



Borders, Citizenship and Immigration Bill
House of Lords Committee
Part 2 Citizenship
Amendment 97

ILPA supports amendment 97 in the names of the Lord Avebury and the Lord Roberts of Llanudno.

After Clause 41 insert the following new clause

“British citizenship: registration of certain persons without other citizenship

(1) The British Nationality Act 1981 (c.61) is amended as follows:

(2) In section 4B(2) leave out subsections (b) and (c)

Purpose: To *probe* the way in which the Secretary of State is using the requirements to prove a negative in section 4B of the British Nationality Act 1981 to deny the de facto stateless British Citizenship.

Briefing note

It is well known that it is impossible to prove a negative. However, that is exactly what is required of an applicant under section 4B BNA 1981: an applicant must prove they have no other citizenship or nationality. As with British nationality laws, other countries confer citizenship automatically by operation of law without there being any proof in writing. Similarly, some countries deprive erstwhile citizens of their status automatically by operation of law. Section 4B effectively requires an applicant to obtain proof of their status or lack of it in writing even though this is not always possible.

This hurdle of logical impossibility is contrary to the good intentions that lay behind the enactment of this section, and there is now a chance to remedy the situation. Section 4B was enacted to ‘right an historic wrong’ in the words of the then Home Secretary, the Rt Hon David Blunket MP. It was to ensure that holders of British passports other than British citizens, who had no other nationality or citizenship could register by entitlement as a British Citizens. By subsections 4B(2)(b) and (c) they have to satisfy the Secretary of State that they hold no other nationality or citizenship and have not renounced one since 4 July 2002 (the date of the end of the Special

voucher scheme, by which some could come to the UK and thus ultimately naturalise as British citizens).

The Government will say that the requirement is necessary and that it is not being and will not be operated unreasonably – Home Office officials will not require proof of the absence of citizenship of countries with which the person has no connection at all, for example.

In reality the requirement is not being operated reasonably or realistically. Not all governments will provide letters saying ‘you are not a national of this country’ and many who should be entitled to register are denied such registration and left de facto stateless, with no right of abode by virtue of their British nationality and thus no right of abode in any country of the world.

In fact, it is the most vulnerable people for whom this section was most intended that have the most difficulty meeting the requirements. It is countries with unreasonable or restrictive citizenship laws of their own and that have deprive swathes of their residents of citizenship rights that are least likely to provide a nice letter saying that that is what they have done.

In 2006 the Baroness Ashton of Upholland said as follows:

“British overseas citizens, British subjects or British protected persons and hold no other nationality or citizenship...frequently have no right of abode in any country. In recognition of this fact, and accepting that we owe a moral obligation towards them as holders of British passports, we changed the law in 2002 to give them an entitlement to British citizenship and thus the right of abode in this country. We also consider that British overseas citizens, British subjects and British protected persons who have no other nationality or citizenship and have not recently and deliberately given up another nationality or citizenship should not in addition be required to satisfy the Secretary of State that they are of good character before they may be registered as British citizens”. (The Baroness Ashton of Upholland 7 Feb 2006 : Column 623)

This amendment would fulfill the purpose behind the enactment of the section.

For further information, please get in touch with Steve Symonds, Steve.Symonds@ilpa.org.uk or Alison Harvey, Alison.Harvey@ilpa.org.uk, 0207 251 8383.