

All change? Nationality and Borders Bill

Whilst the Bill still has to clear the House of Lords, there is a great concern over the impact of the Bill.

10 December 2021

The Nationality and Borders Bill was announced in the House of Commons on 6 July 2021 and has been introduced following the government's New Plan for Immigration.

From 6 December 2021, the Nationality and Borders Bill returned to the House of Commons to be scrutinised and it will return to the House of Lords on 5 January 2022.

This legislation is described as the governments 'new plan for immigration'. However, the bill has been heavily criticized as controversial. It makes changes to the UK Immigration System relating to asylum seekers and refugees by differentiating based on method of arrival, as well as looks to alter the current system for asylum claims and appeals and countering people smuggling and modern slavery.

The Home Secretary announced that the new plan will aim to:

- increase the fairness and efficacy of the system so that the UK can better protect and support those in genuine need of asylum;
- deter illegal entry into the UK, thereby breaking the business model of criminal trafficking networks and protecting the lives of those they endanger; and
- remove more easily from the UK those with no right to be here

However, the Bill contains several measures which are, or are likely to:

- arguably be incompatible with international law
- potentially damage access to justice, and
- impact on the role of lawyers in immigration cases

Some of the key elements are:

- There is a provision which allows the UK to be able to send asylum seekers to a 'safe third country' to submit claims at a place determined by the Secretary of State. It is believed the Bill gives potential to allow offshore processing centres to be set up overseas akin to policies used in Australia.
- The Bill gives Border Force powers to turn migrants away from the UK while at sea and makes it a criminal offence to knowingly arrived on the UK without permissions
- The maximum sentence for those entering the country unlawfully will rise from 6 months imprisonment to 4 years.
- There are changes to appeals processes, including removing stages of appeal or fast-tracking certain cases.
- It contains a plan to strip people of British Citizenship without notice. The existing law already allows deprivation of citizenship where people pose a threat to the UK including terrorism, fraudulent citizenship or war crimes. However, the amendment to the clause removes the right to do this without notification.

The powers the Bill gives are excessively broad and has been scrutinised to represent a troubling level of government overreach at the expense of individuals liberty and risks justice, and the rule of law.

Whilst the Bill still has to clear the House of Lords, there is a great concern over the impact of the Bill. As an example, the deprivation of citizenship clause.

Discussing this provision in the Commons on 7 December 2021, it was pointed out that individuals outside the UK are given 28 days to appeal the deprivation of their citizenship, and asked the government to clarify whether this deadline would be extended for those who had not been notified within the 28-day window.

Speaking for the government, a Home Office secretary insisted that the right of appeal would remain intact. MP's are urging greater awareness of the detail of the legislation before the House of Lords begin their examination of it. It is a question of watch this space for more information as we discover more detail when the Bill reaches the House of Lords stage early next year.

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