



United Nations High Commissioner for Refugees

BORDERS, CITIZENSHIP AND IMMIGRATION BILL
House of Lords Committee Stage

I. General comments on UNHCR's proposed amendments

UNHCR's proposed amendments relate to concerns that the naturalisation requirements may prove too difficult for refugees, those with humanitarian protection and their families to meet and may in fact impair integration and access to a durable solution. UNHCR therefore proposes amendments that qualifying periods for naturalisation should not be affected by penalisation for illegal entry. UNHCR is also concerned that qualification for naturalisation should include a waiver as regards language requirements.

PROPOSED AMENDMENTS

Clause 37 - 'Application Requirements: general'

A. Re: qualifying periods and breach of immigration laws

Page 29, after line 22 *delete*

'(e) that A was not at any time in the qualifying period in the United Kingdom in breach of the immigration laws'

Briefing: Refugees should not be obliged to satisfy the requirement that they were not at any time during the qualifying immigration period in the UK in breach of the immigration laws. UNHCR has repeatedly expressed the view that refugees should not be penalised for illegal entry and observes that any such penalty should not affect the qualifying period for naturalisation.

ALTERNATIVELY:

UNHCR seeks an assurance from the Minister that penalisation for illegal entry in the case of refugees will not operate to affect the 'qualifying immigration status' period.

Briefing: UNHCR has repeatedly expressed the view that refugees should not be penalised for illegal entry. Refugees should not be required to satisfy the requirement that they were not at any time during the qualifying period in the UK in breach of the immigration laws once the 1951 Convention Relating to the Status of Refugees are met; the asylum determination procedure is one of recognition. UNHCR reminds the Government that under Article 31 of the Refugee Convention Relating to the Status of Refugees, States are prohibited from imposing penalties on refugees 'on account of the illegal entry or presence'.

B. Re: Language requirements for naturalisation and refugees

Page 28, line 12 *insert*

(2A) 'If in the special circumstances of a particular case of a refugee, a person with humanitarian protection or a member of their family the Secretary of State thinks fit, the Secretary of State may for the purpose of Schedule 1 to the British Nationality Act 1981 waive the need to fulfil the requirement specified in paragraph 1(1)(c) if the Secretary of State considers that because of A's circumstances it would be unreasonable to expect A to fulfil that requirement'.

Objective: to ensure that refugees, those with humanitarian protection or family members are not disadvantaged by an inability to meet the language requirements due to the special circumstances of their situation.

Briefing: UNHCR observes that prior to their arrival in the UK, many refugees and those with humanitarian protection status will have fled from communities that have been torn apart by conflict, spent years in makeshift refugee camps, or lived in remote areas of the world where education facilities are minimal and access to English language training and the internet is limited.

ALTERNATIVELY:

To obtain an assurance from the Minister that discretion will be applied to disregard any such restriction as is mentioned in Schedule 1, paragraph 1(1)(c) in the special case of refugees, those with humanitarian protection and their families due to the circumstances of their situation.

UNHCR, February 2009

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