

# BRITISH NATIONALITY (IRISH CITIZENS) BILL

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the British Nationality (Irish Citizens) Bill as brought from the House of Commons on 29 April 2024 (HL Bill 71).

- These Explanatory Notes have been provided by the Home Office, with the consent of Lord Hay of Ballyore, the Peer in charge of the Bill, in order to assist the reader of the Bill, and to help inform debate. They do not form part of the British Nationality (Irish Citizens) Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the British Nationality (Irish Citizens) Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the British Nationality (Irish Citizens) Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the British Nationality (Irish Citizens) Bill. They are not, and are not intended to be, a comprehensive description of British Nationality (Irish Citizens) Bill.

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## Overview of the Bill

- 1 The purpose of this Bill is to create a separate route to British citizenship for all Irish citizens who are resident in the UK for a period of 5 years ending with the date of application; and for connected purposes.
- 2 In accordance with the British Nationality Act 1981, references to the UK also include the Channel Islands and the Isle of Man.
- 3 The Bill sets out the requirements for all Irish citizens to acquire British citizenship through registration.

## Policy background

- 4 This Bill has been tabled by Gavin Robinson MP as a Private Member's Bill, to make a provision about British citizenship in respect of Irish citizens who are resident in the UK; and for connected purposes.
- 5 The British Nationality Act 1981 sets out the criteria for the acquisition and attainment of British citizenship.
- 6 The current route for Irish and other non-British citizens to apply for British citizenship based on residence is through naturalisation, based on a period of 5 years' residence in the UK (or 3 years if they are the spouse, or civil partner, of a British citizen). The person must have been in the UK for the requisite period with limited absences; be free from immigration time restrictions; meet the knowledge of language and life in the UK requirements; intend to make the UK their future home; and be of good character.
- 7 Some Irish citizens who were born before 1949 may also be British subjects, and so able to apply to register under section 4(2) of the British Nationality Act 1981. This is a route for those who hold another form of British nationality. The route has similar residence requirements but, more significantly, does not have language and life in the UK requirements. The current fee for that route is slightly less than that for naturalisation (£1,351 compared to £1,500).
- 8 The position of Irish citizens is most often raised in relation to Northern Ireland, given the physical border with Ireland. Similarly, the ability for the people of Northern Ireland to take up Irish nationality under the Belfast/Good Friday Agreement is sometimes cited as a reason for Irish citizens resident in Northern Ireland to have special arrangements. This bill will make it so Irish citizens resident in the UK are able to apply for British citizenship. Automatically imposing British citizenship on Irish citizens, without their opting to apply for it, could cause issues for them.
- 9 With very limited exceptions, Irish citizens do not require leave to enter the United Kingdom; are free to remain without time limitations; and benefit from the broader arrangements of the Common Travel Area and its flexibility of movement. The UK has a unique relationship with Ireland, and the close historical links, geographical proximity and shared institutions between the two countries mean that those in this group would already have a sufficient knowledge of language and life in the UK and which would be reinforced by 5 years' residence the UK.

## Legal background

- 10 The Bill amends the British Nationality Act 1981. British citizenship under that Act can be

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acquired through a connection with the UK mainland, the Crown Dependencies or British Overseas Territories.

- 11 The scope of the Bill is very narrow and is confined to the creation of an application route for Irish citizens who are resident in the UK.
- 12 Irish citizens born before 1949 are currently able to become British subjects, and British subjects are able to apply for registration on the basis of residence under section 4(2) of the British Nationality Act 1981. The new criteria set out in this Bill will seek to mirror that route.
- 13 Section 4(2) of the British Nationality Act 1981 states that an applicant must be in the UK at the beginning of a five year period ending on the date of an application, not have been absent from the UK for over 450 days, not have been absent for over 90 days in the 12 months ending on the date of application and must not have been in breach of immigration laws during the five year period ending on the date of an application. (Similar requirements exist for naturalisation for those who are not the spouse or civil partner of a British citizen, with the additional requirements to have sufficient knowledge of language and life in the UK, and intend to live in the UK if the application is successful.)

## Territorial extent and application

- 14 The changes that the Bill makes to The British Nationality Act 1981 extend and apply to the Channel Islands, Isle of Man and the British Overseas Territories.

## Commentary on provisions of Bill

### Clause 1: Acquisition of British Citizenship by persons born in Ireland

- 15 Clause 1 of the Bill inserts new section 4AA into the British Nationality Act 1981, which allows an Irish citizen to be registered as a British citizen if they apply and meet the requirements.
- 16 The requirements for new section 4AA are as follows:
  - (a) the person was in the United Kingdom at the beginning of the period of five years ending with the date of their application;
  - (b) the person was absent from the United Kingdom for—
    - i. no more than 450 days in the five year period ending with the date of their application, and
    - ii. no more than 90 days in the 12 month period ending with the date of their application; and
  - (c) the person was not in the United Kingdom in breach of the immigration laws at any time in the five year period ending with the date of their application.
- 17 It also allows for the Secretary of State, in special circumstances, to treat a person who has applied for registration under this section as satisfying the requirements, even if they did not fully satisfy the requirements.
- 18 This route will be subject to sections 31, 32 and 36 of the Illegal Migration Act 2023. This means that a person who is the subject of a “citizenship ban” under that Act will not qualify.

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- 19 Subsection (3) applies the good character requirement to this provision. This is set out at section 41A of the British Nationality Act 1981.
- 20 Subsection (4) provides that the definition of “in breach of immigration laws” at section 50A of the British Nationality Act 1981 applies to this section.

## Clause 2: Extent, commencement, and short title

- 21 This clause sets out the extent and commencement of the Bill. It extends to England and Wales, Scotland, Northern Ireland, the Channel Islands, the Isle of Man, and the British Overseas Territories. It will come into force by commencement regulations made by the Secretary of State.

## Commencement

- 22 The Bill will be brought into force by commencement regulations made by the Secretary of State.

## Financial implications of the Bill

- 23 This Bill will allow for Irish citizens who have been resident in the UK for a specified period to register as a British citizen. It will allow Irish citizens to apply to become British citizens through a dedicated route instead of seeking to naturalise. This will therefore have no financial impact.
- 24 The Bill is not expected to impact on public expenditure. It affects a small number of people who would already be able to apply for naturalisation or registration under existing routes, paying the relevant fee. Fees for this new route would need to be agreed and set in secondary fees legislation, taking into account financial implications.
- 25 This Bill is also expected to have no impact on the public sector, business, charities, or voluntary bodies and as such, no Impact Assessment has been prepared.

## Parliamentary approval for financial costs or for charges imposed

- 26 No money resolution is required in respect of the Bill. A money resolution is required where a Bill authorises new charges on the public revenue – broadly speaking, new public expenditure, which does not apply in this case.
- 27 The Bill does not require a ways and means resolution.

## Compatibility with the European Convention on Human Rights

- 28 Private Members’ Bills do not require human rights statements. However, the Government has examined the compatibility of the provisions of the Bill with the European Convention on Human Rights and considers that this Bill is compatible with the European Convention on Human Rights.

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## Related documents

29 The following documents are relevant to the Bill and can be read at the stated locations:

- Second Reading Bill draft as amended at Committee Stage on 17 April 2024

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## Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 2	Yes	Yes		Yes		Yes	

### Subject matter and legislative competence of devolved legislatures

- 30 The provisions of the Bill relate to nationality which are reserved matters in Scotland (section B6 of Schedule 5 to the Scotland Act 1998) and Wales (paragraphs 28 and 29 of Schedule 7A to the Government of Wales Act 2006) and excepted matters in Northern Ireland (paragraph 8 of Schedule 2 to the Northern Ireland Act 1998).

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