



**Borders, Citizenship and Immigration Bill
House of Lords Committee
Part 2 Citizenship**

Acquisition by registration: minors Amendment 101

ILPA supports amendment 101, laid in the names of the Lord Avebury and the Lord Roberts of Llandudno:

After Clause 41

Insert the following new Clause—

"Acquisition by registration: minors (No. 2)

- (1) Section 3 of the British Nationality Act 1981 (c. 61) (acquisition by registration: minors) is amended as follows.
- (2) In subsection (5)(b), omit the words "and his father and mother".
- (3) In subsection (5)(b), omit the words ", in the case of each of them,."

Purpose

To ensure that children born outside the UK to British Citizens by descent who live in the United Kingdom or a qualifying territory while still children are permitted to register as British if they have lived in the United Kingdom or a qualifying territory for three years and their absences do not exceed 270 days, regardless of whether the parents have lived in the United Kingdom for three years and regardless of the absences of the parents.

Briefing

Under section 3(5) of the British Nationality Act 1981 a person born outside the United Kingdom or a qualifying territory to a British citizen by descent (who cannot pass on his or her British citizenship to a child born abroad) is entitled to registered as a British citizen provided that the child and the parents have lived in the UK or a qualifying territory and that none of them have been absent from the UK for more than 270 days in those three years. The parents must both consent to the registration of the child. Provision is made for cases where a parent has died or the parents' marriage or civil partnership has been terminated. The parents must

The amendment removes the residence requirements relating to the parent and requires only that the child have been resident for three years as at the date of registration and that the child has not been absent for more than three years.

If either parent is out of the UK for more than 270 days in the three years then the child cannot be registered under this section. Thus the family, of which both parents are British, could be UK based and the child and one of his/her parents might not have left the UK for a single day during the three years, but just because the other parent travels for work the child could not be registered under section 3(5).

Why should not the focus on be on the child? The child's parents were British citizens. The child is in the UK for the required period and the child's absences do not exceed that permitted. It is the child's connection that is central to the application and these amendments would place the focus firmly on that.

The Minister may say that these children can be registered by discretion under section 3(1) of the British Nationality Act 1981. This is correct. Under section 3(1) the Secretary of State has a discretion to register any *child*, regardless of nationality and regardless of whether the parents are British citizens by descent. It is a broad power. But that is perhaps all the more reason, if one has a specific category in addition to the broad discretionary power, to make that specific category fair and workable and to recognise the realities of people's lives in the 21st century.

For further information please get in touch with ILPA via Steve Symonds, Legal Officer (Steve.Symonds@ilpa.org.uk) or Alison Harvey, General Secretary (Alison.Harvey@ilpa.org.uk) 0207 251 8383.