



Nationality and Borders Bill

House of Lords Report

28 February 2022

Part 1 (Nationality)

Citizenship rights: Chagossians, adoption & deprivation

This Joint Briefing concerns the following matters arising in relation to amendments to Part 1 (Nationality):

- (1) British nationality rights for Chagossians**
- (2) British citizenship rights and adoption**
- (3) Deprivation of British nationality**

Amnesty UK and the Project for the Registration of Children as British Citizens (PRCBC) have separately briefed, with others, on stateless children and the [removal of Clause 10 from the Bill](#), which we strongly support. We will also shortly be circulating a briefing concerning amendment **84** on the matter of registration fees.

(1) British nationality rights for Chagossians:

The amendment below is designed to provide redress for the nationality law injustice done to the Chagossians and their descendants. That is a relatively small group of British people, whom successive UK Governments have forcibly evicted from their homeland and forced to remain in exile ever since. This forced eviction and exile has deprived many descendants of British overseas territories citizenship, with which they would have been born, were it not for that eviction and exile.

PRCBC and Amnesty strongly support this amendment.¹ Of the many grave injustices done to the Chagossians, the deprivation of British nationality rights is one that can and must be corrected by amendment to this Bill. The opportunity must not be missed. This particular injustice has continued without correction for far too long and there may be a very long wait for another nationality bill that would provide any further opportunity for correction.

We have seen the briefing of the British Indian Ocean Territory (BIOT) Citizens in support of this amendment. We are aware of the wider support for it among the

¹ We have addressed this further within our [joint briefing for Committee](#) on Part 1 (Nationality).

Chagossian and other communities, individuals and organisations. We urge peers to support this amendment.

BARONESS LISTER OF BURTERSETT
LORD RAMSBOTHAM
BARONESS ALTMANN
BARONESS LUDFORD

1

After Clause 4, 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 means—

(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 or born within 4 years of that date, before 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 or born within 4 years of that date, before they reach 23 years old.

(2) British citizenship and adoption:

The amendment below is designed to align British nationality law and adoption law. It is specifically concerned with the situation in which a child adopted by a British citizen turns 18 before the adoption is finalised.

The underlying purpose to the British Nationality Act 1981 in relation to adoption² is to ensure that British citizenship is acquired by children adopted by British citizens. That purpose is currently undermined in the case of the few children who reach adulthood before the adoption is finalised by order of the court. We support this amendment to fulfil the underlying purpose of the 1981 Act.

LORD RUSSELL OF LIVERPOOL
BARONESS HAMWEE
LORD TRIESMAN

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Clause 7, Page 9, line 36, at end insert—

“(1A) In section 1 (acquisition by birth or adoption), in subsection (5)—

(a) in paragraph (a), for “minor” substitute “person”, and

(b) after paragraph (b), for “that minor shall” substitute “that person or minor (as the case may be) shall”.

Member’s explanatory statement

This amendment seeks to bring British nationality law in line with adoption law in England and Wales. In those nations, an adoption order made by a court may be made where a child has reached the age of 18 but is not yet 19. Yet such an adoption order currently only confers British citizenship automatically where the person adopted is under 18 on the day the order is made.

(3) Deprivation of British nationality

There are various amendments tabled concerning powers of deprivation. Among these amendments are three distinct objectives:

- (1) to remove from the Bill the power in Clause 9 to deprive a British person of their citizenship without informing them;
- (2) to leave in the Bill the power in Clause 9 to deprive a British person of their citizenship without informing them but to limit its use; and
- (3) to remove the power to deprive a British person of their citizenship save in cases where that citizenship was obtained by fraud.

As regards these three objectives and the amendments to which they relate:

PRCBC and Amnesty strongly support the removal of Clause 9 from the Bill (as tabled by Baroness D’Souza, Lord Rosser and Lord Paddick, amendment **20**).³ However, we do not think this goes far enough.

We have generally supported those peers from across the House, including Government back benches, who have sought to significantly reduce the current powers of deprivation. These powers have been greatly extended over the last two decades – both in their reach and their use.

² [Section 1\(5\), British Nationality Act 1981](#)

³ We have addressed this more fully in our joint [briefing for Committee](#) on Deprivation.

The only amendment on the Marshalled List that can achieve that objective is that tabled by Baroness Bennett of Manor Castle (amendment **22**). We support it. It would restrict the power to deprive a British person of their citizenship to cases where that citizenship had been obtained by fraud.

Lord Moylan emphasised in Committee that the original purpose of the power of deprivation was solely to address cases of fraud.⁴ As he further explained, the power's wider extension has a miserable history of reaction to suspicion, conjecture and individual cases given especial public, media and political attention.⁵ The impact of making ever larger numbers of people – disproportionately identifiable by characteristics of race or religion – in principle within the scope of a power that amounts to “*banishment*”,⁶ is to create fear, anxiety and division.⁷

This power is also one of a number of ways by which the very purpose and notion of citizenship has been progressively undermined and “*degraded*”⁸ by successive governments in recent years.⁹ This power ought, at the very minimum, to be significantly curtailed; and we are deeply disappointed that following the vocal cross-party support for that at Committee,¹⁰ there appears to be so little will to attempt that.

Accordingly, we cannot support the various amendments that have been tabled to put some constraint on the exercise of the power to deprive a British person of their citizenship without informing them. We have previously briefed in some detail in relation to our profound objections to deprivation without notice.¹¹ The very minimum that must be done at this time is to **remove Clause 9 altogether**, though for reasons indicated above this would still fall very far short of what is needed.

⁴ *Hansard* HL, [27 January 2022 : Col 508ff](#)

⁵ *ibid*

⁶ A term used by each of Lord Moylan (*ibid*) and Baroness Mobarik (*Hansard* HL, [27 January 2022 : Col 519](#)) at Committee and by Lord Anderson of Ipswich (*Hansard* HL, [5 January 2022 : Col 602](#)) at Second Reading to describe the use of this power.

⁷ Among the many peers who spoke powerfully to this at Second Reading and Committee were Baroness Warsi (*Hansard* HL, [5 January 2022 : Col 654](#) and [27 January 2022 : Col 521](#)), Baroness Mobarik (*Hansard* HL, [27 January 2022 : Col 519](#)), Lord Kirkhope of Harrogate (*Hansard* HL, [27 January 2022 : Col 523](#)), Lord Macdonald of River Glaven (*Hansard* HL, [27 January 2022 : Col 524](#)), Baroness Fox of Buckley (*Hansard* HL, [5 January 2022 : Col 590](#) and [27 January 2022 : Col 514](#)), Baroness Uddin (*Hansard* HL, [5 January 2022 : Col 643](#)), Baroness Chakrabarti (*Hansard* HL, [5 January 2022 : Col 593](#) and [27 January 2022 : Col 531](#)), Lord Woolley of Woodford (*Hansard* HL, [5 January 2022 : Col 650](#)), Lord Paddick (*Hansard* HL, [27 January 2022 : Col 529](#)) and Lord Rosser (*Hansard* HL, [27 January 2022 : Col 533](#)).

⁸ *Hansard* HL, Committee 27 January 2022 : Col 511 *per* Lord Moylan (*ibid*)

⁹ We addressed this more fully in our [joint briefing for Committee](#) on amendment 184 (consultation on citizenship).

¹⁰ Those peers and speeches referred to at footnote 7 were only a selection of the peers who spoke powerful against Clause 9 and the powers to which it relates at Second Reading and Committee.

¹¹ See footnote 3