

Borders, Citizenship and Immigration Bill February 2009

This note accompanies a discussion to be held at a meeting of the Migrants' Resource Centre on Thursday, 12th February on the Borders, Citizenship and Immigration Bill. It provides no more than general background. (Note: since this Bill was first announced, its name has changed – it may, therefore, sometimes be referred to as the Borders, Immigration and Citizenship Bill.)

The purpose of the meeting is to:

- identify what in the Bill is of particular concern to the Migrants' Resource Centre and its members; and
- explore what the Migrants' Resource Centre and its members can do in order to influence the content of the Bill before it becomes law.

Progress and timetable of the Bill:

1. The Borders, Citizenship and Immigration Bill was presented to Parliament in January 2009. A copy of the Bill is available at: <http://www.ind.homeoffice.gov.uk/sitecontent/newsarticles/new-bill-route-to-citizenship>
2. The Government's intention is to rush this Bill through Parliament so that the Bill becomes an Act before Parliament breaks up for the summer – 1st June.
3. The Bill is now being considered by the House of Lords. Afterwards, it will be considered by the House of Commons. There is no set timetable for the Bill's progress. The first detailed consideration it will receive will be at Second Reading in the Lords on 11th February. It will receive further detailed consideration in the Committee stage, which is currently set to take place on 25th February, 2nd and 4th March. Following this, it will be further considered at what is called Report and Third Reading.

4. The procedure in the Commons is very similar – key stages are Second Reading, Committee, Report and Third Reading.
5. It cannot be precisely predicted when the Bill will get to the Commons, or the dates when any of the Commons stages will take place. However, it may be that the Bill is with the Commons at some point in April.

What the Bill would do:

6. This note provides only brief details of what is in the Bill and what it will do if it becomes law.
7. The Bill is divided into four Parts as follows:-
 - **Part 1** – This would give various customs powers to the UK Border Agency. It includes provisions to:
 - i. extend the remit of the Independent Police Complaints Commission to investigate complaints of misconduct by officials of the UK Border Agency exercising customs powers;
 - ii. extend the remit of the Chief Inspector of the UK Border Agency to investigate and monitor the new customs powers of the agency; and
 - iii. extend the Police and Criminal Evidence Act 1984 PACE Codes of Conduct, which provide guidance on such things as arrests, searches, detention and interviews by the police, to UK Border Agency officials.
 - **Part 2** – This would make changes to the way in which migrants may become British citizens. It is the Government's intention that:

- i. some migrants should be excluded from naturalisation (i.e. becoming British) or have their progress delayed;
- ii. migrants should be compelled to become British rather than getting permanent residence (now called indefinite leave to enter or remain);
- iii. those migrants who cannot or do not want to become British should have their opportunity to get permanent residence delayed by 3 to 5 years; and should pay an additional application fee;
- iv. the time that it takes to become British or get permanent residence should be delayed by up to 2 years if the migrant does not undertake voluntary or community work;
- v. migrants with a criminal record should be excluded from naturalisation (i.e. becoming British) or permanent residence; or have their progress delayed;
- vi. migrants who are not British, do not have permanent residence or refugee status or humanitarian protection, should be excluded from various services and benefits (these may include housing, welfare, education or health services/benefits);
- vii. those migrants who do not progress to British citizenship or permanent residence should leave the UK; and
- viii. migrants who are intending to stay in the UK should be expected to pay additional fees.

- **Part 3** – This would:

- i. introduce powers for regular immigration controls on travel within the Common Travel Area between the Republic of Ireland and the UK;
- ii. allow the Home Office to place restrictions on the studying in the UK on any migrant who has limited leave to enter or remain in the UK;

- iii. allow for the fingerprinting of people who receive an ‘automatic’ deportation order (these orders were introduced by the UK Borders Act 2007); and
 - iv. allow immigration officers at ports in Scotland powers to detain those whom they suspect will be of interest to police (this power was given to immigration officers in the rest of the UK by the UK Borders Act 2007).
- **Part 4** – This would:
 - i. allow the High Court to transfer asylum, immigration and nationality law judicial reviews from the High Court to the tribunals (to be heard by a High Court judge or a senior immigration judge); and
 - ii. impose a duty to safeguard and promote the welfare of children upon the UK Border Agency, but only in respect of children in the United Kingdom.
8. It is expected that debates in the House of Lords will also focus on:
- the ongoing failure to recognise many hundreds/thousands of Zimbabwean asylum-seekers in the UK as refugees; and
 - the ongoing destitution of many thousands/tens of thousands of asylum-seekers and refused asylum-seekers in the UK.

Possible actions:

9. Actions that could be undertaken by individuals or the Migrants’ Resource Centre include:
- Writing a letter to individual MPs to set out concerns.
 - Going to see an MP to set out concerns.
 - Writing a briefing for MPs setting out concerns.

10. It is hoped that at the meeting (or thereafter) the Migrants' Resource Centre and those attending will be able to identify:
 - issues that are of particular interest; and
 - actions that they may wish to take.
11. ILPA may be able to assist further or suggest others who may be able to assist.

Further information:

12. Further information about this Bill is available from the following ILPA information sheets which are available on the ILPA website at www.ilpa.org.uk/infoservice.html
 - Borders, Citizenship and Immigration Bill, January 2009
 - Transfer of Judicial Reviews, February 2009
 - Borders, Immigration and Citizenship Bill, December 2008
 - Path to Citizenship, March 2008
13. More detailed information is provided in ILPA Briefings on the Bill. These are available at www.ilpa.org.uk/briefings.html
14. The Government's proposals are most fully explained in the *Path to Citizenship* Green Paper and supporting documents. The appended flow chart is taken from the Green Paper. The Green Paper and supporting documents are available at:
<http://www.ind.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/pathtocitizenship/>

Steve Symonds
ILPA, Legal Officer

11th February 2009