

information sheet

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Immigration Act 2014: Deprivation of Citizenship

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British citizenship may be granted, and may be taken away. Prior to coming into force of the Immigration Act 2014, the government was prevented from stripping a person of British citizenship if this would leave the person stateless, i.e. without a nationality (see further ILPA's recent Information Sheet: [Statelessness 2](#)). The Immigration Act 2014 has changed that position.

The new power

By section 66 of the Act, the Home Secretary can deprive someone of their British citizenship, even if this would leave the person stateless, if s/he has acted in a manner that is "seriously prejudicial to the vital interests of the United Kingdom."

This new power was the subject of much controversy and lengthy debate in Parliament, which resulted in the power being slightly tempered by the concession that the Home Secretary must have "reasonable grounds" for believing that the person could avail of another country's citizenship before she could strip them of their British nationality. However this begs the question of what are "reasonable grounds for belief"; the requirement falls short of the Home Secretary needing to be certain that the person will be able to obtain another nationality.

Why is the power controversial?

The UK is a signatory to an international treaty which aims to wipe out statelessness: the 1961 UN Convention on the Reduction of Statelessness. A stateless person is in limbo: s/he has no access to a nationality and thus no ability to access the whole raft of rights that are dependent upon it, for example often including the right to travel across borders, to identity papers, to vote, to work, etc. A person's nationality is the basis for most of their human rights as an individual; in the words of Hannah Arendt, the right to a nationality is the 'right to have rights'.

Background

The background to this legislative change is a case last year called *Al-Jedda* [2013] UKSC 62 (9 October 2013). The Government wished to strip Mr Al-Jedda of his citizenship and fought the case all the way to the Supreme Court, where the Court found against the Government, holding that it was unlawful to make Mr Al-Jedda stateless. The government has now changed the law to make it easier to strip people, such as Mr Al-Jedda, of their nationality in future, even where this would give rise to a risk of the person becoming stateless.

Even before taking powers to deprive persons of their nationality where this would leave them stateless there had been a sharp rise in the use of the power to deprive someone of their citizenship under the current Coalition government. The power had been used against 42 people since 2002 and of these, 20 people were stripped of their nationality last year alone. The majority of people affected were deprived of their nationality while abroad, which meant that they had no right to an in-country appeal in a British court.

The Bureau of Investigative journalism has tracked the cases of some of the 42 people who were deprived of their British citizenship in the last 12 years. They discovered that two were killed by American drone strikes shortly after their citizenship was taken away.

Are there any checks on the operation of the power?

The Act provides for a review of the new power after one year and thereafter every three years, with the report being laid before Parliament. However the report can be censored subject to the “public interest” or interests of “national security”. There is a right of appeal to the Special Immigration Appeals Commission (a special type of Immigration Tribunal, which hears cases involving national security issues and has restricted rules of evidence). However, if a person is stripped of their nationality while they are abroad, as has often been the case, they do not have the right to return to the UK to pursue their appeal in person. They can only appeal from abroad, which entails numerous practical difficulties and denies the person the opportunity to give evidence in person.

What happens to someone who is stripped of their nationality?

Further Information

More information on this topic is available from:

- The Bureau Investigates, see, e.g.: <http://www.thebureauinvestigates.com/2013/02/26/medieval-exile-the-21-britons-stripped-of-their-citizenship/>
- ILPA’s Briefings on the Immigration Act, several of which focus on deprivation of citizenship and are available here: <http://www.ilpa.org.uk/pages/immigration-bill-2013.html> (bear in mind some of these predate the final version of the provision which added in a requirement for the Secretary of State to have a “reasonable belief” that the person could acquire another citizenship).