To amend the Australian Citizenship Act, 1948 and so thereby to remove all discrimination, to revise the oath of allegiance and to effect consequential and technical amendments.

Background

Given the vast changes which have occurred in the ethnic makeup of Australian society and having regard to developments overseas in the thirty five years since the Australian Citizenship Act came into force, many provisions are now very dated.

The proposed Bill aims to reflect the national identity of all Australians rather than only of those of British origin; to not discriminate between persons on the basis of their sex, marital status and present or previous nationality and to provide for review by the Administrative Appeals Tribunal of any decisions which may deny or deprive persons of citizenship under the Act.

Major Aspects

The Declaration of Allegiance made at the time that Australian Citizenship is granted incorporates three separate elements (1) The renunciation of former allegiance (2) commitment to observe the laws of Australia (3) the declaration of new allegiance to Australia.

The new requirements for the Declaration of Allegiance are seen by the Government to embody wording which is distinctly Australian in character, which expresses full commitment to Australia, its laws and the Constitution and which avoids the requirement to swear allegiance to a sovereign resident elsewhere.
The new pledge of Australian Citizenship is to be made by all citizens in either of two forms. The proposed wording for the first form is:

"I renounce any current citizenship and allegiance to any State other than Australia. I pledge that I will faithfully uphold the Constitution, obey the laws of Australia and fulfil my duties as an Australian citizen."

The alternative second form of pledge proposed is:

"I renounce any current citizenship and allegiance to any state other than Australia. I swear by Almighty God that I will faithfully uphold the Constitution, obey the laws of Australia and fulfil my duties as an Australian citizen."

Neither form of the pledge makes reference to the Sovereign.

Principal Clauses

Clause 4 amends section 5 of the Australian Citizenship Act 1948 (the Principal Act) to insert some new interpretation provisions. In line with recent advances in the medical field in bio-technology new sub-sections 5 (6), (7) and (8) have been inserted.

The new Section 5A defines the requirements of permanent residency for obtaining new forms of citizenship. A permanent resident for the purposes of citizenship is defined to mean a person whose continued presence in Australia is not subject to any limitation as to time imposed by law, who is not a prohibited immigrant before the commencement of the Migration Amendment Act 1983, or a prohibited non-citizen after the commencement of that act, and is not a person included in a class of persons exempt from the requirement of entry permit under paragraph 8 of the Migration Act 1958, such as foreign diplomats and consular officials, etc.

Part 11 of the previous Act has been repealed to remove any reference to British subject status.

When the Act is amended a person may acquire Australian citizenship by Birth, (Clause 9), by Adoption, by Descent, proposed section 10B, or by Grant, proposed section 13.

Clause 36 inserts new sections 52A and 52B to confer determinative jurisdiction to the Administrative
Appeals Tribunal to review certain categories of decisions such as a grant of citizenship under new Section 13, and decisions of the Minister under Section 23 on the merits under the Act. There is no such right of review at the moment. The new section 52A not only gives the AAT the capacity to review on merit but also gives power to substitute its own decision for the decision about which a complaint has been made.

For further information, if required, contact:

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