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Senate Standing Committee on Legal and Constitutional Affairs  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

## **Inquiry into Australian Citizenship Amendment (Citizenship Testing) Bill 2007**

Attached please find our submission into the provisions of the Australian Citizenship Amendment (Citizenship Testing) Bill 2007.

Yours truly,

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# **SUBMISSION ON THE AUSTRALIAN CITIZENSHIP AMENDMENT (CITIZENSHIP TESTING) BILL 2007**

B'nai B'rith Anti-Defamation Commission Inc.

## **About the ADC**

B'nai B'rith Anti-Defamation Commission Inc. (ADC) is the human rights arm of B'nai B'rith Australia/New Zealand. It is dedicated to eliminating antisemitism, combating racism, intolerance and prejudice and seeking to secure justice and fair treatment for all citizens alike. In pursuit of this mission, the ADC aims to:

- maintain an effective monitoring and response function to combat all bigotry, racism and prejudice
- employ the instruments of research, fact finding, education and law to counter racism and prejudice
- develop and disseminate educational and publicity material
- build bridges of understanding and friendship among racial, religious and ethnic groups.

To achieve these aims, the ADC engages in a wide variety of activities that involve conducting research, promoting education and fostering good community relations, and publishes regular news and media releases as well as reports.

## **Comments on the Citizenship Testing Bill**

### **1. THE SUBJECT MATTER of the BILL (Proposal to amend sections 19G, 21(2A) & 23A of the *Australia Citizenship Act 2007*)**

The ADC remains opposed to the introduction of Citizenship Testing, for the following reasons:

- a. The current system of granting citizenship to migrants and refugees works well. We have a robust multicultural society, which has benefited greatly from its migrant base. The Second Reading Speech accompanying the proposed legislation confirms the success of our current method of granting citizenship.
- b. Prospective citizens are currently required to demonstrate the adequacy of their English at the interview process
- c. There is no empirical evidence that demonstrates any benefit from citizenship testing. In particular it is unclear how a citizenship test would result in better integration of migrants and refugees than the current arrangements. Further, there is no reason to believe that citizenship testing will improve the social or economic integration of new citizens.
- d. The application of a citizenship test to migrants and refugees is discriminatory. If testing knowledge of English, knowledge of Australian values and knowledge of Australian history and culture is a crucial aspect of citizenship then the test must be required of all those people who are *granted* citizenship. This includes all children born in Australia to an Australian parent. Before

benefiting from citizenship, this cohort must also be required to undergo citizenship testing – perhaps on reaching majority.

- e. From an educational perspective, multiple choice questions are necessarily based on limited perspectives of a subject. The more knowledgeable the applicant is, the more difficult it will be for he/she to pass such a test. This is because the ambiguities of options, and therefore of the correct answer, will be more difficult to navigate.
- f. There is no evidence that studying for a test is comparable to becoming educated in the English language and about Australian history and culture. Existing English language classes and migrant services have proved more than adequate for the purpose.
- g. Such a test will be a bar to citizenship for refugees and migrants who have never had access to formal education and have not gained literacy in their own language. To ask for literacy in a second language is unreasonable and contrary to the spirit of a fair go.
- h. The current system of granting citizenship involves an interview with a trained officer. An interviewer is well able to understand the person and assess his/her knowledge and abilities, and will be a far better judge of character and the ability to take on the benefits and burdens of citizenship than a computer-based multiple choice test.
- i. The group in the greatest need of providing evidence of English language skills are skilled migrant workers who are being brought into Australia, with no intention that they will become citizens. Yet this cohort has been placed at serious risk of workplace accidents for lack of basic knowledge of dangerous goods clearly marked in English.

**RECOMMENDATION 1: That the proposed addition of a citizenship test to current citizenship law should be discontinued and that the *Australian Citizenship Amendment (Citizenship Testing) Bill 2007* should be rejected by Parliament on the basis that this is an unsound proposal.**

## **2. THE FINANCIAL IMPACT OF THE BILL**

- a. Explanatory Memorandum reports that the cost has been estimated to be \$123.6 million over a five year period. The success of the current programmes available to migrants and refugees is well documented. However this success is tempered by the limited resources provided by the government. Improving the current programmes, allowing it to be run more flexibly and with appropriate childcare to meet the needs of the target group, could be achieved with a percentage of the allocated funding. This would be a far more appropriate expenditure than spending money on an untested, educationally dubious process.
- b. Section 46(1A) provides that some of the financial burden of the testing will be borne by applicants. This, too, could be a bar preventing some potential citizens from the process.

**RECOMMENDATION 2: That money allocated for citizenship test be redirected to enhance the quality and availability of current English language and migrant services.**

**3. AMENDMENT RE 'ADEQUATE KNOWLEDGE OF AUSTRALIA': S21(2)(f)**

The ADC is untroubled by the proposal to add 'adequate knowledge of Australia' to s21(2). Relevant knowledge could be assessed at the existing interview.

**4. THE GRANT OF UNFETTERED DISCRETION: s23A**

The legislative scheme provides broad unfettered decision-making power to the Minister. For example s23A(6) allows the Minister power to make any determinations related to the test. The proposed legislation offers no safeguards to ensure that the proposed citizenship testing process will be based on an appropriate knowledge-base or will be administered consistently with the respect due to all people. Given the history of the political usage of immigration powers, this section should ring a clear warning of the danger of the proposed law.

In our Submission to the Citizenship Taskforce on the *Australian Citizenship Discussion Paper* we wrote:

Australia has had experience of testing of the nature proposed. During the early 20<sup>th</sup> century, dictation tests were used as an instrument of the White Australia Policy. Specifically designed to exclude Asian immigration, a person could be declared an illegal immigrant if they were unable to pass a dictation test in a European language. One such case went as far as the High Court. In 1934 Egon Kisch, a Jewish communist who was fluent in many European languages, was jailed for 6 months after failing a test in Scottish Gaelic. The High Court reversed the decision by declaring that Scottish Gaelic was not a European language.\*

It is unsatisfactory for legislation to be passed which leaves all aspects of a proposed scheme to the discretion of the Minister. While the intention at this time may be innocuous, legislation of this nature should not, as a matter of principle, be allowed to pass through Parliament and to become law.

**RECOMMENDATION 3: That the *Australian Citizenship Amendment (Citizenship Testing) Bill 2007* should be rejected by Parliament on the basis that the legislative scheme is vague and grants unfettered power to the Minister.**

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\* see Gaze B & Jones M *Law, Liberty & Australian Democracy* Law Book 1990