

DEPRIVATION OF CITIZENSHIP ORDERS (EFFECT DURING APPEAL) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Deprivation of Citizenship Orders (Effect during Appeal) Bill as brought from the House of Commons on 15 July 2025 (HL Bill 127)

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

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Overview of the Bill

- 1 The purpose of the Bill is to prevent a person who has been deprived of any form of British nationality from automatically regaining that status during the period in which an appeal against the lower court's judgment may be brought and, should an appeal be brought, pending its determination. This is necessary following the Supreme Court judgment in *N3(ZA) v Secretary of State for the Home Department* [2025] UKSC 6.
- 2 The Bill has two clauses and only one substantive clause.

Policy background

- 3 Section 40 of the British Nationality Act 1981 ("the 1981 Act") sets out that a person may be deprived of their citizenship if the Secretary of State considers it is conducive to the public good, or if they obtained citizenship through fraud, false representation or concealment of a material fact.
 - a. Deprivation of citizenship where it is conducive to the public good is reserved for those who pose a threat to the UK or whose conduct involved very high harm. This includes, but is not limited to, conduct such as terrorism, war crimes, espionage, serious organised crime or unacceptable behaviour such as the "glorification" of terrorism.
 - b. Deprivation on the grounds of fraud is for those who obtained their citizenship fraudulently and were never entitled to it.
- 4 Decisions on deprivation of citizenship are made after careful consideration of advice from officials and lawyers and in accordance with international law. Each case is considered individually.
- 5 A person deprived of citizenship may exercise their statutory right of appeal against the decision to deprive them. This Bill does not impact a person's appeal rights nor is it otherwise intended to be read inconsistently with the Supreme Court's judgment, so if an appellant is successful in any final determination of their appeal, they will be regarded in law as having always been a British citizen.
- 6 The issue the Bill seeks to address relates to the decision made in *N3(ZA) v Secretary of State for the Home Department* (SSHD) [2025] UKSC 6. If it is not rectified a person deprived of their citizenship would automatically have their British citizenship reinstated, with retrospective effect, if their appeal against a deprivation decision is successful. This means that despite there being further avenues of appeal available to the Secretary of State to contest the judgment allowing the appeal, the person will automatically regain British citizenship.
- 7 The implications of this are significant, particularly in cases where a decision to deprive citizenship has been made on the basis that the person poses a threat to national security. A person who may be overseas may seek to enter the UK or to renounce any other nationality they hold before the Home Office has had an opportunity to exhaust the appeal process.
- 8 The provisions in this Bill will operate retrospectively. This means that the provision will apply where a person has already made an appeal against the decision to deprive but that appeal has not yet been finally determined.

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Legal background

- 9 On 26 February 2025 the Supreme Court handed down its judgment in *N3(ZA) v SSHD* [2025] UKSC 6. That judgment held that an allowed appeal meant the matter was *res judicata* and the Secretary of State for the Home Department was bound by the Tribunal's decision, irrespective of whether the Secretary of State takes steps to revoke the deprivation order.
- 10 The implications of this ruling mean that an allowed appeal renders an appellant a British citizen again immediately, notwithstanding whether the Secretary of State intends to appeal that judgment of the lower court. The ruling applies to any appeal brought under section 40A of the 1981 Act or section 2B of the Special Immigration Appeals Commission Act 1997.
- 11 The Bill has the effect that during the "appeal period", a deprivation order remains in force. The aim of this measure is to prevent a person who has been deprived of British citizenship from regaining that status until all onward appeals have been determined or the time period in which to appeal has elapsed.

Territorial extent and application

- 12 The Bill extends and applies to England and Wales, Scotland, Northern Ireland. It also extends to the Channel Islands, and the Isle of Man and the British Overseas Territories.

Commentary on provisions of Bill

Clause 1: Deprivation of citizenship order to continue to have effect during appeal

- 13 Subsection (1) inserts new subsections 2B, 2C and 2D into section 40A of the 1981 Act. New subsection 2B provides that, where a deprivation order is made under section 40 and the person has appealed the decision to make a deprivation order, the deprivation order continues to have effect during the “appeal period”. New subsection 2C defines the appeal period for the purpose of subsection 2B. New subsection 2D sets out when an appeal is finally determined for the purpose of new subsection 2C.
- 14 Subsection (2) provides that subsection (1) will apply to an appeal brought before, but not determined before, subsection (1) comes into force and is therefore retrospective in nature.

Clause 2: Extent commencement and short title

- 15 Subsections (1) and (2) set out the extent of the Bill.
- 16 Subsection (3) explains when the provisions of the Bill will come into force.
- 17 Subsection (4) establishes the short title of the Bill as the Deprivation of Citizenship Orders (Effect during Appeal) Act 2025.

Commencement

- 18 The Bill will come into force on Royal Assent.

Financial implications of the Bill

- 19 The Bill only addresses the validity of a deprivation order during the appeal period. There is therefore no financial impact.
- 20 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

- 21 The Bill does not require a money resolution or a ways and means resolution. A money resolution is required where a bill authorises new charges on the public revenue – broadly speaking, new expenditure. A ways and means resolution is required where a bill authorises new charges on people – broadly speaking, new taxation or other similar charges. Neither of these apply to this Bill.

Compatibility with the European Convention on Human Rights

- 22 The Rt Hon Lord Hanson of Flint, Minister of State at the Home Office, has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

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“In my view, the provisions of the Deprivation of Citizenship Orders (Effect during Appeal) Bill are compatible with the Convention rights.”

- 23 The Government has published a separate ECHR memorandum with the assessment of the compatibility of the Bill’s provisions with the Convention rights: this memorandum is available on the Government website.

Environment Act 2021: Section 20

- 24 The Rt Hon Lord Hanson of Flint, Minister of State at the Home Office, is of the view that the Bill as introduced into the House of Commons does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

Trade between Northern Ireland and the rest of the UK

- 25 The Rt Hon Lord Hanson of Flint, Minister of State at the Home Office, is of the view that the Bill as introduced into the House of Commons does not contain provision which, if enacted, would affect trade between Northern Ireland and the rest of the United Kingdom. Accordingly, no statement under section 13C of the European Union (Withdrawal) Act 2018 has been made.

Related documents

- 26 The following documents are relevant to the Bill and can be read at the stated locations:
- British Nationality Act 1981, available online here: <https://www.legislation.gov.uk/ukpga/1981/61/contents>
 - N3 (Appellant) v Secretary of State for the Home Department (Respondent); ZA (Appellant) v Secretary of State for the Home Department (Respondent) - UK Supreme Court, available online here: <https://supremecourt.uk/cases/judgments/uksc-2023-0133>

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

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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 2	Yes	Yes	N/A	Yes	N/A	Yes	N/A

Subject matter and legislative competence of devolved legislatures

- 27 The provisions of the Bill relate to citizenship 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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