



**Amnesty International UK**

**Immigration Bill (HL Bill 79)  
House of Lords Committee Stage Briefing  
'Children entitled to citizenship and/or leave to remain'  
January 2016**

**Clause 38**

**Lord Alton of Liverpool**

**XXX**

Page 40, line 18, at end insert "subject to subsection (2).

- (2) This section shall not have effect in respect of any former relevant child if a local authority by whom he or she was looked after failed to ensure that he or she was advised and assisted in connection with --
- (a) an application for him or her to be registered as a British citizen in circumstances where he or she was either entitled to be registered as a British citizen or otherwise entitled to apply to be registered;
  - (b) an application for him or her to be granted indefinite leave to remain in circumstances where he or she satisfied requirements under the immigration rules for a grant of indefinite leave to remain; or
  - (c) an application for him or her to be granted limited leave to remain in circumstances where he or she satisfied requirements under the immigration rules for a grant of limited leave to remain.
- (3) In this section –
- (a) "former relevant child" has the meaning described in section 23C of the Children Act 1989, and
  - (b) "immigration rules" means the rules as laid before Parliament by the Secretary of State under section 3(2) of the Immigration Act 1971."

**Purpose**

The amendment would in defined circumstances preclude commencement of provisions in Schedule 9, which seek to deny leaving care support to children on grounds of immigration status. In particular, the amendment would preclude commencement of these provisions in the case of any formerly supported child, whom a local authority could and should have

assisted to attain/seek to attain British citizenship or leave to remain while he or she was in the authority's care.

## **Briefing**

This is a probing amendment.

The amendment provides an opportunity to highlight a critical flaw in the Bill, and the Government's intention to create and extend a 'hostile environment' facing people in the UK who require and do not have leave to enter or remain. There are many people who will be adversely affected by this environment (including changes to be made by Schedule 9 to the Bill) even though they have not breached any immigration laws or are not culpable for any such breach. Among such persons are an estimated up to 120,000 children in the UK, up to 65,000 of whom born in the UK and many of the others brought to the UK at a very young age, who have neither British citizenship nor leave to enter or remain.<sup>1</sup> This flaw was generally identified in the oral evidence of Amnesty International UK to the House of Commons Public Bill Committee considering this Bill.<sup>2</sup>

Many – though far from all – of these children are in local authority care. Many are entitled to be registered as British citizens, and others may apply to be registered at the discretion of the Secretary of State. Many others meet requirements under the immigration rules for indefinite or limited leave to remain. Others may meet criteria in policies of the Secretary of State for the grant of indefinite or limited leave to remain.

Despite this, many local authorities have failed (and continue to fail) to assist children within their care to secure these rights, or even to identify and advise children of them. If these rights are not secured, children reach the age of majority and become subject to the provisions of Schedule 3 to the Nationality, Immigration and Asylum Act 2002, including those provisions preventing local authorities from providing ongoing support and assistance to children formerly in their care (which are to be extended by clause 38/Schedule 9 of the Bill). These young people are also more widely subject to the Government's hostile environment, which could and should be avoided by the local authority's earlier intervention to ensure access to British citizenship or leave to remain to which the former child was entitled while in care.

The amendment prevents Schedule 9 taking effect in defined circumstances. Schedule 9 extends provisions preventing local authorities providing leaving care support and assistance so as to:

- prevent a local authority in England assisting a formerly supported child to pay tuition fees for a course of higher education (paragraph 3 of Schedule 9); and
- prevent a local authority in England providing support and assistance to a formerly supported child if that child requires leave to enter or remain and does not have it even where human rights obligations might otherwise be engaged (paragraphs 2 & 4 *et seq* of Schedule 9).

The amendment would mean that these aspects of leaving care support would continue in circumstances where the local authority could and should have taken steps to ensure that an entitlement to British citizenship or leave to remain was made known to the young person and he or she was assisted (where he or she so wished) to acquire that citizenship or leave before reaching the age of majority. That date is important because it is when care support (particularly leaving care support) will be lost because the young person does not have leave

---

<sup>1</sup> [http://www.compas.ox.ac.uk/media/PR-2012-Undocumented\\_Migrant\\_Children.pdf](http://www.compas.ox.ac.uk/media/PR-2012-Undocumented_Migrant_Children.pdf)

<sup>2</sup> *Hansard* HC, Immigration Bill Public Bill Committee, 22 Oct 2015 : Column 141 *per* Steve Symonds

or citizenship; and for some of these children the entitlement to citizenship may also be lost (because in some cases it only lasts while the person remains a child). The local authority's obligations (which Clause 38/Schedule 9 is intended to remove) should not be removed in the case of a young person, whom the authority should have assisted to avoid these circumstances while he or she was still a child.

**For further information contact:**

**Solange Valdez**, Director & Solicitor, Project for the Registration of Children as British Citizens (PRCBC), [prcbc2013@aol.com](mailto:prcbc2013@aol.com) 07593-103 706

**Steve Symonds**, Programme Director – Refugee & Migrant Rights, Amnesty International UK, [steve.symonds@amnesty.org.uk](mailto:steve.symonds@amnesty.org.uk) 020-7033 1742