



# information sheet

## Borders, Citizenship and Immigration Bill

26<sup>th</sup> January 2009

The latest immigration Bill was announced in the Queen's Speech – see the December 2008 "Borders, Immigration and Citizenship" information sheet. However, between that announcement and the Bill's publication, the name of the Bill has changed.

On 14 January 2009, the Government published the Borders, Citizenship and Immigration Bill. This is the Bill announced in the Queen's Speech. It contains the provisions that were outlined in the December information sheet.

This information sheet gives further information about this Bill. It includes some information about provisions that are contained in the Bill, but which were not highlighted in the December information sheet. It also provides some information about the Bill's expected timetable. It should be read with the December information sheet.

### **ILPA information service**

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### **The Bill's expected timetable**

The Bill has begun its passage through Parliament in the House of Lords. On 14 January it received its First Reading. The First Reading does no more than notify the House of the Bill.

Second Reading will be the first opportunity for debate in Parliament on the Bill. This had been set for 26 January, but has now been postponed to 11 February.

After Second Reading, the Bill will be considered at Committee stages. These stages will allow for individual clauses to be considered one-by-one. These will also provide the first opportunity for amendments to the Bill to be put forward and debated. Parliament will be in recess (i.e. it will not be in session) between 12 and 23 February, so the earliest Committee stages will begin will be towards the end of February.

### **Contents of the Borders, Immigration and Citizenship Bill**

The December information sheet highlights some of the Bill's provisions. Other provisions, not highlighted in that information sheet, include:

- new nationality provisions relating to children born to members of the armed forces
- new immigration control powers relating to the Common Travel Area
- a power to restrict migrants entitlement to study in the UK
- a power to fingerprint certain foreign national prisoners
- an extension of the powers to detain at ports to Scotland
- a power to allow the High Court to transfer judicial review applications to the Tribunals

### **Nationality provisions relating to children born to members of the armed forces**

The Bill would introduce two new provisions. These provisions would allow children of non-British parents who are serving in the British armed forces to become British in similar ways to those in which children of British parents currently become British.

The first provision relates to children born in the UK. It would allow a child born in the UK to non-British parents to acquire British citizenship if:

- one or other of the parents is a member of the British armed forces at the time of the child's birth; or
- one or other of the parents becomes a member of the British armed forces, after the child's birth, at a time when the child is still under the age of 18 years

The second provision relates to children born outside the UK. It would allow a child to be registered as British if:

- one or other of the parents is a member of the British armed forces at the time of the child's birth; and
- the parents, or the parent if one of the parent's have died, consent to the child being registered as British

### **Common Travel Area**

The Bill would allow for routine immigration control checks on journeys between the UK and Republic of Ireland. More information about the Government's intentions is available from the UK Border Agency consultation on the Common Travel Area (and the ILPA response to that consultation available in the 'Submissions' section of the ILPA website at [www.ilpa.org.uk](http://www.ilpa.org.uk)), which is available at:

<http://www.ind.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/strengtheningthecommontravelarea/>

### **Power to impose conditions restricting studies**

The Bill would allow restrictions on studies to be imposed on migrants who have been granted leave to enter or remain in the UK (i.e. migrants who are lawfully here). This would apply to any migrant who has leave to enter or remain for a limited period of time. It would allow these restrictions to be placed upon migrants who have been granted leave to enter or remain for the purpose of studying, and also migrants who have been granted leave to enter or remain for other purposes (e.g. to work or join family in the UK).

This would be a wide power. It could, for example, prohibit a migrant from any studies, or restrict him or her to study on a particular course or at a particular college.

### **Fingerprinting**

Section 141 of the Immigration and Asylum Act 1999 contains powers allowing immigration officials to take fingerprints of individuals who have received certain immigration decisions. The Bill would include a decision to make an 'automatic' deportation order (these orders were introduced by the UK Borders Act 2007) among the list of immigration decisions at section 141. This would allow immigration officials to take fingerprints of foreign nationals who have been convicted and imprisoned in the UK for offences that bring them within the scope of the 'automatic' deportation provisions.

### **Detention at ports**

Sections 1 to 4 of the UK Borders Act 2007 gave powers to immigration officers to detain people, whether British or not, at ports in England and Wales. The Bill would grant similar powers to certain immigration officials in Scotland.

### **Transfer of judicial review**

The Bill includes a power for the Government to allow the High Court to transfer judicial review applications to the Upper Tribunal of the new tribunal structure introduced by the Tribunals, Courts and Enforcement Act 2007. This is one of most controversial and complicated matters dealt with by the Bill. Some further information is available in the Initial Briefing available in the 'Briefings' section on the ILPA website at [www.ilpa.org.uk](http://www.ilpa.org.uk)