

**Research Briefing**

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# Deprivation of British citizenship and withdrawal of passports



## Summary

- 1 Citizenship deprivation powers
- 2 Statistics on the use of deprivation powers
- 3 Timeline of changes to powers to remove British citizenship
- 4 Withdrawal of passport facilities

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## Summary

The Home Secretary has the power to take away a person's British citizenship if they consider it conducive to the public good, or if the person obtained their citizenship by fraud. The power of citizenship deprivation is in [section 40 of the British Nationality Act 1981](#).

### Citizenship deprivation happens for national security reasons or in cases of fraud

Depriving someone of their British citizenship for the public good is almost always used in the context of national security. The aim is to prevent a person who poses a threat to the United Kingdom from returning to the country, which they would otherwise have a right to do as a British citizen.

For people who have naturalised as British, citizenship deprivation is permitted even if it would leave them stateless (ie without the citizenship of any country). Someone who was born British and has no other nationality cannot be deprived of their citizenship in any circumstances.

### People must usually be given written notice and have a right of appeal

The Home Secretary is usually required to give the person written notice. Under section 10 of the Nationality and Borders Act 2022, notice can be withheld in certain circumstances, such as where it is considered reasonably necessary in the interests of national security.

There is a right of appeal against citizenship deprivation. Appeals take place at the First-tier Tribunal or (in national security cases) the Special Immigration Appeals Commission (SIAC). In SIAC appeals, sensitive evidence may be withheld from the appellant and their lawyer, and a 'special advocate' appointed to represent their interests instead.

## Over 1,000 citizenship deprivation orders were made from 2010 to 2022

The Home Office does not routinely publish comprehensive figures on citizenship deprivation. The available data shows there have been at least 847 deprivation orders for fraud, and 217 orders for the ‘public good’, since 2010. The exact number of successful appeals against these orders is not known.

Commentators have suggested that [many of those deprived of their citizenship on ‘public good’ grounds are British Muslims](#).

## Deprivation used to be allowed only for naturalised citizens

Deprivation of citizenship for fraud was introduced over 100 years ago, by legislation passed in 1914. A power to deprive citizenship for certain types of misconduct, including if a naturalised citizen had proven “disaffected or disloyal”, was added shortly before the end of the First World War. Until 2003, however, deprivation was only possible for naturalised citizens.

The Nationality, Immigration and Asylum Act 2002 extended citizenship deprivation to British-born dual nationals for the first time. This was possible if they had done something “seriously prejudicial” to the UK’s vital interests, but the test was later changed to “conducive to the public good”.

## British citizens can also be refused a passport or have their passport withdrawn

British passports are issued at the discretion of the Home Secretary under the Royal Prerogative ([an executive power which does not require legislation](#)). They can be withdrawn or withheld using the same discretionary power.

Withdrawal of passports is not the same as withdrawing citizenship. Someone whose passport is withdrawn remains a British citizen but their overseas travel is restricted. [Home Office policy states this will be done “sparingly”](#), such as where the person intends to travel abroad to engage in terrorism.

There is no right of appeal against having a passport withdrawn, but the person can ask for an internal review by the Government or apply for judicial review by a judge. From 2013 to 2021, there were [94 cases of passport withdrawal for national security reasons](#), according to the Home Office.

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# 1 Citizenship deprivation powers

## 1.1 When can someone be deprived of British citizenship?

[Section 40 of the British Nationality Act 1981 \(as amended\)](#) provides the government with the power to deprive a person of their British citizenship. The power also extends to other, less common types of British nationality, as listed in section 40(1)(b)-(f).

Specifically, the Home Secretary can make a deprivation of citizenship order in either of the following circumstances:

- The person obtained their citizenship through registration or naturalisation and the Home Secretary is satisfied that it was obtained by **fraud, false representation or concealment of a material fact.**<sup>1</sup>

A deprivation order can be made on this ground even if it would make the person stateless.

- The Home Secretary considers that deprivation of citizenship is **conducive to the public good.**<sup>2</sup>

A deprivation order cannot be made on this ground if it would make the person stateless, unless:

- The person obtained their citizenship through naturalisation; and the Home Secretary considers that deprivation is conducive to the public good because the person has conducted themselves in a manner seriously prejudicial to the vital interests of the UK; and the Home Secretary has reasonable grounds to believe that the person is able to become a national of another country.<sup>3</sup>

This means that someone who was born British and has no other nationality cannot be deprived of their citizenship.

[According to Home Office guidance](#), “false representation” means the applicant made the representation deliberately and dishonestly; an innocent mistake would not count. “Concealment of a material fact” means deliberate

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<sup>1</sup> [British Nationality Act 1981, s 40\(3\)](#)

<sup>2</sup> [British Nationality Act 1981, s 40\(2\)](#)

<sup>3</sup> [British Nationality Act 1981, s40\(4-4A\)](#)

concealment that had a direct bearing on the original decision to grant citizenship. “Fraud” means either of those.<sup>4</sup> In practice, this could mean lying in an application for refugee status or failing to disclose criminal convictions.<sup>5</sup>

“Conducive to the public good” means deprivation is in the public interest because of the person’s “conduct and/or the threat they post to the UK”. Examples of such conduct include (but are not limited to) involvement in terrorism or serious organised crime.<sup>6</sup>

In practice, citizenship deprivation for the public good is almost always used in the context of national security. The aim is to prevent a person who poses a threat to the United Kingdom from returning to the country, which they would otherwise have a right to do as a British citizen.<sup>7</sup>

There is one known case of citizenship deprivation because of serious organised crime (as opposed to terrorism). This involved several naturalised British citizens whom the Home Secretary wished to deport to Pakistan, the country of their original citizenship.<sup>8</sup>

## Who makes the decision?

The Home Secretary decides each case of deprivation for the public good personally.<sup>9</sup> However, in their absence, a senior minister such as the Chancellor of the Exchequer can make the decision instead.<sup>10</sup> Governors of British Overseas Territories, and Lieutenant-Governors of Crown Dependencies, can also make deprivation decisions but must first refer cases to the Home Secretary for prior approval.<sup>11</sup>

In national security cases, recommendations that someone be deprived of citizenship usually come from the intelligence services, who send the case to the Home Office Special Cases Unit along with a detailed briefing. The Special Cases Unit “does not conduct its own investigations into the accuracy of the national security case presented to them”, according to a 2018 report.<sup>12</sup>

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<sup>4</sup> UK Visas and Immigration, [Deprivation of British citizenship: caseworker guidance](#), version 1.0, 10 May 2023, pp10-11

<sup>5</sup> *Laci v Secretary of State for the Home Department* [2021] EWCA Civ 769, 20 May 2021; *McGrath v Secretary of State for the Home Department*, UI-2022-005549, 12 April 2023

<sup>6</sup> UK Visas and Immigration, [Deprivation of British citizenship: caseworker guidance](#), version 1.0, 10 May 2023, p8

<sup>7</sup> [HC Deb 20 February 2019 c1485](#)

<sup>8</sup> [“Rochdale grooming trio to lose British citizenship”](#), BBC News, 8 August 2018; *Aziz & Ors v Secretary of State for the Home Department* [2018] EWCA Civ 1884, 8 August 2018

<sup>9</sup> Home Office, [Nationality and Borders Bill: Deprivation of citizenship factsheet](#), 2 March 2022

<sup>10</sup> *R (D4) v Secretary of State for the Home Department* [2021] FWHC 2179 (Admin), 30 July 2021, para 4. The Chancellor, then Sajid Javid, may have been chosen as the most appropriate person on this occasion because he was a former Home Secretary familiar with the process.

<sup>11</sup> UK Visas and Immigration, [Deprivation of British citizenship: caseworker guidance](#), version 1.0, 10 May 2023, p6

<sup>12</sup> Independent Chief Inspector of Borders and Immigration, [An inspection of the review and removal of immigration, refugee and citizenship “status”](#), 30 January 2018, paras 8.6-8.7

## 1.2

## Providing written notice

Before making a deprivation of citizenship order, the Home Secretary must usually give the person written notice of the decision, the reasons for it and their right of appeal.<sup>13</sup>

[Section 10 of the Nationality and Borders Act 2022](#) allows written notice to be dispensed with in certain circumstances. Notice is not required if the Home Secretary:

- does not have the information needed to be able to give notice, or
- reasonably considers it necessary to withhold notice in the interests of national security, the investigation or prosecution of serious crime, preventing or reducing risk to a person’s safety, or one of the UK’s diplomatic relationships.<sup>14</sup>

[This provision of the 2022 Act was controversial](#). It was introduced as a government amendment (clause 9) at Commons committee stage and was a significant focus of debate at Commons report stage and in the Lords.<sup>15</sup>

Home Office minister Baroness Williams of Trafford wrote to peers explaining the rationale for clause 9. She argued it “could expose the UK to national security risk should it not prove possible to deprive an individual involved in for example, terrorism or espionage, due to an issue in communicating the deprivation decision to them”. The letter gave several examples of when deprivation without notice might be appropriate.<sup>16</sup>

The Government ultimately accepted amendments tabled by Lord Anderson of Ipswich KC that introduced safeguards on deprivation without notice.<sup>17</sup>

These include judicial oversight: the Home Secretary must apply to the Special Immigration Appeals Commission within seven days of making a deprivation order without notice. The Commission will check whether the decision not to give notice was “obviously flawed”. If so, the Home Secretary must either give notice, withdraw the deprivation order, or apply for the judges to reconsider their decision (if there is new evidence).<sup>18</sup>

The procedure for giving notice is specified in regulations. Notice can be delivered by a variety of methods, including post, email or fax.<sup>19</sup>

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<sup>13</sup> [British Nationality Act 1981, s 40\(5\)](#)

<sup>14</sup> [Nationality and Borders Act 2022, s 10\(2\)](#), in force as of [10 May 2023](#)

<sup>15</sup> [HC Deb 7 December 2021 cc216-351](#); [HL Deb 5 January 2022 c572-671](#)

<sup>16</sup> Home Office, [Letter from Baroness Williams to Peers regarding issues raised during the second reading](#) (PDF), 25 January 2022

<sup>17</sup> [HC Deb 22 March 2022 c183](#)

<sup>18</sup> [Nationality and Borders Act 2022, sch 4A](#)

<sup>19</sup> [The British Nationality \(General\) Regulations 2003, SI 2003/548, reg 10](#) (as amended)



## 1.3

## Right of appeal

Appeals against deprivation of citizenship are made at specialist tribunals.

The default venue is the First-tier Tribunal (Immigration and Asylum Chamber). Any further appeals are made to the Upper Tribunal, then the Court of Appeal (or Court of Session in Scottish cases) and then the Supreme Court.

When national security issues are involved, the initial right of appeal is to the Special Immigration Appeals Commission (SIAC) instead of the First-tier Tribunal.<sup>20</sup> In SIAC appeals, sensitive evidence (for example, from the intelligence services) may be withheld from the appellant and their lawyer. Instead, a ‘special advocate’ who can see the withheld evidence and attend closed hearings is appointed to make arguments on the appellant’s behalf but cannot communicate with the appellant.<sup>21</sup>

SIAC cannot impose its own views on whether deprivation is appropriate in light of the national security evidence. The Home Secretary’s national security assessment should be given “real respect, or great deference”.<sup>22</sup> Similarly, in fraud cases, First-tier Tribunal judges must have regard to the fact that deprivation is at the Home Secretary’s discretion.<sup>23</sup>

In February 2021, the Supreme Court gave judgment in an appeal by Shamima Begum, one of the “Bethnal Green schoolgirls” who travelled to Syria aged 15 and married a member of the so-called Islamic State.<sup>24</sup> Home Secretary Sajid Javid made an order depriving her of British citizenship in 2019. She appealed, and applied for permission to return to the UK to take part in her appeal.

The court found that Shamima Begum did not have the right to re-enter the UK. Her separate appeal against the deprivation of citizenship order itself went ahead in her absence but was rejected by SIAC.<sup>25</sup>

In its judgment, the Supreme Court emphasised that judges can only overturn a ‘public good’ deprivation decision by the Home Secretary in relatively limited circumstances: for example, if it was “unsupported by any evidence” or would make the person stateless.<sup>26</sup>

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<sup>20</sup> [British Nationality Act 1981, s 40A\(2\)](#)

<sup>21</sup> [The Special Immigration Appeals Commission \(Procedure\) Rules 2003, SI 2003 No. 1034, Part 7](#)

<sup>22</sup> *Secretary of State for the Home Department v P3* [2021] EWCA Civ 1642, 8 November 2021, para 126

<sup>23</sup> *Ciceri (deprivation of citizenship appeals: principles) Albania (Rev1)* [2021] UKUT 238 (IAC), 8 September 2021

<sup>24</sup> “[Shamima Begum: Bring me home, says Bethnal Green girl who left to join Isis](#)”, The Times [online], 13 February 2019; BBC Sounds, [I’m Not a Monster – The Shamima Begum Story](#), podcast series beginning 11 January 2023

<sup>25</sup> *Begum v Secretary of State for the Home Department*, [SC/163/2019](#), 22 February 2023

<sup>26</sup> *R (Begum) v Special Immigration Appeals Commission* [2021] UKSC 7, 26 February 2021, para 71. See also Free Movement, [Shamima Begum loses case in Supreme Court](#), 26 February 2021.

## 2

# Statistics on the use of deprivation powers

At least 1,064 deprivation orders were made from 2010 to 2022. Of these:

- 847 were because of fraud
- 217 were because it was conducive to the public good

However, some people have successfully appealed against deprivation. This includes the first person against whom deprivation was attempted under modern powers, Abu Hamza, in 2003.

Commentators have suggested that many of those deprived of their citizenship on ‘public good’ grounds are British Muslims.

## 2.1

# How often are people deprived of their citizenship?

The Home Office does not routinely publish comprehensive figures on deprivation of citizenship. The data on ‘public good’ cases, in particular, is published at irregular intervals and can have a significant time lag.

The figures below show the number of deprivation orders made. Some will have been overturned on appeal. The number of people ultimately deprived of British citizenship will therefore be smaller than the number of orders.

## Deprivation for fraud

From 2012 to 2022, there were 847 deprivation orders on the ground of fraud, false representation or concealment of a material fact.<sup>27</sup>

Deprivation for fraud has increased markedly over the course of the decade. There was one such order recorded in 2012, compared to 308 in 2022.

The increase may be partly related to the fact that, until late 2017, the Home Office had been dealing with many fraud cases by [declaring that the grant of citizenship was a ‘nullity’](#). This means it was treated as though naturalisation

<sup>27</sup> Home Office, [Immigration and protection data: Q3 2022](#), tab RCM\_01

had never taken place. Under this approach, there was no need for a deprivation order. There were 262 nullity decisions issued from 2007 to 2017.<sup>28</sup>

In 2017, the Supreme Court found that nullity had been applied to a wider range of fraud cases than the law permits.<sup>29</sup> As a result, the Home Office withdrew some nullity decisions and issued deprivation orders instead.<sup>30</sup>

Deprivation of citizenship for fraud, 2012-2022	
Year	Number of orders
2012	1
2013	7
2014	11
2015	15
2016	24
2017	44
2018	50
2019	82
2020	42
2021	263
2022	308

Source: Home Office, [Immigration and protection data: Q4 2022](#), tab RCM\_01

## Deprivation for the public good

From 2010 to 2021, there were 217 deprivation orders on the basis that it was conducive to the public good.<sup>31</sup> Almost half (104 orders) were in 2017. The threat from the so-called Islamic State, in particular, [has receded since then](#).

The Institute of Race Relations records five deprivations or attempted deprivations before 2010, beginning with controversial imam Abu Hamza in 2003.<sup>32</sup> This is consistent with Home Office data showing four orders from

<sup>28</sup> Home Office, [response to FOI 47144](#) (PDF), 6 July 2018

<sup>29</sup> *R (Hysaj) v Secretary of State for the Home Department* [2017] UKSC 82, 21 December 2017

<sup>30</sup> For example, in the cases of *Hysaj (Deprivation of Citizenship: Delay) Albania* [2020] UKUT 128 (IAC), 19 March 2020 and *Berdica v Secretary of State for the Home Department (Deprivation of citizenship: consideration)* [2022] UKUT 276 (IAC), 5 April 2022

<sup>31</sup> PQ HL5076 [on [British Nationality](#)], 5 January 2022; Home Office, [HM Government transparency report: disruptive powers 2020](#), CP 621, 3 March 2022, p27; [HM Government Counter-Terrorism Disruptive Powers report 2021](#), CP 779, 19 January 2023, p25

<sup>32</sup> Institute of Race Relations, [Citizenship: from right to privilege](#), 11 September 2022, p8; “[Cleric stripped of citizenship](#)”, BBC News [online], 5 April 2003

2006 to 2009 (assuming all four were ‘public good’ cases).<sup>33</sup> The Abu Hamza case is not recorded as a deprivation order because, at the time, no final order could be made until after any appeal was determined.<sup>34</sup>

Before Abu Hamza, there had been no deprivation of citizenship for 30 years. A Government white paper published in 2002 stated “the last time someone was deprived of British citizenship was in 1973”.<sup>35</sup>

Deprivation of citizenship for the ‘public good’, 2010-2021	
Year	Number of orders
2010	5
2011	6
2012	5
2013	8
2014	4
2015	5
2016	14
2017	104
2018	21
2019	27
2020	10
2021	8

Source: PQ HL5076 [on [British Nationality](#)], 5 January 2022; Home Office, [HM Government transparency report: disruptive powers 2020](#), CP 621, 3 March 2022, p27; [HM Government Counter-Terrorism Disruptive Powers report 2021](#), CP 779, 19 January 2023, p25

As of 1 March 2022, the power to deprive someone of their citizenship for the public good even if it would leave them stateless had never been exercised.<sup>36</sup>

## Number of appeals

Between 1 April 2015 and 31 December 2022, the First-tier Tribunal (Immigration and Asylum Chamber) received over 1,200 appeals against

<sup>33</sup> PQ 15275 [on [British Nationality](#)], 6 November 2015

<sup>34</sup> *Hamza v Secretary of State for the Home Department* [SC/23/2010](#), 5 November 2010, para 2. As Abu Hamza ultimately won his appeal, no deprivation order would ever have been made.

<sup>35</sup> Home Office, [Secure Borders, Safe Haven – Integration with Diversity in Modern Britain](#), Cm 5387, 7 February 2002, para 2.22. This assumes no deprivation decisions from February 2002 to April 2003.

<sup>36</sup> PQ HL5078 [on [British Nationality](#)], 5 January 2022

citizenship deprivation. The success rate of the 188 appeals determined in 2021-22 was 29%; it has usually been higher in previous years.<sup>37</sup>

This does not include appeals with a national security element, which will be heard at SIAC. Statistics on deprivation appeals at SIAC are not routinely published, although [individual judgments are available online](#).

## 2.2 Who is deprived of their citizenship?

The Home Office does not publish data on the demographics of people who have been deprived of their citizenship.<sup>38</sup>

However, there are (statistically speaking) relatively few cases of citizenship deprivation, and the background and/or identity of the person concerned is sometimes in the public domain. This has allowed some commentators to collate the known cases and draw conclusions about the characteristics of people deprived of their citizenship, particularly on the ‘public good’ ground:

- In 2011, the barrister Amanda Weston identified nine people by nationality and said “the common denominator is that by far the majority if not all are Muslims”.<sup>39</sup>
- In 2014, the Bureau of Investigative Journalism reviewed 53 deprivation cases, from which it identified 18 individuals. Of those 18, “at least five” had been born in the UK.<sup>40</sup>
- In 2022, the Institute of Race Relations commented “the vast majority of those deprived are Muslim men with south Asian or middle Eastern/north African heritage”.<sup>41</sup>

There have been several high-profile cases of public good citizenship deprivation over the years. These include:

- Abu Hamza, an Egyptian-born imam who was served with a deprivation decision in April 2003. He ultimately succeeded on appeal, so remains a British citizen, but was convicted of serious criminal offences in both the UK and USA.<sup>42</sup>

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<sup>37</sup> Ministry of Justice, [Tribunal Statistics Quarterly: October to December 2022](#), 9 March 2023, tables FIA\_1 and FIA\_3

<sup>38</sup> PQ 139991 [on [British Nationality: Females](#)], 19 January 2021; PQ HL5081 [on [British Nationality: Females](#)], 5 January 2022

<sup>39</sup> Institute of Race Relations, [Deprivation of citizenship – by stealth](#), 9 June 2011

<sup>40</sup> [“What do we know about citizenship stripping?”](#), The Bureau of Investigative Journalism [online], 10 December 2014

<sup>41</sup> Institute of Race Relations, [Citizenship: from right to privilege](#), 11 September 2022, p8

<sup>42</sup> *R v Hamza* [2006] EWCA Crim 2118, 28 July 2006; *Hamza v Secretary of State for the Home Department* SC/23/2010, 5 November 2010; [“Radical cleric Abu Hamza jailed for life by US court”](#), BBC News [online], 9 January 2015

- Hilal al-Jedda, an Iraqi-born refugee who was first deprived of his British citizenship in December 2007 but succeeded on appeal to the Supreme Court in 2013. Three weeks after the Supreme Court judgment, the Home Secretary issued a second deprivation order.<sup>43</sup>
- Shamima Begum, a UK-born woman who travelled to Syria in February 2015, aged 15, and was deprived of her citizenship four years later. SIAC ruled in 2020 that she was a citizen of Bangladesh, so would not be left stateless. A separate appeal on other grounds, including that she was a victim of human trafficking, was rejected in February 2023.<sup>44</sup>

A significant number of fraud cases involve Albanians who falsely claimed to be from Kosovo when claiming asylum in the late 1990s. They went on to naturalise as British citizens but were deprived of that citizenship many years later, when the deception or alleged deception came to light.<sup>45</sup>

The Independent Chief Inspector of Borders and Immigration is carrying out an inspection of citizenship deprivation operations at time of writing. It is expected to focus on fraud rather than national security cases.

## Who cannot be deprived of their citizenship?

There is also a cohort of people who **cannot** be deprived of their citizenship in any circumstances. The law does not permit people who were born British (as opposed to acquiring their citizenship by naturalisation or registration) to be deprived if that would leave them stateless.

That means people who have only one nationality (British) have legal protection against deprivation that people with multiple nationalities do not. Some commentators say this looks like discrimination against people from migrant and ethnic minority backgrounds, who are more likely to have dual nationality than people whose recent ancestors were all born in the UK.<sup>46</sup>

The Government has stressed that “law-abiding people have nothing to fear” from citizenship deprivation merely because they are a dual national.<sup>47</sup>

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<sup>43</sup> *Secretary of State for the Home Department v Al -Jedda* [2013] UKSC 62, 9 October 2013; *Al-Jedda v Secretary of State for the Home Department* SC/66/2008, 18 July 2014; appeal dismissed by the Court of Appeal on 24 March 2017 (unreported)

<sup>44</sup> *Begum v Secretary of State for the Home Department* SC/163/2019, 7 February 2020; *Begum v Secretary of State for the Home Department*, SC/163/2019, 22 February 2023

<sup>45</sup> For example, *Hysaj (Deprivation of Citizenship: Delay) Albania* [2020] UKUT 128 (IAC), 19 March 2020; *Berdica v Secretary of State for the Home Department (Deprivation of citizenship: consideration)* [2022] UKUT 276 (IAC), 5 April 2022; *Muslija (deprivation: reasonably foreseeable consequences)* [2022] UKUT 337 (IAC), 16 November 2022

<sup>46</sup> For example, Baroness Warsi, [HL Deb 27 January 2022 c541](#); Institute of Race Relations, [Citizenship: from right to privilege](#), 11 September 2022; “[Exclusive: British citizenship of six million people could be jeopardised by Home Office plans](#)”, *New Statesman* [online], 1 December 2021

<sup>47</sup> For example, [HL Deb 28 February 2022 c598](#)

## 3 Timeline of changes to powers to remove British citizenship

### 3.1 1915-2003: deprivation of naturalised citizenship

#### 1 January 1915

The British Nationality and Status of Aliens Act 1914 comes into force. The Act provides for revocation of a naturalisation certificate if “obtained by false representations or fraud”. At this time, it does not allow revocation for other misconduct.<sup>48</sup>

#### 8 August 1918

The British Nationality and Status of Aliens Act 1918 comes into force. This amends the 1914 Act, including by requiring the Home Secretary to revoke naturalisation certificates if satisfied of certain misconduct other than fraud.

The amended version provides for revocation where:

- Naturalisation has been “obtained by false representation or fraud, or by concealment of material circumstances”, **or**
- A naturalised citizen has “shown himself by act or speech to be disaffected or disloyal to His Majesty”, **or**
- A naturalised citizen has
  - committed certain types of misconduct, such as trading with the enemy in time of war or criminal offending, **and**
  - it is “not conducive to the public good” for them to remain a citizen<sup>49</sup>

On second reading in the House of Lords, Viscount Sandhurst argues for the Government that “especially in war time, these [1914 Act] powers were not

<sup>48</sup> British Nationality and Status of Aliens Act 1914, s 7. The ‘original’ version on legislation.gov.uk does not contain the original wording of s7 as passed. For debate on the clause that became s 7, see [HC Deb 29 July 2014 vol 65 cc1485-86](#). There was previously no power to cancel naturalisation certificates under any circumstances: [HC Deb 16 November 1914 vol 68 cc226-7W](#)

<sup>49</sup> [British Nationality and Status of Aliens Act 1918, s 1 \(PDF\)](#). See also Laurie Fransman KC, Adrian Berry and Alison Harvey, Fransman’s British Nationality Law, 3rd edition, 2011, pp160-161; *Secretary of State for the Home Department v Hicks* [2006] EWCA Civ 400, 12 April 2006, paras 14-19

sufficiently wide and operative, and it is advisable that they should be extended”.<sup>50</sup>

## 1 January 1949

The British Nationality Act 1948 comes into force. This includes similar, although not identical, provisions for removal of naturalised citizenship as under the Nationality and Status of Aliens Acts.

Section 20 provides for deprivation of citizenship where:

- Naturalisation or registration had been “obtained by means of fraud, false representation or the concealment of any material fact”, **or**
- A naturalised citizen had “shown himself by act or speech to be disloyal or disaffected towards His Majesty”, traded with the enemy in time of war or been sentenced to 12 months’ imprisonment (other forms of misconduct were removed as grounds for deprivation), **or**
- A naturalised citizen had lived abroad for more than seven years, unless working “in the service of His Majesty”/for an international organisation, or registering at a consulate

In all deprivation cases, the Home Secretary must **also** be satisfied that it is “not conducive to the public good” for the person to remain a citizen. There is no protection against statelessness.<sup>51</sup>

## 16 September 1964

The British Nationality (No. 2) Act 1964 comes into force. This amends the 1948 Act by repealing the power to deprive people of their citizenship on the ground of seven years’ residence abroad. It also introduces a protection against deprivation where the person would be left stateless, but only where the ground for deprivation is a criminal offence.<sup>52</sup>

Home Office records suggest that ten people were deprived of their citizenship between 1949 and 1973.<sup>53</sup>

## 1 January 1983

The British Nationality Act 1981 comes into force. It replaces the 1948 Act but retains essentially the same powers to deprive naturalised citizenship.

Section 40 provides for deprivation of citizenship where:

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<sup>50</sup> [HL Deb 26 July 1918 vol 30 c1220](#)

<sup>51</sup> Laurie Fransman KC, Adrian Berry and Alison Harvey, *Fransman’s British Nationality Law*, 3rd edition, 2011, p234

<sup>52</sup> [British Nationality \(No. 2\) Act 1964, s 4](#)

<sup>53</sup> Immigration and Security Minister, [letter to the Joint Committee on Human Rights \(PDF\)](#), 20 February 2014, p9. These records are not comprehensive



- Naturalisation or registration had been “obtained by means of fraud, false representation or the concealment of any material fact”, **or**
- A naturalised or registered citizen had “shown himself by act or speech to be disloyal or disaffected towards Her Majesty”, traded with the enemy in time of war or been sentenced to 12 months’ imprisonment

In all deprivation cases, the Home Secretary must **also** be satisfied that it is “not conducive to the public good” for the person to remain a citizen.

The protection against statelessness for people deprived of citizenship for criminal offending is retained.

These deprivation powers were never used until after they were amended in 2003.<sup>54</sup>

## 3.2 2003-present: extension to non-naturalised citizens

### 7 February 2002

The immigration white paper [Secure Borders, Safe Haven](#) proposes an “update” of the deprivation procedure. It gives the example of a scenario where “someone has been granted British citizenship while concealing a material fact such as their past involvement in terrorism or war crimes”.<sup>55</sup>

### 1 April 2003

Section 4 of the Nationality, Immigration and Asylum Act 2002 comes into force. People who acquired British citizenship through birth are made subject to deprivation of citizenship powers for the first time.

The 2002 Act inserts a new version of section 40 of the 1981 Act. It provides for deprivation of citizenship where:

- Naturalisation or registration had been “obtained by means of fraud, false representation or concealment of a material fact” (as under the old law), **or**
- The person “has done anything seriously prejudicial to the vital interests of the United Kingdom or a British overseas territory”

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<sup>54</sup> Home Office, [Secure Borders, Safe Haven – Integration with Diversity in Modern Britain](#), Cm 5387, 7 February 2002, para 2.22. This assumes no deprivation decisions from February 2002 to April 2003

<sup>55</sup> As above

The “seriously prejudicial” type of deprivation can be used for British citizens by birth, not just naturalised/registered citizens. But it cannot be used if the person would be left stateless.

All six forms of British nationality, not just ‘full’ British citizenship, can now be taken away.<sup>56</sup>

The Government argues that the old 1981 Act “discriminates against those who have acquired citizenship by registration or naturalisation, marking them out as “potentially, second-class citizens compared with those who have acquired it by birth”.<sup>57</sup>

Ministers also respond to concerns about how the powers would be used. Home Office minister Lord Filkin gives a “categorical assurance” that the powers would not be used as an alternative to criminal prosecution (such as under anti-terrorism legislation) if the Director of Public Prosecutions thought there was enough evidence to prosecute.<sup>58</sup>

## 4 April 2005

Schedule 2, part 1, paragraph 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 comes into force. It repeals the rule that a deprivation order does not take effect while an appeal is pending.<sup>59</sup>

Barrister Amanda Weston says this amendment was “hidden away” and attracted no parliamentary scrutiny.<sup>60</sup>

## 16 June 2006

Section 56 of the Immigration, Asylum and Nationality Act 2006 comes into force. It changes the test for deprivation from “seriously prejudicial to the vital interests of the United Kingdom” to “conducive to the public good”.<sup>61</sup>

Critics say the change reduces the threshold for making deprivation of citizenship orders.<sup>62</sup> The Government says the change is an “essential” part of its response to the 7 July 2005 terrorist attacks in London.<sup>63</sup>

In addition, section 57 of the 2006 Act provides for the deprivation of the right of abode.

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<sup>56</sup> [Nationality, Immigration and Asylum Act 2002, s 4](#)

<sup>57</sup> [HL Deb 8 July 2002 c503](#)

<sup>58</sup> [HL Deb 9 October 2002 c282](#)

<sup>59</sup> [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004, sch 2](#)

<sup>60</sup> Institute of Race Relations, [Deprivation of citizenship – by stealth](#), 9 June 2011

<sup>61</sup> [Immigration, Asylum and Nationality Act 2006, s 56](#)

<sup>62</sup> For example, Joint Committee on Human Rights, [Counter-Terrorism Policy and Human Rights: Terrorism Bill and related measures \(PDF\)](#), HC 561-I, 5 December 2005, paras 159-164

<sup>63</sup> [Immigration, Nationality and Asylum Bill Deb 27 October 2005 cc251-256](#). The bill was first introduced on 22 June 2005 – several weeks before the London bombings – and [did not originally address citizenship deprivation at all](#).

## 9 October 2013

Hilal al-Jedda wins a Supreme Court appeal against deprivation of citizenship, successfully arguing that the order has no effect because it would have left him stateless.

Soon afterwards, the Financial Times reports that, in light of the al-Jedda case, the Home Secretary has instructed officials to consider whether it would be possible under international law to withdraw citizenship from terrorism suspects who would be left stateless.<sup>64</sup> The Coalition Government tables a new clause to the Immigration Bill then going through Parliament.

The Home Office argues “it is not right that a person who has acquired British citizenship – and accepted the rights, responsibilities and privileges that derive from this – can act in a way that threatens the security of the UK and retain British nationality simply because they may be left stateless as a result of deprivation”. Immigration minister Mark Harper says “citizenship is a privilege, not a right”.<sup>65</sup>

## 28 July 2014

Section 66 of the Immigration Act 2014 comes into force. It amends the 1981 Act to make it possible to render people stateless when depriving them of citizenship on the basis that it is conducive to the public good.

There are three restrictions on the power to make people stateless.<sup>66</sup>

1. It only applies to naturalised citizens.
2. The Home Secretary must be satisfied that the person has conducted themselves in a manner seriously prejudicial to the vital interests of the UK. This is a revival of the previous legal test for deprivation, before the 2006 change, but applied only to cases where the person would become stateless.
3. Third, the Home Secretary must reasonably believe that the person would be able to acquire another nationality. This safeguard is inserted in response to concerns raised in Parliament that people would be left permanently stateless.<sup>67</sup>

Correspondence from Home Office ministers about other aspects of the clause during the passage of the bill is deposited in the House of Commons Library.<sup>68</sup>

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<sup>64</sup> “May bids to make terror suspects stateless”, Financial Times, 11 November 2013

<sup>65</sup> Home Office, [Immigration Bill, Fact Sheet: Deprivation of Citizenship \(PDF\)](#), January 2014

<sup>66</sup> [HC Deb 7 May 2014 c191](#)

<sup>67</sup> [Immigration Act 2014, s 66](#)

<sup>68</sup> Letter from James Brokenshire to Rt Hon David Hanson (PDF), 20 February 2014, [DEP 2014-0262](#); Letter from Lord Taylor of Holbeach to Rt Hon Baroness Smith of Basildon (PDF), 17 April 2014, [DEP 2014-0641](#)

## 21 April 2016

The Independent Reviewer of Terrorism Legislation, David Anderson KC, publishes a statutory review of [Citizenship removal resulting in statelessness](#). This had been provided for under section 66 of the 2014 Act, in response to concerns raised about the power to make people stateless in “conducive to the public good” cases.<sup>69</sup>

The review covers the period 30 July 2014 to 29 July 2015.<sup>70</sup> The power was not used during the review period (and has not been used since).<sup>71</sup> Mr Anderson’s report instead summarises the evolution of the statelessness power and identifies some of the legal and practical issues that might arise if it were used.

## 9 August 2018

The British Nationality (General) (Amendment) Regulations 2018 come into force. Regulation 3 amends the rules on serving written notice of citizenship deprivation to allow electronic methods, such as email.

The amendment also allows deemed service of notice. If the person’s whereabouts are unknown and the Home Office does not have a current address for them or a representative, notice can be given by an official placing a note on file.<sup>72</sup>

## 30 July 2021

The High Court finds deemed service to be unlawful. Placing a notice on file does not, the court holds, “give the person written notice” as required by section 40(5) of the 1981 Act.<sup>73</sup>

## 10 May 2023

Section 10 and Schedule 2 of the Nationality and Borders Act 2022 come into force. These provisions permit citizenship deprivation without notice, in certain circumstances and subject to safeguards (see section 1.2 above).<sup>74</sup>

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<sup>69</sup> [HC Deb 7 May 2014 c199](#)

<sup>70</sup> As provided for by [s 40B\(1\)\(a\) of the 1981 Act](#), inserted by s 66 of the 2014 Act. It came into force on [28 July 2014](#).

<sup>71</sup> PQ HL5078 [on [British Nationality](#)], 5 January 2022

<sup>72</sup> [The British Nationality \(General\) \(Amendment\) Regulations 2018, SI 2018 No. 851, reg 3](#)

<sup>73</sup> *R (D4) v Secretary of State for the Home Department* [2021] EWHC 2179 (Admin), 30 July 2021.

Upheld by the Court of Appeal in *R (D4) (Notice of Deprivation of Citizenship) v Secretary of State for the Home Department* [2022] EWCA Civ 33, 26 January 2022

<sup>74</sup> Nationality and Borders Act 2022, [s 10](#) and [sch 2](#), commenced by [The Nationality and Borders Act 2022 \(Commencement No. 6\) Regulations 2023, SI 450/2023](#)

## 4 Withdrawal of passport facilities

A British passport is different from British citizenship. The passport does not confer citizenship; it is merely evidence of it. In practice, however, it can be difficult to prove British citizenship in day-to-day life without a passport.

Passports are issued at the discretion of the Home Secretary under the Royal Prerogative ([an executive power which does not require legislation](#)).<sup>75</sup> They can be withdrawn, cancelled or refused through the use of the same discretionary power.<sup>76</sup>

Withdrawal of passports is used to prevent British citizens from travelling abroad. Temporary exclusion orders can be used to manage the return of British citizens to the UK: see [Part 2 of the Counter-Terrorism and Security Act 2015](#) and the Library's [briefing on Returning foreign fighters](#).

### 4.1 Policy on using Royal Prerogative power

The [policy on when passports will be withdrawn under the exercise of prerogative powers is set out in a written ministerial statement](#) by the then Home Secretary, Theresa May, in April 2013. There has been no new version of the policy since the written statement was issued in 2013.<sup>77</sup>

The range of scenarios in which a passport might be refused or withdrawn is much wider than for deprivation of citizenship. It covers children who might be removed from the country in breach of a family court order, or where someone is wanted for a serious crime and may wish to flee abroad.

But similar to deprivation of citizenship, there is a general discretion to withdraw a passport where the Home Secretary is “satisfied that it is in the public interest”.

Theresa May’s full written statement says:

A decision to refuse or withdraw a passport must be necessary and proportionate. The decision to withdraw or refuse a passport and the reason

<sup>75</sup> HM Passport Office, [Royal Prerogative: caseworker guidance](#), version 6.0, 24 November 2022; *R (XH and AI) v Secretary of State for the Home Department* [2017] EWCA Civ 41, 2 February 2017, para 31; Scott PF, “[Passports, the right to travel, and national security in the Commonwealth](#)”, (2020) 69(2) International and Comparative Law Quarterly 365

<sup>76</sup> Withdrawal and cancellation of a passport are the same thing: *R (XH and AI) v Secretary of State for the Home Department* [2017] EWCA Civ 41, 2 February 2017, para 33

<sup>77</sup> See eg Home Office, [HM Government transparency report: disruptive powers 2020](#), CP 621, 3 March 2022, p22

for that decision will be conveyed to the applicant or passport holder. The disclosure of information used to determine such a decision will be subject to the individual circumstances of the case.

The decision to refuse or to withdraw a passport under the public interest criteria will be used only sparingly. The exercise of this criteria will be subject to careful consideration of a person's past, present or proposed activities.

For example, passport facilities may be refused to or withdrawn from British nationals who may seek to harm the UK or its allies by travelling on a British passport to, for example, engage in terrorism-related activity or other serious or organised criminal activity.

This may include individuals who seek to engage in fighting, extremist activity or terrorist training outside the United Kingdom, for example, and then return to the UK with enhanced capabilities that they then use to conduct an attack on UK soil. The need to disrupt people who travel for these purposes has become increasingly apparent with developments in various parts of the world.

Operational responsibility for the application of the criteria for issuance or refusal is a matter for the Identity and Passport Service (IPS) [Now HM Passport Office] acting on behalf of the Home Secretary. The criteria under which [HMPO] can issue, withdraw or refuse a passport is set out below.

Passports are issued when the Home Secretary is satisfied as to:

- i. the identity of an applicant; and
- ii. the British nationality of applicants, in accordance with relevant nationality legislation; and
- iii. there being no other reasons—as set out below—for refusing a passport. [HMPO] may make any checks necessary to ensure that the applicant is entitled to a British passport.

A passport application may be refused or an existing passport may be withdrawn. These are the persons who may be refused a British passport or who may have their existing passport withdrawn:

- i. a minor whose journey was known to be contrary to a court order, to the wishes of a parent or other person or authority in whose favour a residence or care order had been made or who had been awarded custody; or care and control; or
- ii. a person for whose arrest a warrant had been issued in the United Kingdom, or
- iii. a person who was wanted by the United Kingdom police on suspicion of a serious crime; or a person who is the subject of:
  - a court order, made by a court in the United Kingdom, or any other order made pursuant to a statutory power, which imposes travel restrictions or restrictions on the possession of a valid United Kingdom passport; or

bail conditions, imposed by a police officer or a court in the United Kingdom, which include travel restrictions or restrictions on the possession of a valid United Kingdom passport; or

an order issued by the European Union or the United Nations which prevents a person travelling or entering a country other than the country in which they hold citizenship; or

a declaration made under section 15 of the Mental Capacity Act 2005.

iv. A person may be prevented from benefitting from the possession of a passport if the Home Secretary is satisfied that it is in the public interest to do so. This may be the case where:

a person has been repatriated from abroad at public expense and their debt has not yet been repaid. This is because the passport fee supports the provision of consular services for British citizens overseas; or

a person whose past, present or proposed activities, actual or [reasonably]<sup>78</sup> suspected, are believed by the Home Secretary to be so undesirable that the grant or continued enjoyment of passport facilities is contrary to the public interest.

There may be circumstances in which the application of legislative powers is not appropriate to the individual applicant but there is a need to restrict the ability of a person to travel abroad.

The application of discretion by the Home Secretary will primarily focus on preventing overseas travel. There may be cases in which the Home Secretary believes that the past, present or proposed activities—actual or suspected—of the applicant or passport holder should prevent their enjoyment of a passport facility whether overseas travel was or was not a critical factor.

The threshold for withdrawing a passport in the public interest has been reduced over time.<sup>79</sup> Home Office guidance states that such decisions will usually involve national security.<sup>80</sup>

The Home Affairs Committee has recommended that the Independent Reviewer of Terrorism Legislation should also review passport withdrawals.<sup>81</sup> Then Home Secretary Amber Rudd rejected that proposition in July 2017, saying that giving the Independent Reviewer oversight of non-statutory powers risked diluting the clarity of their remit.<sup>82</sup>

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<sup>78</sup> See *B & Anor v Secretary of State for the Home Department* [2018] EWHC 2651 (Admin), 12 October 2018, para 26

<sup>79</sup> Constitution Unit, [Reforming the Prerogative \(PDF\)](#), December 2022, p44

<sup>80</sup> HM Passport Office, [Royal Prerogative: caseworker guidance](#), version 6.0, 24 November 2022, p7

<sup>81</sup> Home Affairs Committee, [Counter-terrorism \(PDE\)](#), 9 May 2014, HC 231 2013-14, p36

<sup>82</sup> Home Office, [Government response to the annual report on the operation of the terrorism acts in 2015](#), Cm 9489, 20 July 2017, p4

## 4.2

# Notice and right of appeal

Passport Office guidance for officials states that withdrawal of passports must be fair, reasonable and give reasons for the decision:

We must:

- have reasonable grounds to withdraw passports or passport facilities
- withdraw passports and passport facilities fairly
- give customers enough information about why we decided to withdraw their passport or passport facilities so they can challenge our decision (for example, if it was based on wrong information)
- consider exceptional circumstances that allows the customer to keep, renew (or replace) their passport

Before deciding to withdraw a passport or passport facilities, we must:

- consider each case on its own merits
- take care to correctly apply the guidance
- make sure the reason we need to withdraw a passport or passport facilities is:
  - correct
  - reasonable
  - fair
- be able to clearly show why we are withdrawing a passport or passport facilities<sup>83</sup>

Someone whose passport has been withdrawn can request an internal review of the decision.<sup>84</sup>

As passports are issued at the Home Secretary's discretion there is no right of appeal against a decision to withdraw the passport. However, someone whose passport has been withdrawn is not left without a legal remedy. The exercise of the prerogative power to cancel a passport can be challenged by applying for judicial review in the High Court.<sup>85</sup>

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<sup>83</sup> HM Passport Office, [Withdrawing passports and passport facilities: caseworker guidance](#), version 6.0, 22 December 2022, p7

<sup>84</sup> Home Office, [HM Government transparency report: disruptive powers 2020](#), CP 621, p22

<sup>85</sup> *R (Everett) v Secretary of State for Foreign and Commonwealth Affairs* [1988] EWCA Civ 7, 20 October 1988



## 4.3 Statistics on passport withdrawals

Data on passport withdrawals is not routinely published. Information on withdrawals for national security reasons is made available in transparency publications, as collated in the table below.

Withdrawal or refusal of passports for national security reasons, 2013-2021	
2013	6
2014	24
2015	23
2016	17
2017	14
2018	5
2019	3
2020	2
2021	1

Sources: Home Office, [HM Government transparency report: disruptive powers 2018 to 2019](#), CP 212, 19 March 2020, p19; [HM Government transparency report: disruptive powers 2020](#), CP 621, 3 March 2022, p22; [HM Government Counter-Terrorism Disruptive Powers report 2021](#), CP 779, 19 January 2023, p19. Annual totals sum to 95 but the Home Office says that the cumulative total is 94 (see 2021 report).

There is also data on internal reviews (where the Home Office checks its own decision to withdraw a passport). The figures show:

- From 2014 to 2018 there were 48 reviews, of which 13 were successful<sup>86</sup>
- From 2019 to 2021 there were 24 reviews, of which 20 were successful<sup>87</sup>

The Home Office can undertake a review of its own initiative if new information comes to light, so these figures are not necessarily the success rate of review requests.

As with deprivation of citizenship, withdrawal of passports as a national security tool appears to have fallen into disuse in the late 20th century before being revived in the 21st.<sup>88</sup>

<sup>86</sup> Home Office, [HM Government transparency report: disruptive powers 2018 to 2019](#), CP 212, 19 March 2020, p19

<sup>87</sup> Home Office, [HM Government transparency report: disruptive powers 2020](#), CP 621, 3 March 2022, p22; [HM Government Counter-Terrorism Disruptive Powers report 2021](#), CP 779, 19 January 2023, p19

<sup>88</sup> Scott PF, "Passports, the right to travel, and national security in the Commonwealth", (2020) 69(2) *International and Comparative Law Quarterly* 365, p17 of online version

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