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Lords Amendments: Monday 21 March 2022

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## Nationality and Borders Bill (Motions relating to Lords Amendments)

This document should be read alongside the amendments the Lords have made to this Bill.

This paper sets out any motions to disagree, change or comment on amendments proposed by the Lords.

The motions are arranged in the order in which it is expected they will be decided.

★ New Amendments.

New Amendments: LA1 (a) and (b), LA4 (a) to (f)

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### *On Consideration of Lords Amendments to the Nationality and Borders Bill*

*Lords Amendments 1, 4 to 9, 52, 53, 10 to 20, 54, 2, 3, 43 to 51, 21*

Lords Amendment No. 1

Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Secretary Priti Patel

To move the following Amendments to the Bill in lieu of the Lords Amendment:—

★ Page 7, line 41, at end insert the following new Clause— (a)

**“Provision for Chagos Islanders to acquire British Nationality**

In Part 2 of the British Nationality Act 1981 (British overseas territories citizenship), after section 17G (as inserted by section 2), insert—

**“17H Acquisition by registration: descendants of those born in British Indian Ocean Territory**

(1) A person is entitled to be registered as a British overseas territories citizen on an application made under this section if—

- (a) they are a direct descendant of a person (“P”) who was a citizen of the United Kingdom and Colonies by virtue of P’s birth in the British Indian Ocean Territory or, prior to 8 November 1965, in

- those islands designated as the British Indian Ocean Territory on that date, and
- (b) they have never been a British overseas territories citizen or a British Dependent Territories citizen.
- (2) An application under this section must be made—
- (a) in the case of a person aged 18 years or over on the commencement date, before the end of the period of five years beginning with the commencement date;
- (b) in the case of a person aged under 18 on the commencement date, or a person who is born before the end of the period of five years beginning with the commencement date, before they reach the age of 23 years.
- (3) In subsection (2), “the commencement date” means the date on which this section comes into force.”

★ Page 8, line 6, leave out “or 17F” and insert “, 17F or 17H”

(b)

Lords Amendment No. 4

Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Secretary Priti Patel

To move the following Amendments to the Bill in lieu of the Lords Amendment:—

★ Page 11, line 31, leave out “it appears to the Secretary of State that”

(a)

★ Page 11, leave out lines 35 to 41 and insert—

(b)

- “(b) the Secretary of State reasonably considers it necessary, in the interests of—
- (i) national security,
- (ii) the investigation or prosecution of organised or serious crime,
- (iii) preventing or reducing a risk to the safety of any person, or
- (iv) the relationship between the United Kingdom and another country,
- that notice under that subsection should not be given.”

- ★ Page 11, line 44, at end insert— (c)
- “(5C)Subsection (5D) applies where—
- (a) the Secretary of State has made an order under subsection (2) and, in reliance on subsection (5A), has not given the notice required by subsection (5), and
  - (b) the person in respect of whom the order was made makes contact with the Secretary of State for the Home Department.
- (5D) The Secretary of State must, as soon as is reasonably practicable, give the person written notice specifying—
- (a) that the Secretary of State has made the order,
  - (b) the reasons for the order, and
  - (c) the person’s right of appeal under section 40A(1) or under section 2B of the Special Immigration Appeals Commission Act 1997.
- (5E) Schedule 4A makes provision for the Special Immigration Appeals Commission to consider a decision of the Secretary of State—
- (a) not to give notice to a person before depriving them of a citizenship status on the grounds mentioned in subsection (2) (deprivation conducive to the public good), or
  - (b) not to give late notice to a person who has been deprived of a citizenship status on those grounds without having been given prior notice.”
- ★ Page 12, line 9, at end insert— (d)
- “(b) after subsection (2) insert—
- “(2A)In the case of an order made as described in subsection (1)(b), for the purposes of any rule or other provision limiting the time within which an appeal under this section may be brought, time does not start to run unless and until the person is given notice of the fact that the order has been made (see section 40(5D) and Schedule 4A).
- (3A) After Schedule 4 to the 1981 Act insert the Schedule 4A set out in Schedule 1A.”
- ★ Page 85, line 1, leave out paragraph (a) (e)
- ★ Page 87, line 4, insert the following new Schedule— (f)

## "SCHEDULE 1A

Deprivation of Citizenship without notice: judicial oversight

This is the Schedule to be inserted after Schedule 4 to the British Nationality Act 1981—

## "SCHEDULE 4A

Section 40(5E)

Deprivation of Citizenship without notice: judicial oversight

*Deprivation without notice: application to Special Immigration Appeals Commission*

- 1 (1) If the Secretary of State proposes to make a conducive grounds deprivation order without notice, the Secretary of State may apply to the Special Immigration Appeals Commission under this paragraph.
- (2) If the Secretary of State makes a conducive grounds deprivation order without notice, the Secretary of State must apply to the Special Immigration Appeals Commission under this paragraph within the period of seven days beginning with the day on which the order is made (unless an application has already been made under sub-paragraph (1)).
- (3) The function of the Commission on an application under this paragraph is to determine whether, in respect of each condition in section 40(5A) on which the Secretary of State relies, the Secretary of State's view is obviously flawed.
- (4) In determining that question, the Commission must apply the principles that would be applicable on an application for judicial review.
- (5) If the Commission determines that the Secretary of State's view is obviously flawed in respect of each condition in section 40(5A) on which the Secretary of State relies—
  - (a) if the order in question has not been made, section 40(5) applies in relation to the order (notwithstanding section 40(5A));
  - (b) if the order has been made, the Secretary of State must, within the period of 14 days beginning with the day on which the Commission made the determination—
    - (i) give late notice in respect of the order,
    - (ii) revoke the order, or
    - (iii) make an application under sub-paragraph (6).
- (6) The Secretary of State may (at any time) make an application to the Special Immigration Appeals Commission for fresh consideration of a decision the Secretary of State has made under section 40(5A) where—
  - (a) in the opinion of the Secretary of State, circumstances have changed materially since the determination mentioned in sub-paragraph (5), or
  - (b) the Secretary of State wishes to provide further evidence to the Commission.
 Sub-paragraphs (3) to (5) apply to an application under this sub-paragraph.

*Deprivation of citizenship without notice: review*

- 2 (1) Sub-paragraphs (2) to (5) apply if—
  - (a) the Secretary of State makes a conducive grounds deprivation order without notice, and
  - (b) the Special Immigration Appeals Commission has not made the determination mentioned in paragraph 1(5) (Secretary of State's decision obviously flawed).

- (2) The Secretary of State must, at least once in every review period, review the circumstances of the person in respect of whom the order was made (so far as known) and decide whether to give late notice in respect of the order.
- (3) On such a review, the Secretary of State must decide to give late notice to the person unless it appears to the Secretary of State that any of the conditions in section 40(5A) is met (reading any reference in those provisions to notice under section 40(5) as a reference to late notice).
- (4) If the Secretary of State decides at any point to give late notice in respect of the order—
  - (a) the Secretary of State must give the notice as soon as reasonably practicable, and
  - (b) once the notice is given, sub-paragraph (2) ceases to apply in relation to the person.
- (5) If on the expiry of the final review period the Secretary of State has not given, or has not decided to give, late notice in respect of the order, the Secretary of State must make an application to the Special Immigration Appeals Commission within the period of seven days beginning with the day after the final day of that review period.
- (6) Sub-paragraphs (3) to (6) of paragraph 1 (except sub-paragraph (5)(a)) apply for the purposes of an application under sub-paragraph (5) as they apply for the purposes of an application under that paragraph.
- (7) For the purposes of this paragraph, each of the following is a “review period”—
  - (a) the period of four months beginning with the day after the day on which the Special Immigration Appeals Commission first determined an application in relation to the order under paragraph 1, and
  - (b) each of the next five successive periods of four months.

#### *Interpretation*

- 3 (1) In this Schedule, references to making a conducive grounds deprivation order without notice are to making an order under section 40(2) without giving notice under subsection (5) of that section (in reliance on subsection (5A) of that section).
- (2) In this Schedule, “late notice”, in respect of an order under section 40(5), means written notice to the person in respect of whom the order was made specifying—
  - (a) that the Secretary of State has made the order,
  - (b) the reasons for the order, and
  - (c) the person’s right of appeal under section 40A(1) or under section 2B of the Special Immigration Appeals Commission Act 1997.””

Lords Amendment No. 5

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **6**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **7**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **8**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **9**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **52**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

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Lords Amendment No. **53**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

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Lords Amendment No. **10**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **11**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **12**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **13**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **14**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **15**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **16**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **17**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **18**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **19**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **20**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

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Lords Amendment No. **54**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

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*Lords Amendments 22, 24, 23, 25 to 27, 40, 28 to 39, 42, 41*

Lords Amendment No. **22**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **24**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **23**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **25**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **26**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. **27**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

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Lords Amendment No. **40**

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Secretary Priti Patel

To move, That this House disagrees with the Lords in their Amendment.

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## Nationality and Borders Bill: Programme (No. 3)

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Secretary Priti Patel

That the following provisions shall apply to the Nationality and Borders Bill for the purpose of supplementing the Orders of 20 July 2021 (Nationality and Borders Bill (Programme)) and 7 December 2021 (Nationality and Borders Bill (Programme) (No. 2)):

### **Consideration of Lords Amendments**

1. Proceedings on consideration of Lords Amendments shall (so far as not previously concluded) be brought to a conclusion six hours after their commencement.
2. The proceedings—
  - (a) shall be taken in the order shown in the first column of the following Table, and

- (b) shall (so far as not previously concluded) be brought to a conclusion at the times specified in the second column of the Table.

<b>Lords Amendments</b>	<b>Time for conclusion of proceedings</b>
1, 4 to 9, 52, 53, 10 to 20, 54, 2, 3, 43 to 51, 21	Three hours after the commencement of proceedings on consideration of Lords Amendments
22, 24, 23, 25 to 27, 40, 28 to 39, 42, 41	Six hours after the commencement of those proceedings

### **Subsequent stages**

3. Any further Message from the Lords may be considered forthwith without any Question being put.
  4. The proceedings on any further Message from the Lords shall (so far as not previously concluded) be brought to a conclusion one hour after their commencement.
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