



# Nationality and Borders Act 2022

## 2022 CHAPTER 36

### PART 1

#### NATIONALITY

##### *Powers of the Secretary of State relating to citizenship etc*

#### **10 Notice of decision to deprive a person of citizenship**

- (1) In this section, “the 1981 Act” means the British Nationality Act 1981.
- (2) In section 40 of the 1981 Act (deprivation of citizenship), after subsection (5) (which requires notice to be given to a person to be deprived of citizenship) insert—

“(5A) Subsection (5) does not apply if—

- (a) the Secretary of State does not have the information needed to be able to give notice under that subsection,
- (b) the Secretary of State reasonably considers it necessary, in the interests of—
  - (i) national security,
  - (ii) the investigation or prosecution of organised or serious crime,
  - (iii) preventing or reducing a risk to the safety of any person, or
  - (iv) the relationship between the United Kingdom and another country,

that notice under that subsection should not be given.

- (5B) In subsection (5A), references to giving notice under subsection (5) are to giving that notice in accordance with such regulations under section 41(1)(e) as for the time being apply.

- (5C) Subsection (5D) applies where—

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**Changes to legislation:** Nationality and Borders Act 2022, Section 10 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (a) the Secretary of State has made an order under subsection (2) and, in reliance on subsection (5A), has not given the notice required by subsection (5), and
  - (b) the person in respect of whom the order was made makes contact with the Secretary of State for the Home Department.
- (5D) The Secretary of State must, as soon as is reasonably practicable, give the person written notice specifying—
  - (a) that the Secretary of State has made the order,
  - (b) the reasons for the order, and
  - (c) the person’s right of appeal under section 40A(1) or under section 2B of the Special Immigration Appeals Commission Act 1997.
- (5E) Schedule 4A makes provision for the Special Immigration Appeals Commission to consider a decision of the Secretary of State—
  - (a) not to give notice to a person before depriving them of a citizenship status on the grounds mentioned in subsection (2) (deprivation conducive to the public good), or
  - (b) not to give late notice to a person who has been deprived of a citizenship status on those grounds without having been given prior notice.”
- (3) In section 40A of the 1981 Act (appeals against deprivation of citizenship)—
  - (a) for subsection (1) substitute—
    - “(1) A person—
      - (a) who is given notice under section 40(5) of a decision to make an order in respect of the person under section 40, or
      - (b) in respect of whom an order under section 40 is made without the person having been given notice under section 40(5) of the decision to make the order,
 may appeal against the decision to the First-tier Tribunal.”
  - (b) after subsection (2) insert—
    - “(2A) In the case of an order made as described in subsection (1)(b), for the purposes of any rule or other provision limiting the time within which an appeal under this section may be brought, time does not start to run unless and until the person is given notice of the fact that the order has been made (see section 40(5D) and Schedule 4A).”
- (4) After Schedule 4 to the 1981 Act insert the Schedule 4A set out in Schedule 2.
- (5) In the British Nationality (General) Regulations 2003 ([S.I. 2003/548](#)), in regulation 10 (notice of proposed deprivation of citizenship), omit paragraph (4).
- (6) A failure to comply with the duty under section 40(5) of the 1981 Act in respect of a pre-commencement deprivation order does not affect, and is to be treated as never having affected, the validity of the order.
- (7) In subsection (6), “pre-commencement deprivation order” means an order made or purportedly made under section 40 of the 1981 Act before the coming into force of subsections (2) to (5) (whether before or after the coming into force of subsection (6)).

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- (8) A person may appeal against a decision to make an order to which subsection (6) applies as if notice of the decision had been given to the person under section 40(5) of the 1981 Act on the day on which the order was made or purportedly made.

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**Commencement Information**

- I1** S. 10(1)(6)-(8) in force at Royal Assent, see [s. 87\(3\)\(a\)](#)  
**I2** [S. 10\(2\)-\(5\)](#) in force at 10.5.2023 by [S.I. 2023/450](#), [reg. 2\(a\)](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 54(6)(c) and word inserted by [2023 c. 37 s. 57\(11\)\(b\)](#)
- s. 63(2A) inserted by [2023 c. 37 s. 29\(3\)](#)
- s. 63(3)(fa)(fb) inserted by [2023 c. 37 s. 29\(4\)\(b\)](#)
- s. 63(5A)(5B) inserted by [2023 c. 37 s. 29\(5\)](#)
- s. 63(8) inserted by [2023 c. 37 s. 28\(9\)](#)
- s. 65(8A) inserted by [2023 c. 37 s. 28\(12\)](#)