



## Government Immigration Bill, Session 2022-23 (HL Bill 148) House of Lords Report (June/July 2023)

### British citizenship

LORD MOYLAN BARONESS LISTER OF BURTERSETT	117
Clause 31, page 37, line 41, leave out subsection (1)	
<i>Member's explanatory statement</i> <i>This amendment, along with the amendment to Clause 31, page 38, line 12, in the name of Lord Moylan, removes the Bill's effect on registration as a British citizen.</i>	
Clause 31, page 38, line 12, leave out paragraph (a)	118
<i>Member's explanatory statement</i> <i>This amendment, along with the amendment to Clause 31, page 37, line 41, in the name of Lord Moylan, removes the Bill's effect on registration as a British citizen.</i>	

The Project for the Registration of Children as British Citizens (PRCBC) and Amnesty International UK support these amendments. In this briefing we focus specifically on British citizenship. Nonetheless, the reasons summarised here in relation to British citizenship apply equally well to the other British nationality rights included in this Bill.

There is no proper place for provisions to exclude rights to British citizenship in this Bill. The amendments in the names of Lord Moylan and Baroness Lister would do no more than remove a profound constitutional illegitimacy. When called upon to justify the provisions that Lord Moylan and Baroness Lister seek to remove, ministers' responses have shown significant error about both British nationality law and the Bill they ask Parliament to pass. We addressed several of these errors in [a letter to Lord Moylan](#), which was also provided to all peers who took part in [the Committee debate on these amendments](#) and to the Home Office.

In summary, ministers' responses at Committee reveal:

- (1) **The provisions that the amendments of Lord Moylan and Baroness Lister would remove make no real contribution to the stated purpose of this Bill.** The provisions improperly interfere with British citizenship and rights to it, as we made clear when [briefing for Committee stage](#). For that reason alone, they

should be removed. However, it is especially striking that ministers cannot show how excluding these rights relates to or advances the Bill's stated purpose.

- (2) **Ministers continue to wrongly treat categorically distinct matters – registration and naturalisation – as if they are without distinction.** Registration of British citizenship is by right. It fulfils a critical purpose of the British Nationality Act 1981 in creating British citizenship as the nationality of people whom Parliament has identified as British by their connection to the UK. It is a profound constitutional matter to seek to interfere with the right to this citizenship. Naturalisation, on the other hand, is a discretion that Parliament has left to the Home Secretary to allow adult migrants to the UK to become British. While it is undoubtedly of significant importance and value, it is clearly not akin to the right of registration. The inclusion of rights to British citizenship in this Bill, therefore, arises from a profound categorical error that is itself disrespectful and degrading of the citizenship of the UK.
- (3) **Ministers have fundamentally misunderstood the specific rights to British citizenship that they have included in this Bill.** They have suggested these rights are based on residence, whereas most of the rights they have included have no residence requirements at all. In one instance,<sup>1</sup> the relevant residence concerns that of a British citizen parent before the birth of the child whose citizenship rights this Bill threatens to exclude. This is yet another profound misunderstanding underpinning the inclusion of the provisions that Lord Moylan and Baroness Lister seek to remove.
- (4) **Ministers have rightly disavowed any suggestion that children are culpable for being brought, sent, or trafficked to the UK, yet it is children who are highly likely to be the victims of the exclusion of citizenship rights in the Bill.** The Bill imposes an overwhelming penalty (the arbitrary deprivation of a child's citizenship rights) for something Ministers acknowledge the child is not culpable. The children most likely to be affected are children brought, sent, or trafficked to the UK at very young ages (even long before the child may have any or any significant memory of the place from which they were brought or sent). Alternatively, they may be children of British citizen parents, who wrongly suppose their child is like them already a British citizen or otherwise permitted to travel with them to the UK without a visa.

We urge all peers to support Lord Moylan and Baroness Lister. The removal of the provisions concerning rights to British citizenship by registration will have no real impact on this Bill. However, leaving these provisions in this Bill will have a thoroughly detrimental impact on the integrity of British citizenship and upon children who are British by identity, connection to the UK and right. As we have long warned – including during last year's passage of the [Nationality and Borders Act 2022](#) and this month's passage of the [British Nationality \(Regularisation of Past Practice\) Act 2023](#) – British citizenship has been disrespected and degraded over many years by Home Office policy and legislation. It is vitally important that this should not continue. Indeed, it urgently needs reversing and certainly not further extension by this Bill.

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<sup>1</sup> Section 3(2), British Nationality Act 1981 where this does not apply to a stateless child. In the case of a stateless child, there is no residence requirement at all.

**APPENDIX – the following examples describe how the exclusion of British citizenship rights in this Bill is most likely to have effect**

**First example concerning section 3(2) of the 1981 Act:**

Maya is born outside the UK to a British citizen who herself was born overseas causing Maya to not be born a British citizen. Maya's British parent(s) may not understand that Maya is not born a British citizen. Nonetheless, if Maya's British parent has lived in the UK for a continuous period of at least three years before Maya was born, Maya is entitled to be registered as a British citizen under section 3(2) on an application made at any time during her childhood. However, if Maya is brought to the UK in the mistaken belief that she does not need permission to come, she will be permanently excluded from her citizenship rights by Clause 31(1).

**Second example concerning section 3(2) of the 1981 Act:**

Jonathan is born outside the UK to a British citizen in the same circumstances as Maya. Like Maya's parents, Jonathan's parents may not understand that he does not have the citizenship of his British parent. Jonathan is born stateless. Jonathan is, therefore, entitled to be registered as a British citizen under section 3(2) on an application made at any time during his childhood. However, if Jonathan is brought to the UK in the mistaken belief that he does not need permission to come, Jonathan will be permanently excluded from his citizenship rights by Clause 31(1).

**Third example concerning section 3(5) of the 1981 Act:**

Ahmed is born outside the UK to a British citizen in the same circumstances as Maya and Jonathan. However, Ahmed's parents may, like Maya's and Jonathan's parents, not understand that he does not have the citizenship of his British parent. His British parent(s) are free to come to the UK; and he will be entitled to be registered as a British citizen under section 3(5) if living with them in the UK for a continuous period of at least three years. But, if he is brought by his parents to the UK, even though they may be free to come, in the mistaken belief that he does not need permission to come, he will be permanently excluded from his citizenship rights by Clause 31(1).

**Fourth example concerning section 3(1) of the 1981 Act:**

Maria is brought to the UK at a young age, long before her teenage years. She grows up in the UK, has all her schooling here, makes all her friends here, develops her social and cultural identity here and knows only this place. Having grown up here for at least 10 continuous years during her childhood, Maria may be registered as a British citizen under section 3(1) in recognition of the strong connection she has made to this country. However, if her entry to the UK – at a time before which she may barely, or even not, have any memories – was without permission, she will be permanently excluded from her citizenship rights by Clause 31(2).

**Fifth example concerning section 3(1) of the 1981 Act:**

Thomas is brought to the UK as a child. He is so neglected or abused by his parents that the local authority is compelled to apply for and is granted a full care order. He is now growing up in the care of the UK State and his future properly now lies here meaning he may be registered as a British citizen under section 3(1). However, if his entry to the UK was without permission, he will be permanently excluded from his citizenship rights by Clause 31(2).