

Immigration Bill

Fact Sheet: Deprivation of Citizenship (clause 60)

Immigration Minister Mark Harper:

“Those who threaten this country’s security put us all at risk. This government will take all necessary steps to protect the public.

“Citizenship is a privilege, not a right. These proposals will strengthen the Home Secretary’s powers to ensure that very dangerous individuals can be excluded if it is in the public interest to do so.”

Background

Currently, a person can be deprived of their citizenship where the Home Secretary considers it to be “conducive to the public good”¹. However, the law as it stands prevents us from doing so – even where the conducive test is met – if doing so would leave the person stateless².

It is not right that a person who has acquired British citizenship – and accepted the rights, responsibilities and privileges that derive from this – can act in a way that threatens the security of the UK and retain British nationality simply because they may be left stateless as a result of deprivation.

We are changing this for a small sub-category of cases even if such action left them stateless. These would be in cases where the person has:

- (i) been naturalised (i.e. not British-born or those who register to acquire citizenship under other provisions of the 1981 Act); and
- (ii) conducted themselves in a manner that is seriously prejudicial to the vital interests of the UK.

¹ Section 40(2) British Nationality Act 1981

² Section 40(4) British Nationality Act 1981

This is not a wholly new provision. It was previously part of nationality law as recently as 2003. It is consistent with our obligations under international law, as set out in the UN Convention on the Reduction of Statelessness 1961 and the declaration the UK made on ratifying that Convention in 1966. There we retained the right to deprive naturalised persons of their British nationality and leave them stateless in certain circumstances, including those set out above.

This power was retained until 2003 when the previous Government changed it via the Nationality, Immigration and Asylum Act 2002 – in anticipation of signing the 1997 European Convention on Nationality – which explicitly prevents us from leaving a person stateless in these circumstances. However the previous Government never signed this Convention and we have no plans to do so.

What are we going to do?

- Introduce a power to enable deprivation for the most serious cases, even if it leaves the person stateless.
- Limit this to naturalised citizens only, in line with international law.
- Retain the ability of those individuals to appeal against such a decision, therefore providing judicial oversight.

How are we going to do it?

- The Bill will include a new clause specifying that naturalised British citizens who conduct themselves in a manner which is seriously prejudicial to the vital interests of the UK can be deprived of their British citizenship even if the deprivation would render them stateless.
- The remaining powers to deprive will remain unchanged i.e. any British Citizen may be deprived if they acquired it using fraud, false representation(s)

or concealment of a material fact³ regardless of whether it would leave them stateless or where the Home Secretary is satisfied that doing so is 'conducive to the public good' and the person would not be left stateless as a result⁴.

Benefits

- Naturalised British citizens who have conducted themselves in a manner seriously prejudicial to the vital interest of the UK will be stripped of their British citizenship and its associated benefits.
- The focus of the appeal against deprivation will be limited to whether the appropriate test is made out; not in-depth assessments of other countries' nationality laws to determine whether a person is or is not entitled to another nationality and thereby not rendered stateless by the deprivation action.
- Where appropriate and lawful to do so, we will seek to remove or prevent the re-entry of those who have been deprived of their citizenship in such circumstances.

Q&A

What does “seriously prejudicial to the vital interests of the UK” mean?

We do not want to be overly prescriptive about what this phrase means, but we would envisage it covering those involved in terrorism or espionage or those who take up arms against British or allied forces.

How many deprivations have there been on conducive grounds?

Since 2006, there have been **27** people deprived under the different conducive powers.

³ Section 40(3) British Nationality Act 1981

⁴ Sections 40(2) and 40(4) British Nationality Act 1981

What sort of numbers will be affected – how many new cases of deprivation will be pursued?

The number of deprivations using this new power is likely to be small. This is more a matter of principle than an issue of numbers.

Deprivation of citizenship is a serious matter and one that is not taken lightly and is only used in justifiable cases. This new clause will apply to a small sub-group of existing cases, where we are precluded from taking deprivation action only because an individual would be left stateless as a result. The threshold of having conducted themselves in a manner “seriously prejudicial to the vital interests of the UK” is a high one and every case will be considered on an individual basis.

Further reading

1. Section 40 British Nationality Act 1981
2. UN Convention on the Reduction of Statelessness 1961 (together with the UK's declaration on commencement)
3. ECHR Supplementary Memo:
<https://www.gov.uk/government/publications/immigration-bill-overarching-documents>

Home Office

January 2014