



United Nations High Commissioner for Refugees and the British Refugee Council
BORDERS, CITIZENSHIP AND IMMIGRATION BILL
House of Lords Report Stage

I. General comments on UNHCR and the Refugee Council's proposed amendments

The 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. The UNHCR and Refugee Council therefore propose amendments that qualifying periods for naturalisation for the above groups should include periods spent in the country whilst asylum applications are under consideration, should not be affected by penalisation for illegal entry, and should not exceed five years.

II. Clause 39 - 'Application Requirements: general'

At page 30, line 34 *insert*

‘; or

(g) a pending application for leave to remain pursuant to an asylum claim, a human rights claim or in reliance on Council Directive 2004/83/EC

(1A) An asylum claim and a human rights claim have the meaning given in section 113 of the Nationality, Immigration and Asylum Act 2002. A pending application is one that had not yet been determined or that is the subject of a pending appeal within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002.

Objective: To ensure that time spent by refugees prior to determination of the application and any appeals, where the outcome of the claim is that the person is given leave in the UK, counts as part of the qualifying period for citizenship. UNHCR maintains that delay in deciding applications for asylum should not slow down their route to citizenship.

AND

UNHCR and the Refugee Council seek an assurance from the Minister that penalisation for illegal entry in the case of refugees and their family members will not operate to affect the ‘qualifying immigration status’ period.

Briefing: UNHCR and the Refugee Council have repeatedly expressed the view that refugees and asylum seekers should not be penalised for illegal entry. Refugees and their family members 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 and the Refugee Council remind the Government that under Article 31 of the Refugee Convention states are prohibited from imposing penalties on refugees 'on account of the illegal entry or presence'.

III. Clause 39 - 'Application Requirements: general' and Clause 41 - 'The qualifying period'

Re: 'Probationary Citizenship' and 'Community Activity' requirement

Clause 39

At page 29, line 19 after 'A has', *insert*

'refugee status, humanitarian protection status,'

and

Clause 41

Page 34, line 33, after 'paragraph 5' *insert*

(6) 'in the case of an applicant with refugee status or humanitarian protection status the number of years in the period is 5.'

Objective: To ensure that refugees, including those resettled under UK resettlement programmes, those with humanitarian protection and their families remain eligible for naturalisation after five years residence. This amendment also removes the requirement to participate in 'community activity'.

Briefing: UNHCR considers that, as a matter of best practice, the required period of residence in order to be eligible for naturalisation should not exceed five years for the above categories of persons. This is in order to ensure an effective nationality and to promote their full integration within society. UNHCR observes that Article 34 of the 1951 Refugee Convention requires that:

'Contracting States shall as far as possible facilitate the assimilation and naturalisation of refugees. They shall in particular make every effort to expedite naturalisation proceedings and to reduce as far as possible the charges and costs of such proceedings.'

UNHCR and British Refugee Council March 2009

For further information please contact:

Laura Padoan, External Affairs, UNHCR London, at padoan@unhcr.org; 020 7759 8092

Jane Allen, Parliamentary Consultant, Refugee Council, at jane.allen@refugeecouncil.org.uk; 07779 595609