



Borders, Immigration and Citizenship Bill

4th December 2008

The new session of Parliament opened on 3rd December with the Queen's Speech. The Queen's Speech is used to set out the key legislative agenda of the Government for the new session – i.e. what are the key Bills the Government intends to introduce to Parliament in the session.

The Borders, Immigration and Citizenship Bill was announced in the Queen's Speech. This information sheet provides information about this Bill.

How this Bill relates to the draft (partial) Immigration and Citizenship Bill

The draft (partial) Immigration and Citizenship Bill was published in July 2008. More information is given about this draft Bill in the "Draft (partial) Immigration and Citizenship Bill" information sheet. Other "Draft Bill" information sheets give more detail on specific contents of the draft Bill.

The Government's original intention had been that the Queen's Speech would announce an immigration Bill that would aim to replace all the current immigration Acts. The draft Bill was the first step towards that. It set out some (about 60%) of the content of the anticipated immigration Bill. However, the Borders, Immigration and Citizenship Bill will be something different. It will include some of the contents of the draft Bill – but likely only a very small part. It will not replace all the current immigration Acts. It will be an addition to the immigration Acts.

Nevertheless, the Government has stated that it will publish a draft Immigration Simplification Bill (which will replace the draft Bill) during this session. Ultimately, the Immigration Simplification Bill is expected to replace all the current immigration Acts (including, when it is enacted, the Borders, Immigration and Citizenship Bill).

Contents of the Borders, Immigration and Citizenship Bill

The Government has announced that this Bill will include the following:

- greater customs and immigration powers for the UK Border Agency at the UK border
- changes to how an immigrant may naturalise as a British citizen
- changes to nationality law
- a new duty to safeguard and promote the welfare of children

Greater customs and immigration powers

When the UK Border Agency was established in April 2008, it took responsibility for the work being done by its predecessor (Border and Immigration Agency) and also the work of HM Revenue and Customs at the UK border and the work of UK Visas at entry clearance posts overseas. The Government says that it needs to legislate to increase the powers of the UK Border Agency at the UK border – in particular, so that it can more effectively conduct its customs and immigration responsibilities.

The powers of the UK Border Agency, and its predecessors (Border and Immigration Agency;

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Immigration and Nationality Directorate), have steadily been increased by legislation over the years. The Immigration and Asylum Act 1999 empowered the Home Secretary to introduce Codes of Practice (similar to the PACE Codes of Practice governing police powers) in respect of these powers. With the expansion of immigration powers, which in many respects now mirror police powers, it would be appropriate for the power to introduce and publish Codes of Practice to be made a duty and fully implemented.

Naturalisation

The Government set out the changes it intends to make to naturalisation in February 2008 in a Green Paper – Path to Citizenship. Details of these changes are given in the “Path to Citizenship” information sheet of March 2008. The information given there remains correct.

The Government intends that immigrants to the UK shall be required to pay an additional charge – over and above the fees that are currently required when applying for leave to enter, leave to remain, indefinite leave to remain and naturalisation as a British citizen. All of these fees have greatly increased in recent years, so any new charge will be especially onerous.

The Government intends that immigrants who are convicted of offences in the UK should:

- be precluded from becoming British citizens if they are sentenced to any term of imprisonment
- have to wait longer before they can apply to become British citizens if no prison sentence is imposed

Immigrants who have not been granted British citizenship are to be excluded from welfare services and benefits. This risks they and their families being increasingly marginalized. Refugees, and others granted humanitarian protection, may be especially penalised for having used false documents or breached immigration laws because those who are prosecuted for these offences regularly receive terms of imprisonment.

Nationality law

The Government intends to remove the 1961 historical cut-off relating to those born to British mothers. Currently, those born to British mothers, overseas and after 7 February 1961, may register as British citizens, but those born to British mothers overseas before then may not. (Those born overseas to British fathers will have acquired citizenship at the time of their birth.) This will remove a significant element of discrimination in UK nationality law.

Duty to safeguard and promote the welfare of children

The Government intends to introduce a new duty upon the UK Border Agency so that it is bound by a similar duty to other public authorities, who must currently carry out their functions in ways that ensure the safety and welfare of children. More information on this is available from the “Children’s Welfare” information sheet.