**The Government’s deprivation of citizenship proposal – joint briefing on clause 64 of the Immigration Bill**

*Clause 64*

This clause, if enacted, will empower the Secretary of State to deprive a naturalised British citizen of their citizenship status if s/he is satisfied that the deprivation is conducive to the public good because the person, after gaining British citizenship, has conducted him or herself in a manner which is seriously prejudicial to the vital interests of the United Kingdom. The Bill is being considered at Report stage in the House of Lords which started on 1st April 2014

The deprivation of citizenship clause was introduced to the Immigration Bill and first considered in Parliament on 30th January 2014. No prior public consultation or debate took place before clause 64 was added to the Bill.

The power to strip a naturalised British national (who is not a national of another country) of their citizenship would render them stateless. Making a person stateless is a draconian power with potentially severe consequences for the individual concerned and their family and dependents. The clause clearly raises very serious human rights issues that require careful consideration.

*Amendment*

In order to ensure that this happens, Lord Pannick and other peers have tabled an amendment the effect of which is to remove the present clause 64 and replace it with the establishment of a joint Parliamentary Committee to consider and report on the grounds for granting the Secretary of State the power proposed in clause 64.

The Commissions support this proposed amendment to clause 64 to ensure that the necessary careful scrutiny can occur. As things currently stand we believe there are significant risks that the use of this power will violate human rights laws. The proposed amendment can prevent this from happening and assist the Government to act consistently with human rights obligations. This is preferable to taking remedial action in the event the power is held to violate individual rights.

As things currently stand, we do not believe that the Government has put forward sufficient evidence as to why the proposed power is necessary given existing powers under the British Nationality Act 1981 to deprive a person with dual nationality of their British citizenship and to refuse to issue a passport to British citizens.

*Our concerns*

Clause 64 does not contain a clear and explicit provision to ensure that it is exercised in a manner proportionate to the risk posed.

The exercise of this power impacts on the rights of affected family and children and how those matters will be dealt with has not been fully explained or satisfactorily addressed to date.

We also believe that the consequences of having and using the power proposed in clause 64 has not been carefully and thoroughly considered in respect of the UK’s compliance with its international and domestic human rights law obligations.

The Commissions note that the Home Office ECHR memorandum considers that a decision to deprive a naturalised citizen of their citizenship while they are outside of the UK does not engage the individual’s ECHR rights as they are physically outside of the UK’s jurisdiction for the purposes of the ECHR[[1]](#footnote-1). This is not the view of the Joint Committee for Human Rights, the Commissions or legal experts.[[2]](#footnote-2)

Insufficient consideration has been given as to how the power will work in practice. Professor Guy Goodwin-Gill has made clear that *“Any state which admitted an individual on the basis of his or her British passport would be fully entitled to ignore any purported deprivation of citizenship and, as a matter of right, to return the person to the UK.”.*

The extent to which the power will actually contribute towards action the UK Government takes to address national security threats remains open to question.

The potential for the power to impact on the standing of British passport holders has not been fully considered.

The potential for the power to undermine international efforts to reduce statelessness requires further consideration.

**Equality and Human Rights Commission**

**Northern Ireland Human Rights Commission**

**Scottish Human Rights Commission**

**3 April 2014**

1. Home Office Supplementary ECHR Memorandum, 29 January 2014, available at

   <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/276660/Deprivation_ECHR_memo.pdf>

   para 16 [↑](#footnote-ref-1)
2. JCHR ‘Legislative Scrutiny : Immigration Bill (second Report) Twelfth Report of Session 2013-14 HL Paper 142 para 44 [↑](#footnote-ref-2)