

Illegal Migration Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

[Supplementary to the Marshalled List]

Clause 3

BARONESS BUTLER-SLOSS

Clause 3, page 5, line 4, at end insert –

- “(3A) An unaccompanied child must not be removed at the age of 18 or earlier if subsequently adopted under English law by a British person or persons or a person resident in the United Kingdom unless it is in their best interests.”

Member's explanatory statement

This is intended to cover a child who becomes unaccompanied after arrival in the UK and is placed for adoption and then adopted.

Clause 4

LORD MURRAY OF BLIDWORTH

Clause 4, page 6, line 30, at end insert “, and

- (c) any other application to a court or tribunal which is required by an enactment to be determined by applying the principles that would be applied by a court on an application within paragraph (a) or (b).”

Member's explanatory statement

This amendment expands the definition in the Bill of “application for judicial review” to cover in particular an application to the judicial review jurisdiction of the Upper Tribunal or the Special Immigration Appeals Commission.

Clause 7

LORD DAVIES OF BRIXTON

Clause 7, page 10, line 36, leave out subsections (12) and (13)

Member's explanatory statement

This probing amendment, along with that to Clause 9 at page 12 in the name of Lord Davies of Brixton, removes subsections that place responsibilities on a captain of a ship or aircraft, the train manager of a train or a driver of a vehicle that are in addition to those under the existing law.

Clause 9

LORD DAVIES OF BRIXTON

Clause 9, page 12, line 2, leave out subsections (1) and (2)

Member's explanatory statement

This probing amendment, along with that to Clause 7 at page 10 in the name of Lord Davies of Brixton, removes subsections that place responsibilities on a captain of a ship or aircraft, the train manager of a train or a driver of a vehicle in addition to those under the existing law.

Clause 30

LORD MOYLAN
BARONESS LISTER OF BURTERSETT

Clause 30, page 36, line 20, leave out “, British overseas citizenship and status as a British subject”

Member's explanatory statement

This amendment is consequential on related amendments to Clauses 30 to 36 in the name of Lord Moylan.

Clause 31

LORD MOYLAN
BARONESS LISTER OF BURTERSETT

Clause 31, page 37, line 16, leave out subsection (1)

Member's explanatory statement

This amendment, along with the amendment to Clause 31, page 37, line 29, in the name of Lord Moylan, removes the Bill's effect on registration as a British citizen.

LORD MOYLAN
BARONESS LISTER OF BURTERSETT

Clause 31, page 37, line 29, leave out paragraph (a)

Member's explanatory statement

This amendment, along with the amendment to Clause 31, page 37, line 16, in the name of Lord Moylan, removes the Bill's effect on registration as a British citizen.

Clause 32

LORD MOYLAN
BARONESS LISTER OF BURTERSETT

Clause 32, page 38, line 2, leave out subsection (1)

Member's explanatory statement

This amendment, along with the amendment to Clause 32, page 38, line 12, removes the Bill's effect on registration as a British overseas territories citizen.

LORD MOYLAN
BARONESS LISTER OF BURTERSETT

Clause 32, page 38, line 12, leave out paragraph (a)

Member's explanatory statement

This amendment, along with the amendment to Clause 32, page 38, line 2, removes the Bill's effect on registration as a British overseas territories citizen.

Clause 36

LORD MOYLAN
BARONESS LISTER OF BURTERSETT

Clause 36, page 39, line 3, leave out subsections (2) to (5)

Member's explanatory statement

This amendment is consequential on related amendments to Clauses 30 to 36 in the name of Lord Moylan.

LORD MOYLAN
BARONESS LISTER OF BURTERSETT

Clause 36, page 39, line 23, leave out subsections (7) to (9)

Member's explanatory statement

This amendment is consequential on related amendments to Clauses 30 to 36 in the name of Lord Moylan.

LORD MOYLAN
BARONESS LISTER OF BURTERSETT

Clause 36, page 40, line 1, leave out subsections (11) to (14)

Member's explanatory statement

This amendment is consequential on related amendments to Clauses 30 to 36 in the name of Lord Moylan.

After Clause 48

LORD MURRAY OF BLIDWORTH

After Clause 48, insert the following new Clause—

“Procedure for Tribunal Procedure Rules

- (1) The first time after the passing of this Act that Tribunal Procedure Rules are made for the purposes of any of sections 43 to 48 (appeals in relation to suspensive claims), the Rules may be made by the Lord Chancellor rather than by the Tribunal Procedure Committee.
- (2) Before making Tribunal Procedure Rules by virtue of subsection (1), the Lord Chancellor must consult—
 - (a) the Senior President of Tribunals,
 - (b) the Lord Chief Justice of England and Wales,
 - (c) the Lord President of the Court of Session, and
 - (d) the Lord Chief Justice of Northern Ireland.
- (3) The Lord Chancellor is not required to undertake any other consultation before making Tribunal Procedure Rules by virtue of subsection (1).
- (4) A requirement to consult under subsection (2) may be satisfied by consultation that took place wholly or partly before the passing of this Act.
- (5) Tribunal Procedure Rules made by virtue of subsection (1) are to be made by statutory instrument.
- (6) A statutory instrument containing Tribunal Procedure Rules made by virtue of subsection (1) must be laid before Parliament after being made.
- (7) Tribunal Procedure Rules contained in a statutory instrument laid before Parliament under subsection (6) cease to have effect at the end of the period of 40 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (8) In calculating the period of 40 days, no account is to be taken of any whole days that fall within a period during which—
 - (a) Parliament is dissolved or prorogued, or
 - (b) either House of Parliament is adjourned for more than four days.
- (9) If Tribunal Procedure Rules cease to have effect as a result of subsection (7)—
 - (a) that does not affect the validity of anything previously done under the Rules, and
 - (b) subsection (1) applies again as if the Rules had not been made.
- (10) In this section “Tribunal Procedure Committee” means the committee of that name constituted under Part 2 of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007.”

Member's explanatory statement

This new Clause provides for the first Tribunal Procedure Rules made after the passing of the Bill for the purposes of any of Clauses 43 to 48 to be made by the Lord Chancellor and to be subject to the made affirmative procedure.

Clause 51

LORD MURRAY OF BLIDWORTH

Clause 51, page 53, line 35, at end insert –

- “(b) in subsection (9), at the beginning, insert “Subject to subsection (10),”;
- (c) after subsection (9), insert –
 - “(10) A statutory instrument containing the first rules made for the purposes of section 2AA (appeals in relation to the Illegal Migration Act 2023) must be laid before Parliament after being made.
 - (11) Rules contained in a statutory instrument laid before Parliament under subsection (10) cease to have effect at the end of the period of 40 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
 - (12) In calculating the period of 40 days, no account is to be taken of any whole days that fall within a period during which –
 - (a) Parliament is dissolved or prorogued, or
 - (b) either House of Parliament is adjourned for more than four days.
 - (13) If rules cease to have effect as a result of subsection (11) –
 - (a) that does not affect the validity of anything previously done under the rules, and
 - (b) subsection (10) applies again as if the rules had not been made.””

Member's explanatory statement

This amendment provides for the first rules made by the Special Immigration Appeals Commission under section 5 of the Special Immigration Appeals Commission Act 1997 for the purposes of section 2AA of that Act (inserted by Clause 51(5)) to be subject to the made affirmative procedure.

Clause 52

LORD MURRAY OF BLIDWORTH

Clause 52, page 53, line 40, after “court” insert “or tribunal”

Member's explanatory statement

This amendment and the amendments in the name of Lord Murray of Blidworth at page 54, line 1 and page 54, line 7 modify Clause 52 so that a tribunal (as well as a court) may not grant an interim remedy that prevents or delays, or that has the effect of preventing or delaying, the removal of a person from the United Kingdom under the Bill.

LORD MURRAY OF BLIDWORTH

Clause 52, page 54, line 1, after “court” insert “or tribunal”

Member's explanatory statement

See the explanatory statement for the amendment in the name of Lord Murray of Blidworth at page 53, line 40.

LORD MURRAY OF BLIDWORTH

Clause 52, page 54, line 7, after second “court” insert “or tribunal”

Member's explanatory statement

See the explanatory statement for the amendment in the name of Lord Murray of Blidworth at page 53, line 40.

Clause 54

LORD MURRAY OF BLIDWORTH

Clause 54, page 56, line 7, leave out from “sections” to end of line and insert “43 to 48 of the Illegal Migration Act 2023, or under Tribunal Procedure Rules made for the purposes of any of those sections.””

Member's explanatory statement

This amendment corrects the references to the Clauses in the Bill under which advocacy in the Upper Tribunal can take place, and adds a reference to the Tribunal Procedure Rules made for the purposes of those Clauses.

Clause 55

LORD MURRAY OF BLIDWORTH

Clause 55, page 56, line 33, after “court” insert “or tribunal”

Member's explanatory statement

This amendment and the amendment in the name of Lord Murray of Blidworth at page 56, line 36 supplement references in Clause 55 to the court with references to the tribunal.

LORD MURRAY OF BLIDWORTH

Clause 55, page 56, line 36, after “court” insert “or tribunal”

Member's explanatory statement

See the explanatory statement in the name of Lord Murray of Blidworth at page 56, line 33.

LORD MURRAY OF BLIDWORTH

Clause 55, page 57, line 12, at end insert –

- “(7A) For the purposes of this section, the cases in which a relevant authority decides the age of a person on an age assessment under section 50 or 51 of the Nationality and Borders Act 2022 include where a relevant authority is treated by virtue of regulations under section 56 of this Act as having decided that a person is over the age of 18.”

Member's explanatory statement

This amendment clarifies that the provisions in Clause 55 about decisions as to a person's age apply to a case where a decision-maker is treated as having decided a person is over the age of 18 by virtue of regulations under Clause 56.

After Clause 60BARONESS KENNEDY OF THE SHAWS
LORD ALTON OF LIVERPOOL

After Clause 60, insert the following new Clause –

“Suspects of international crimes under duty to remove from the UK

- (1) Where a person meets the four conditions in Section 2 and is suspected of involvement in genocide, crimes against humanity or war crimes, the Secretary of State is required as soon as reasonably practicable after determining the person meets one of the conditions –
 - (a) to refer the person to relevant authorities in the UK for investigation and possible prosecution;
 - (b) to cooperate with authorities in other safe countries and international tribunals who may be investigating the person.
- (2) In this Act “genocide,” crimes against humanity”, and “war crimes” have the meanings given in Section 50 of the International Criminal Court Act 2001.”

Member's explanatory statement

This new Clause would require the Secretary of State to refer to the relevant international authorities a person who meets the four conditions in subsection (2) and is suspected of crimes against humanity, genocide, or war crimes.

Clause 63

LORD MURRAY OF BLIDWORTH

Clause 63, page 63, line 19, leave out “66” and insert “66(1)”

Member's explanatory statement

This amendment has the effect that the power for regulations under the Bill to make consequential etc provision and to make different provision for different purposes applies to the power to make transitional and saving provision in connection with the coming into force of the Bill.

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