



**Baroness Williams of
Trafford
Minister of State**

2 Marsham Street
London SW1P 4DF
www.gov.uk/home-office

All Peers
House of Lords
SW1A 0PW
By Email Only

24 February 2022

My Lords

**NATIONALITY AND BORDERS BILL: GOVERNMENT AMENDMENTS AT
REPORT STAGE**

I am writing to you to provide an update on the Nationality and Borders Bill in advance of Lord's Report stage scheduled to commence on the 28th February 2022.

We are planning on bringing forward several Report Stage amendments as follows:

Lawful Residence

This relates to naturalisation applications for British citizenship under sections 6(1) or 6(2) of the British Nationality Act 1981 (the 1981 Act), and applications to register for British citizenship under section 4(2) which sets out the residential requirements for applicants under these routes, including lawful residence. The 1981 Act sets out requirements for applicants under these routes. All three routes have residential requirements, including one relating to lawful residence - essentially that the person should not have been in breach of immigration laws during the relevant period prior to the application.

While we maintain that lawful residence is an appropriate expectation, it does nevertheless create some anomalous situations. This has particularly been highlighted by applicants previously granted indefinite leave to remain (ILR) under our EU Settlement Scheme, and where they had been resident here as students or self-sufficient persons. Because the EEA Regulations and the Free Movement Directive required them to have also held Comprehensive Sickness Insurance during any extended stay, many were technically not here lawfully if they did not do so. However, we have granted them indefinite leave to remain (ILR) despite this and, indeed, we understand that many have only become aware of the issue when seeking to naturalise, creating uncertainty amongst applicants.

In examining possible solutions to this situation, we have looked at it from a broader perspective and considered how the requirement affects all applicants and not just those who acquired indefinite leave to remain under the EU Settlement Scheme.

This amendment will create more flexibility in this area. It will give the Home Secretary the ability to treat a person as meeting the requirements without looking into whether they had been lawfully resident, where the person has indefinite leave to remain, however it was acquired. This will also reduce the evidential burden, and the need to reconsider periods of time already looked at in earlier applications.

We think this will give EEA nationals and others who have been granted indefinite leave to remain the reassurance that previous periods of time in the UK will not normally be reassessed. I therefore hope you will see that this is a positive step, addressing concerns which have been raised, and support this amendment.

Wasted Cost Orders

This amendment makes a minor revision to the drafting of subsection 1 of clause 77, to ensure that it matches the rest of the clause in only making provision in relation to the Immigration and Asylum Chamber.

This change will prevent any uncertainty arising about the jurisdictions in which this clause should be applied, and gives the Tribunal Procedure Committee clarity about how to approach drafting the rules to enact this measure.

I look forward to continuing to work with all colleagues to deliver this important legislation and further discussing these critical issues as the Bill moves through Parliament.

A copy of this letter will be placed in the libraries of the houses.



**Baroness Williams of Trafford
Minister of State**