

Nationality & Borders Bill, Part 1 Clause 9 ‘deprivation of nationality’ & Clause 10 ‘stateless minors’

Briefing for House of Lords Committee Stage, 27 January 2022

Introduction

The [European Network on Statelessness \(ENS\)](#) is a civil society alliance of over 170 members in 41 European countries, including 44 associate members in the UK. We are committed to ending statelessness and ensuring that everyone living in Europe without a nationality can access the rights they are entitled to under international law. This briefing concerns Clause 9 ‘deprivation of citizenship’ and Clause 10 ‘stateless minors’ of Part 1 (Nationality) of the Nationality & Borders Bill (NBB).

We have serious concerns that the changes proposed in Clauses 9 and 10 are contrary to the letter and spirit of international law, will risk *increasing* statelessness in the UK, and will unnecessarily leave more children in limbo, exposed to the detrimental impacts of growing up without a nationality.

Clause 9 ‘deprivation of citizenship’

What is wrong with Clause 9?

Clause 9 of the NBB seeks to amend section 40 of the British Nationality Act 1981 (BNA), to allow the Secretary of State to deprive a person of their nationality without giving them notice. The circumstances in which this would be permissible are extremely broad and provide an extensive margin of discretion to the Home Secretary to strip a person of British citizenship in secret. This has severe consequences for the exercise of an effective right of appeal, which is an essential [safeguard to prevent statelessness](#), both for the person concerned and their children.

States must conduct a [thorough assessment of the consequences of deprivation of nationality](#) for the individual and must take into account whether they would be rendered stateless or at risk of statelessness by the deprivation. Without prior notification, a person would be unable to demonstrate that they do not hold another nationality and should therefore not be deprived of nationality as it would render them stateless. After the deprivation order, a person who has not been notified of that decision would be unable to effectively challenge the deprivation decision, as well as to take any steps required to acquire or retain another nationality they may be entitled to.

The assessment of the consequences of a deprivation order should also take into account the direct or indirect derivative impact on children and families of the person deprived of nationality. Clause 9 will therefore also increase the risk of children being born stateless, if one of their parents is no longer able to pass on British citizenship and the child is not entitled to any other nationality.

The power to deprive individuals of their nationality already disproportionately impacts on minoritized communities, and the expansion of these powers would only contribute to further discrimination.

Clause 9, as proposed, will have [severe impacts](#) on the rule of law and on a person’s fundamental rights, and disregards many of the UK’s international obligations, including the [prohibition of arbitrary deprivation of nationality, the obligation to avoid statelessness, and the right to a fair hearing](#). The UK Government has not provided any justification as to why such a restriction on fundamental rights is needed.

Recommendation: remove Clause 9 from the Bill

We strongly support the removal of Clause 9 from the Bill and, to this end, the amendment of Lord Anderson and others giving notice of their intention to oppose the Question that Clause 9 stand part of the Bill.

Clause 10 ‘stateless minors’

What is wrong with Clause 10?

Section 36 of the BNA gives effect to Schedule 2 expressly “*for the purpose of reducing statelessness*”. Paragraph 3 of Schedule 2 prevents children born in the UK from growing up without a nationality. As Ministers made clear during the passage of the BNA, this provision was needed to ensure continued compliance “*with our international obligations under the United Nations Convention on the Reduction of Statelessness*”.¹

The proposed Clause 10 of the NBB inserts a new Paragraph 3A into Schedule 2 of the BNA for stateless children aged 5-17, requiring that the Secretary of State be “*satisfied*” that the child is unable to acquire another nationality before they may be permitted to register as a British citizen. It considers that a child is able to acquire a nationality where (i) that nationality is the same as one of the parents; (ii) the person has been entitled to acquire that nationality since birth; and (iii) in all the circumstances, it is reasonable to expect them (or someone acting on their behalf) to take steps to acquire that nationality.

Clause 10 therefore unnecessarily restricts the vital safeguard in the BNA intended to protect the rights and best interests of children born stateless in the UK, who have always and remain stateless. For those affected, statelessness can mean problems accessing rights and services, denied opportunities, unfulfilled potential, and a sense of never quite belonging. Clause 10 would effectively give the Secretary of State wide discretion to prevent a stateless child born in the UK from acquiring British citizenship, perpetuating their statelessness.

Our research has demonstrated that there are already [significant law, policy and practice gaps](#) preventing many stateless children in the UK from realising their right to acquire British citizenship. Clause 10 is clearly not intended to prevent or reduce childhood statelessness in the UK as it does not address any of these identified issues. In fact, it has the potential to prolong and even increase instances of childhood statelessness. Children and young people in the UK [have described](#) how their inability to acquire British citizenship leaves them feeling alienated and excluded. The UK Government has provided no evidence to justify restricting children’s rights in this way.

[The Joint Committee on Human Rights](#) expressed concern about the impact of Clause 10 stating that it is doubtful that the clause complies with Article 3 of the UN Convention on the Rights of the Child and that it does not comply with the obligation to grant stateless children born in the UK British nationality in line with Article 1 of the 1961 UN Statelessness Convention.

Recommendation: remove Clause 10 from the Bill

We strongly support the removal of Clause 10 from the Bill and, to this end, the amendment of Lord Paddick and others giving notice of their intention to oppose the Question that Clause 10 stand part of the Bill.

¹ Hansard HC, Standing Committee F, 6 May 1981 : Col 1730; see also Standing Committee F, 6 May 1981 : Col 1726 & Report, 3 June 1981 : Col 986



Further resources

Clause 9

- ILPA (2022) **Nationality and Borders Bill: ILPA Committee Stage Briefings – Clause 9:** <https://ilpa.org.uk/wp-content/uploads/2022/01/ILPA-Briefing-Part-1-Clause-9-Deprivation-of-Citizenship-Amendment.pdf>
- Amnesty & PRCBC (2022) **Nationality and Borders Bill House of Lords, Committee Stage Day 1, 27 January 2022 Deprivation of citizenship (Clause 9 and related amendments):** <https://prcbc.files.wordpress.com/2022/01/nationality-and-borders-bill-deprivation-briefing-1.pdf>
- UNHCR (2022) **Updated Observations on the Nationality and Borders Bill as amended:** <https://www.refworld.org/country,,,GBR,,61e529af4,0.html>
- ENS (2021) **Thematic Briefing: Deprivation of nationality and the prevention of statelessness in Europe:** <https://www.statelessness.eu/updates/publications/statelessnessindex-thematic-briefing-deprivation-nationality-and-prevention>

Clause 10

- PRCBC & Amnesty (2022) **Nationality and Borders Bill House of Lords, Committee Stage Day 1, 27 January 2022 Registration of citizenship rights (amendments on good character, Chagossians, fees and stateless children):** <https://prcbc.files.wordpress.com/2022/01/nbb-20-jan-2022-1.pdf>
- ENS (2021) **Written evidence from European Network on Statelessness (NBB0050):** <https://committees.parliament.uk/writtenevidence/39408/pdf/>
- ENS (2021) **Oral evidence before the House of Commons Public Bill Committee:** <https://parliamentlive.tv/event/index/362b3398-a90f-4715-9c44-835798a6d83e?in=16:13:12>
- ENS, PRCBC & Amnesty (2021) **Joint submission to the UK House of Commons Public Bill Committee: Nationality & Borders Bill:** <https://www.statelessness.eu/updates/publications/joint-submission-uk-house-commons-public-bill-committee-nationality-borders>
- ENS (2021) **Invisible Kids: childhood statelessness in the UK:** <https://www.statelessness.eu/updates/publications/invisible-kids-childhood-statelessness-uk>
- ENS (2021) **Will the new Nationality and Borders Bill increase childhood statelessness in the UK?** <https://www.statelessness.eu/updates/editorial/will-new-nationality-and-borders-bill-increase-childhood-statelessness-uk>

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