

**Immigration Bill House of Commons' Consideration of Lords' Amendments 7 May 2014: Briefing from the Immigration Law Practitioners' Association on Government motions on deprivation of citizenship**

The Immigration Law Practitioners' Association (ILPA) is a registered charity and a professional membership association the majority of whose members are barristers, solicitors and advocates practising in all aspects of immigration, asylum and nationality law. Academics, non-governmental organisations and individuals with an interest in the law are also members. Established over 25 years ago, ILPA exists to promote and improve advice and representation in immigration, asylum and nationality law through an extensive programme of training and disseminating information and by providing evidence-based research and opinion. ILPA is represented on numerous government, including Home Office, and other, consultative and advisory groups. Amendments various on reviewers were debated at Lords' report, ILPA's briefing on them is attached hereto – scroll down to the comments on particular amendments. Reviews laid before parliament provide for scrutiny. But you are scrutinising the Bill now. They give you no more than you have got today. That is not enough.

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**Lords Amendment No. 18**

Secretary Theresa May

To move, That this House disagrees with the Lords in their Amendment.

To move the following Amendments to the words so restored to the Bill:— Secretary Theresa May

(a)

\* Page 47, line 40, at end insert ‘, and

(c) the Secretary of State has reasonable grounds for believing that the person is able, under the law of a country or territory outside the United Kingdom, to become a national of such a country or territory.’

Secretary Theresa May

(b)

\* Page 48, line 2, at end insert—

‘(3) After section 40A of the British Nationality Act 1981 insert— “40B Review of power under section 40(4A)

(1) The Secretary of State must arrange for a review of the operation of the relevant deprivation power to be carried out in relation to each of the following periods—

(a) the initial one year period;

(b) each subsequent three year period.

(2) The “relevant deprivation power” is the power to make orders under section 40(2) to deprive persons of a citizenship status in the circumstances set out in section 40(4A).

- (3) A review must be completed as soon as practicable after the end of the period to which the review relates.
- (4) As soon as practicable after a person has carried out a review in relation to a particular period, the person must—
- (a) produce a report of the outcome of the review, and
  - (b) send a copy of the report to the Secretary of State.
- (5) The Secretary of State must lay before each House of Parliament a copy of each report sent under subsection (4)(b).
- (6) The Secretary of State may, after consultation with the person who produced the report, exclude a part of the report from the copy laid before Parliament if the Secretary of State is of the opinion that it would be contrary to the public interest or prejudicial to national security for that part of the report to be made public.
- (7) The Secretary of State may—
- (a) make such payments as the Secretary of State thinks appropriate in connection with the carrying out of a review, and
  - (b) make such other arrangements as the Secretary of State thinks appropriate in connection with the carrying out of a review (including arrangements for the provision of staff, other resources and facilities).
- (8) In this section—
- “initial one year period” means the period of one year beginning with the day when section 40(4A) comes into force; “subsequent three year period” means a period of three years beginning with the first day after the most recent of—
- (a) the initial one year period, or
  - (b) the most recent subsequent three year period.”.

As to the limitation to persons the Secretary of State reasonably believes can acquire another nationality –would that it were so simple. Legal entitlements can be extremely complex. Moreover, whatever the legal entitlement, practice in many countries can be very different.

The Conservative peer Lord Deben summed up the position:

*“Thirdly, to take away someone’s citizenship, it is not reasonable to say that you assume that they can get another country’s citizenship. It is only reasonable to say that you know that they have another citizenship; anything less than that is wrong. It may not be convenient, but it is not right.*

*We have been the signatory to and the driver of much of the international law that seeks to reduce statelessness to its minimum. I fear that in this particular case, we may, for very good reasons—in seeking to close loopholes and make neat what is essentially a not very neat kind of law—do something which will do great injustice to a very small number of people. However, it is none the less injustice if it affects but one.” (19 March 2013) col 212-213)*

On 20 February 2012 the United Nations High Commissioner for Refugees issued "Guidelines on Statelessness No 1", HCR/GS/12/01 which says

#### *Temporal Issues*

*43. An individual’s nationality is to be assessed as at the time of determination of eligibility under the 1954 Convention. It is neither a historic nor a predictive exercise. The question to be answered is whether, at the point of making an Article 1(1) determination, an individual is a*

*national of the country or countries in question. Therefore, if an individual is partway through a process for acquiring nationality but those procedures are yet to be completed, he or she cannot be considered as a national for the purposes of Article 1(1) of the 1954 Convention.*

Similarly, where requirements or procedures for loss, deprivation or renunciation of nationality have only been partially fulfilled or completed, the individual is still a national for the purposes of the stateless person definition. See <http://www.refworld.org/docid/4f4371b82.html>