

Illegal Migration Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

Clause 1

LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH

Clause 1, page 2, line 38, at end insert –

- “(6) The Secretary of State must lay before each House of Parliament guidance as to how the provisions of this Act are to be read and given effect in a way that is compatible with the Convention Rights within the meaning of the Human Rights Act 1998.
- (7) Guidance under subsection (6) does not have effect until approved by each House of Parliament.”

Member's explanatory statement

This amendment directs attention to the statement in the Government's ECHR memorandum that the clauses which it identifies as engaging with Convention rights are compatible, and to the need for guidance to be given to those by whom the provisions of this Bill are to be applied.

Clause 2

LORD GERMAN

Clause 2, page 3, line 27, leave out subsections (4) and (5)

Member's explanatory statement

This amendment removes the subsections from Clause 2 that expand the current definition of “coming directly” to the UK.

LORD CASHMAN

Clause 2, page 3, line 30, after “nationality,” insert “gender, sexual orientation, gender identity,”

Member's explanatory statement

This amendment would include persecution against a person on the basis of gender, sexuality and gender identity for the purposes of the third condition under which a person could be removed.

BARONESS HAMWEE
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 2, page 3, line 39, leave out subsection (7)

Member's explanatory statement

This amendment would ensure that any limited leave to enter or remain given to an unaccompanied child under the immigration rules can be taken into account in determining whether that child has leave to enter or remain in the UK.

After Clause 2

LORD COAKER

After Clause 2, insert the following new Clause—

“Negotiating objective: migration removal agreements

- (1) It must be a negotiating objective of His Majesty’s Government to negotiate with relevant States formal legally binding agreements to facilitate removals required under section 2.
- (2) Relevant international partners include (but are not limited to) the States listed in section 57.
- (3) Within the period of one month beginning with the day on which this Act is passed, and every three months thereafter, the Secretary of State must—
 - (a) publish a report outlining the status of negotiations with relevant States on the establishment of formal legally binding agreements to facilitate removals, and
 - (b) lay the report before both Houses of Parliament.”

Member's explanatory statement

This new Clause would require the Government to seek formal return agreements with other states, including Albania and EU member states, and to report regularly to Parliament on the status of those negotiations.

Clause 3

BARONESS BUTLER-SLOSS

Clause 3, page 5, line 14, at end insert—

- “(6A) An unaccompanied child who reaches the age of 18 must not be removed unless it is in their best interest to do so.”

Clause 5

BARONESS HAMWEE

Clause 5, page 6, line 41, leave out paragraph (b)

Member's explanatory statement

This amendment removes the specific paragraph which allows the Secretary of State to remove an unaccompanied child as soon as they reach the age of 18.

LORD HOPE OF CRAIGHEAD

Clause 5, page 8, line 30, leave out “7 March 2023” and insert “the date when this section comes into force”

Member's explanatory statement

This amendment seeks to give effect to the principle that, unless for good reason, legislation should operate prospectively and not retrospectively.

Clause 7

LORD GERMAN

Clause 7, page 10, line 21, leave out subsections (8) to (15)

Member's explanatory statement

This amendment is to probe the legal obligations that an immigration officer may place on private actors and companies.

Clause 11LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH

Clause 11, page 17, leave out lines 32 to 36

Member's explanatory statement

This amendment seeks to remove the possibility that the Secretary of State may extend the period of detention indefinitely in the circumstances referred to in this subsection.

LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH

Clause 11, page 18, leave out lines 31 to 33

Member's explanatory statement

This amendment seeks to remove the possibility that the Secretary of State may extend the period of detention indefinitely in the circumstances referred to in this subsection.

Clause 21

LORD COAKER

Clause 21, page 25, line 32, leave out from “applies” to “subject” in line 39

Member's explanatory statement

This amendment is part of a package which seeks to probe how victims of modern slavery can enter the national referral mechanism and receive appropriate support.

LORD COAKER

Clause 21, page 26, line 10, leave out paragraphs (a) to (c) and insert –

- “(a) a decision has been made by a competent authority that there are reasonable grounds to believe that an adult is a victim of slavery or human trafficking (a “positive reasonable grounds decision”), and
- (b) a decision is subsequently made by a competent authority that an adult is a victim of slavery or human trafficking (a “conclusive grounds decision”).”

Member's explanatory statement

This amendment is part of a package which seeks to probe how victims of modern slavery can enter the national referral mechanism and receive appropriate support.

LORD COAKER

Clause 21, page 26, line 19, leave out subsection (4) and insert –

- “(4) Where subsection (3)(b) applies, an adult must be granted –
 - (a) a residence permit lasting for a period of at least 30 months, and
 - (b) access to support services.”

Member's explanatory statement

This amendment is part of a package which seeks to probe how victims of modern slavery can enter the national referral mechanism and receive appropriate support.

Clause 38LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH

Clause 38, page 41, line 13, leave out “, imminent and foreseeable”

Member's explanatory statement

This amendment seeks to simplify the wording of this provision by removing words which, it is suggested, add nothing to the word “real” in the context of what amounts to “serious and irreversible harm”.

Clause 39

LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH

Clause 39, page 42, line 28, at end insert “, provided that they may not remove from subsection (4) of that section, or diminish the nature of, any of the examples of harm that are listed in that subsection”

Member's explanatory statement

This amendment seeks to preserve the list of examples of harm listed in subsection (4) from being removed or diminished by the exercise of the regulation making power given to the Secretary of State by this clause.

Clause 41

LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH

Clause 41, page 43, line 41, leave out “compelling”.

Member's explanatory statement

This amendment seeks to simplify the description of the harm that must be demonstrated to provide the protection that this section offers to the person making a serious suspensive harm claim.

Clause 55

LORD ANDERSON OF IPSWICH
LORD HOPE OF CRAIGHEAD

Clause 55, page 56, line 33, leave out subsection (5)

Member's explanatory statement

This amendment would allow courts of judicial review to quash age assessment decisions on the basis of factual as well as legal error.

After Clause 56

LORD COAKER

After Clause 56, insert the following new Clause –

“Age assessments: reports

After section 53 of the Nationality and Borders Act 2022, insert –

“53A Reports on age assessment methods

- (1) Within the period of three months beginning with the day on which the Illegal Migration Act 2023 is passed, and every year thereafter, the Secretary

of State must lay before both Houses of Parliament a report containing an overview of—

- (a) age assessment methods already specified in regulations under section 52, and
 - (b) any other methods under consideration by the Secretary of State for designation as a means of making decisions relating to a person's age.
- (2) Reports published under subsection (1) must contain—
- (a) a summary of relevant scientific advice considered by the Secretary of State, whether in relation to existing or proposed methods of age assessment, and
 - (b) in relation to any proposed new method, an assessment of its—
 - (i) accuracy,
 - (ii) cost, and
 - (iii) potential for physical or mental trauma.
- (3) Reports under subsection (1) must also contain—
- (a) the total number of age assessments carried out since publication of the previous report, and
 - (b) the number of cases where an age-disputed person is found not to be the age they claim (or are claimed) to be.”

Member's explanatory statement

This new Clause is to probe various issues around the Government's use of age assessments. It would require the publication of annual reports containing a summary of the scientific advice informing the designation of age assessment methods, as well as the number of (a) assessments carried out in the previous year and (b) cases where an assessment has identified a discrepancy between claimed and estimated age.

After Clause 60

LORD COAKER

After Clause 60, insert the following new Clause—

“Compatibility with UK-EU agreements

Within the period of three months beginning with the day on which this Act is passed, the Secretary of State must lay before both Houses of Parliament an assessment of the compatibility of provisions in this Act with—

- (a) Articles 524 and 763 of the EU-UK Trade and Cooperation Agreement, and
- (b) Article 2 of the Windsor Framework.”

Member's explanatory statement

This new Clause would require the Government to publish an assessment of the compatibility of the Bill with certain Articles of the UK and EU's post-Brexit legal agreements. The referenced

Articles require the UK to uphold the European Convention on Human Rights and other parts of international law.

Clause 63

LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH

Clause 63, page 63, line 31 at insert –

“(fa) regulations under section 56 (age assessments),”

Member's explanatory statement

This amendment seeks to add regulations relating to age assessment to the list of regulations that require to be the subject of an affirmative resolution by each House.

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