

Nationality and Borders Bill

AMENDMENTS

TO BE MOVED

ON REPORT

After Clause 4

BARONESS LISTER OF BURTERSETT
LORD RAMSBOTHAM

Insert the following new Clause—

“Provision for Chagos Islanders to acquire British nationality

- (1) Part 2 of the British Nationality Act 1981 (British overseas territories citizenship) is amended as follows.
- (2) After section 17H (as inserted by section 7), insert—

“17I Acquisition by registration: descendants of those born in British Indian Ocean Territory

- (1) A person is entitled to be registered as a British overseas territories citizen on an application made under this section if they are a direct descendant of a person (“P”) who was a citizen of the United Kingdom and Colonies by virtue of P’s birth in the British Indian Ocean Territory or, prior to 8 November 1965, in those islands designated as the British Indian Ocean Territory on that date.
- (2) An application under this section must be made before the date specified in subsection (3).
- (3) The specified date is—
 - (a) in the case of a person aged 18 years or over on the date of coming into force of this section, five years after the date of coming into force of this section, or
 - (b) in the case of a person under the age of 18 years on the date of coming into force of this section, the date on which they reach the age of 23 years.
- (4) A person who is being registered as a British overseas territories citizen under this section is also entitled to be registered as a British citizen.
- (5) No charge or fee may be imposed for registration under this section.””

Member's explanatory statement

This amendment would allow anyone who is descended from a person born before 1983 on the British Indian Ocean Territory to register as a British overseas territories citizen. They may also register as a British citizen at the same time. Both applications would be free of charge. The application must be submitted within 5 years, or in the case of a minor born before the date of coming into force, before they reach 23 years old.

Clause 9

LORD ANDERSON OF IPSWICH

Page 11, line 31, leave out “it appears to the Secretary of State that”

Member's explanatory statement

This amendment removes the subjective element from the condition in paragraph (a) of new subsection (5A)(notice of deprivation of citizenship not required if Secretary of State does not have the requisite information).

Page 11, leave out lines 35 to 41 and insert –

- “(b) the Secretary of State reasonably considers it necessary, in the interests of –
 - (i) national security,
 - (ii) the investigation or prosecution of organised or serious crime,
 - (iii) preventing or reducing a risk to the safety of any person, or
 - (iv) the relationship between the United Kingdom and another country,
 that notice under that subsection should not be given.”

Member's explanatory statement

This amendment limits the grounds on which a deprivation-of-citizenship order may be made without notice to the person concerned, and also strengthens the test, so that one may only be made if the Secretary of State reasonably considers it necessary.

Page 11, line 44, at end insert –

- “(5C) Subsection (5D) applies where –
 - (a) the Secretary of State has made an order under subsection (2) and, in reliance on subsection (5A), has not given the notice required by subsection (5), and
 - (b) the person in respect of whom the order was made makes contact with the Secretary of State for the Home Department.
- (5D) The Secretary of State must, as soon as is reasonably practicable, give the person written notice specifying –
 - (a) that the Secretary of State has made the order,
 - (b) the reasons for the order, and
 - (c) the person's right of appeal under section 40A(1) or under section 2B of the Special Immigration Appeals Commission Act 1997.

Clause 9 - continued

- (5E) Schedule 4A makes provision for the Special Immigration Appeals Commission to consider a decision of the Secretary of State not to give notice to a person before depriving them of a citizenship status on the grounds mentioned in subsection (2)(deprivation conducive to the public good)."

Member's explanatory statement

This amendment inserts three new subsections into section 40 of the BNA 1981. The first two provide for late notice to be given to a person who has been deprived of their citizenship without notice if they subsequently make contact with the Home Office. The third introduces the new Schedule 4A to the British Nationality Act 1981, which provides for the Special Immigration Appeals Commission to oversee decisions to deprive a person of their citizenship without notice.

Page 12, line 9, at end insert –

“(b) after subsection (2) insert –

“(2A) In the case of an order made as described in subsection (1)(b), for the purposes of any rule or other provision limiting the time within which an appeal under this section may be brought, time does not start to run unless and until the person is given notice of the fact that the order has been made (see section 40(5D) and Schedule 4A).”

Member's explanatory statement

This amendment provides that in a case where a person is deprived of their citizenship without notice, time for bringing an appeal will not start to run unless and until they are subsequently given notice.

Page 12, line 9, at end insert –

“(3A) After Schedule 4 to the 1981 Act insert the Schedule 4A set out in Schedule 1A.”

Member's explanatory statement

This amendment inserts the new Schedule 4A into the British Nationality Act 1981.

After Clause 10

BARONESS BENNETT OF MANOR CASTLE

Insert the following new Clause –

“Repeal of power to deprive citizenship except for cases of fraud etc.

In section 40 of the British Nationality Act 1981 (deprivation of citizenship) omit –

- (a) subsection (2), and
- (b) subsection (4).”

Member's explanatory statement

This would repeal the power of the Secretary of State to deprive British citizenship except in cases where it was obtained by means of fraud, false representation or concealment of material fact.

After Clause 78

LORD WALLACE OF SALTIRE

This replaces Lord Wallace of Saltire's amendment After Clause 78 published on HL Bill 82 – R(a)

Insert the following new Clause –

“Tier 1 (investor) visas: review report

Any replacement, successor or alternative visa scheme to the Tier 1 (investor) visa scheme must not come into operation until the Secretary of State has published and made publicly available the review of Tier 1 (investor) visas granted between June 2008 and April 2015.”

Member's explanatory statement

This new Clause would require the Government to publish its review into Tier 1 (investor) visas granted between June 2008 and April 2015 before any replacement scheme can be brought into operation.

LORD ALTON OF LIVERPOOL

LORD PATTEN OF BARNES

THE LORD BISHOP OF ST ALBANS

LORD FALCONER OF THOROTON

Insert the following new Clause –

“British National (Overseas) visas: eligibility

- (1) Within two months of this Act being passed, the Secretary of State must amend the immigration rules to ensure that all persons meeting all the conditions set out in subsection (2) are eligible to apply for the British National (Overseas) visa.
- (2) The conditions in this subsection are that –
 - (a) the person has at least one parent who is a British national (overseas),
 - (b) the person was born on or after 1 July 1997,
 - (c) the person is aged 18 or over on the date of application, and
 - (d) the person is –
 - (i) if applying to enter the United Kingdom, ordinarily resident in Hong Kong, or
 - (ii) if applying for permission to remain, ordinarily resident in the United Kingdom, the Bailiwick of Guernsey, the Bailiwick of Jersey, the Isle of Man or Hong Kong.”

Clause 83

LORD ANDERSON OF IPSWICH

Page 85, line 1, leave out paragraph (a)

Member's explanatory statement

This amendment results in subsections (2) to (4) of clause 9 coming into force by regulation.

After Schedule 1

LORD ANDERSON OF IPSWICH

Insert the following new Schedule –

“SCHEDULE 1A**DEPRIVATION OF CITIZENSHIP WITHOUT NOTICE: JUDICIAL OVERSIGHT**

This is the Schedule to be inserted after Schedule 4 to the British Nationality Act 1981 –

“SCHEDULE 4A Section 40(5E)**DEPRIVATION OF CITIZENSHIP WITHOUT NOTICE: JUDICIAL OVERSIGHT***Deprivation without notice: application to Special Immigration Appeals Commission*

- 1 (1) If the Secretary of State proposes to make a conducive grounds deprivation order without notice, the Secretary of State may apply to the Special Immigration Appeals Commission under this paragraph.
- (2) If the Secretary of State makes a conducive grounds deprivation order without notice, the Secretary of State must apply to the Special Immigration Appeals Commission under this paragraph within the period of seven days beginning with the day on which the order is made (unless an application has already been made under sub-paragraph (1)).
- (3) The function of the Commission on an application under this paragraph is to determine whether, in respect of each condition in section 40(5A) on which the Secretary of State relies, the Secretary of State’s view is obviously flawed.
- (4) In determining that question, the Commission must apply the principles that would be applicable on an application for judicial review.
- (5) If the Commission determines that the Secretary of State’s view is obviously flawed in respect of each condition in section 40(5A) on which the Secretary of State relies –
 - (a) if the order in question has not been made, section 40(5) applies in relation to the order (notwithstanding section 40(5A));
 - (b) if the order has been made, the Secretary of State must, within the period of 14 days beginning with the day on which the Commission made the determination –
 - (i) give late notice in respect of the order,
 - (ii) revoke the order, or
 - (iii) make an application under sub-paragraph (6).
- (6) The Secretary of State may (at any time) make an application to the Special Immigration Appeals Commission for fresh consideration of a decision the Secretary of State has made under section 40(5A) where –
 - (a) in the opinion of the Secretary of State, circumstances have changed materially since the determination mentioned in sub-paragraph (5), or
 - (b) the Secretary of State wishes to provide further evidence to the Commission.

After Schedule 1 - continued

Sub-paragraphs (3) to (5) apply to an application under this sub-paragraph.

Deprivation of citizenship without notice: review

- 2 (1) Sub-paragraphs (2) to (5) apply if—
- (a) the Secretary of State makes a conducive grounds deprivation order without notice, and
 - (b) the Special Immigration Appeals Commission has not made the determination mentioned in paragraph 1(5) (Secretary of State's decision obviously flawed).
- (2) The Secretary of State must, at least once in every review period, review the circumstances of the person in respect of whom the order was made (so far as known) and decide whether to give late notice in respect of the order.
- (3) On such a review, the Secretary of State must decide to give late notice to the person unless it appears to the Secretary of State that any of the conditions in section 40(5A) is met (reading any reference in those provisions to notice under section 40(5) as a reference to late notice).
- (4) If the Secretary of State decides at any point to give late notice in respect of the order—
- (a) the Secretary of State must give the notice as soon as reasonably practicable, and
 - (b) once the notice is given, sub-paragraph (2) ceases to apply in relation to the person.
- (5) If on the expiry of the final review period the Secretary of State has not given, or has not decided to give, late notice in respect of the order, the Secretary of State must make an application to the Special Immigration Appeals Commission within the period of seven days beginning with the day after the final day of that review period.
- (6) Sub-paragraphs (3) to (6) of paragraph 1 (except sub-paragraph (5)(a)) apply for the purposes of an application under sub-paragraph (5) as they apply for the purposes of an application under that paragraph.
- (7) For the purposes of this paragraph, each of the following is a “review period”—
- (a) the period of four months beginning with the day after the day on which the Special Immigration Appeals Commission first determined an application in relation to the order under paragraph 1, and
 - (b) each of the next five successive periods of four months.

Interpretation

- 3 (1) In this Schedule, references to making a conducive grounds deprivation order without notice are to making an order under section 40(2) without giving notice under subsection (5) of that section (in reliance on subsection (5A) of that section).
- (2) In this Schedule, “late notice”, in respect of an order under section 40(5), means written notice to the person in respect of whom the order was made specifying—
- (a) that the Secretary of State has made the order,

After Schedule 1 - continued

- (b) the reasons for the order, and
- (c) the person's right of appeal under section 40A(1) or under section 2B of the Special Immigration Appeals Commission Act 1997.””

Member's explanatory statement

This amendment inserts a new Schedule into the British Nationality Act 1981, to make provision for judicial oversight of decisions to deprive a person of their citizenship status without notice on grounds that the deprivation is conducive to the public good.

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