

Illegal Migration Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

[Supplementary to the Marshalled List]

After Clause 10

BARONESS BRINTON

After Clause 10, insert the following new Clause—

“Health and wellbeing in detention centres

The conditions under which persons are detained under section 10 must comply with the following statutory guidance—

- (a) “Promoting the health and wellbeing of looked-after children”, issued in March 2015 under section 7 of the Local Authority Social Services Act 1970 and sections 10 and 11 of the Children Act 2004,
- (b) “Children who run away or go missing from home or care”, issued in January 2014 under section 7 of the Local Authority Social Services Act 1970,
- (c) “Care of unaccompanied migrant children and child victims of modern slavery”, issued in November 2017 under section 7 of the Local Authority Social Services Act 1970, and
- (d) any updated or new guidance issued under section 7 of the Local Authority Social Services Act 1970 or sections 10 and 11 of the Children Act 2004 that is relevant to assessing and promoting the health and well-being of persons to whom section 10 of this Act applies.”

Member's explanatory statement

This amendment is intended to probe how the health and wellbeing of those detained under the Bill will be assured, including how Initial Health Assessments will be provided, by ensuring that current statutory guidance is complied with.

Clause 11

LORD DAVIES OF BRIXTON

Clause 11, Page 18, line 8, leave out lines 8 to 23

Member's explanatory statement

This probing amendment removes paragraphs that place responsibilities on members of the crew of a ship or aircraft that are in addition to those under the existing law.

After Clause 11

BARONESS HAMWEE

After Clause 11, insert the following new Clause—

“Restriction on detention of potential victims of slavery or human trafficking

- (1) In this section—
 - “competent authority” has the same meaning as in section 21(11);
 - “negative conclusive grounds decision” means a decision by a competent authority that the person is not a victim of slavery or human trafficking;
 - “pending”, in relation to an appeal, has the same meaning as in section 104 of the Nationality, Immigration and Asylum Act 2002 (pending appeal);
 - “positive reasonable grounds decision” has the same meaning as in section 21(1)(b);
 - “relevant detention power” means a power to detain under—
 - (a) paragraph 16(2) or (2C) of Schedule 2 to the Immigration Act 1971 (detention of persons liable to examination or removal),
 - (b) paragraph 2(1), (2) or (3) of Schedule 3 to that Act (detention pending deportation),
 - (c) section 62 of the Nationality, Immigration and Asylum Act 2002 (detention by Secretary of State), or
 - (d) section 36(1) of the UK Borders Act 2007 (detention pending deportation);
 - “relevant person” means a person in respect of whom a competent authority has made a positive reasonable grounds decision.
- (2) A relevant person may not be detained under a relevant detention power unless there are very exceptional circumstances that justify their detention.
- (3) Subsection (2) applies where since the decision mentioned in subsection (2)(a)—
 - (a) a competent authority has not made either—
 - (i) a negative conclusive grounds decision in respect of the person, or
 - (ii) a determination that section 63(2) of the Nationality and Borders Act 2022 (disqualification from protection) applies to the person, or
 - (b) a competent authority has made such a decision or determination as is mentioned in paragraph (a)(i) or (ii), but the person has made an application for judicial review of that decision or determination which has not been finally determined.

- (3) Subsection (2) applies if the person may not be removed from the United Kingdom under this Act by virtue of section 46(1).
- (4) Subsection (2) applies if—
 - (a) the person has made a protection or human rights claim which has neither been decided nor declared inadmissible, or
 - (b) an appeal by the person under section 82 of the Nationality, Immigration and Asylum Act 2002 (right of appeal to the Tribunal) could be brought or is pending, ignoring any possibility of an appeal out of time with permission.
- (5) Subsection (2) does not apply if a competent authority has determined that section 63(2) of the Nationality and Borders Act 2022 (disqualification from protection) applies to the person on the grounds listed in subsection (3)(a), (c), (d), I or (i) of that section (terrorism, national security etc).”

Member's explanatory statement

This amendment provides that a potential survivor of slavery or human trafficking who has received a positive reasonable grounds decision from a competent authority cannot be detained during certain periods unless there are very exceptional circumstances that justify detention, and creates an exception to the general exclusion of judicial oversight during the first 28 days of detention.

Clause 12

BARONESS HAMWEE

Clause 12, page 22, line 9, at end insert—

- “(4A) Sub-paragraphs (2) and (3) do not apply so far as the decision involves or gives rise to any question as to whether section (*Restriction on detention of potential victims of slavery or human trafficking*) applies to the person.”

Member's explanatory statement

This amendment is consequential on Baroness Hamwee’s new Clause after Clause 11 “Restriction on detention of potential victims of slavery or human trafficking”.

Clause 17

BARONESS BRINTON

Clause 17, page 24, line 21, at end insert—

- “(2A) Regulations under subsection (2)(b) may not specify anything that would require information to be shared which would breach confidentiality between doctors and patients as set out in the General Medical Council Ethical Guidance on confidentiality.”

Member's explanatory statement

This amendment is to probe the information that may be required by the Secretary of State from local authorities and ensures that confidential medical information may not be disclosed.

After Clause 36

BARONESS BRINTON
THE LORD BISHOP OF ST ALBANS

After Clause 36, insert the following new Clause –

“British National (Overseas) citizenship

Nothing in sections 29 to 36 of this Act may affect the rights of those holding or who are entitled to British National (Overseas) citizenship.”

Clause 57

BARONESS LISTER OF BURTERSETT

Clause 57, page 59, leave out line 4

Member's explanatory statement

This amendment seeks to remove Albania from the list of “safe states” with reference to which asylum and human rights claims will be deemed inadmissible.

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