenship when they acquired another citizenship, people who renounced their Australian citizenship knew that they had ceased to be citizens (they had made a formal application to renounce and a decision had been made on that application). They could have had no reasonable expectation of access to Australian citizenship for children born after their renunciation.

These former citizens also could not have had any expectation that they would be able to resume their Australian citizenship. Australian law did not allow it until 2002 when the Australian Government amended the Act to allow for resumption by former citizens under the age of 25. The Government is making a further, very significant, concession within the Bill by removing the 25 year age limit. This will enable former citizens living in Malta who renounced their citizenship between the ages of 18 and 19 years and who are over the age of 25 to resume their Australian citizenship.

Former Australian citizens who resume their citizenship can sponsor family members for migration to Australia and a permanent child visa may be issued to any dependent child up to 24 years of age. Once permanently resident in Australia, the child would ordinarily become eligible for Australian citizenship. Children under 18 could be accommodated immediately through policy in respect of the existing broad discretions under citizenship legislation.

Thank you for bringing this matter to my attention.

Yours sincerely

Hon John Cobb MP
Minister for Citizenship and Multicultural Affairs

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