

Illegal Migration Bill

REVISED SECOND MARSHALLED

LIST OF AMENDMENTS

TO BE MOVED

IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 10th May 2023, as follows –

Clauses 1 to 5	Schedule 2
Schedule 1	Clauses 15 to 67
Clauses 6 to 14	Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

After Clause 2

LORD COAKER

13 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 MEACHER
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

- 14 Clause 3, page 4, line 24, leave out “at a time when the person is an unaccompanied child” and insert “if the person is a child or arrived in the UK as a child, whether born or in utero”

BARONESS MEACHER

- 15 Clause 3, page 4, line 27, leave out from “Kingdom” to end of line 28 and insert “if the person is a child or arrived in the UK as a child, whether born or in utero, and only where to do so is in the best interests of the individual.”

LORD MURRAY OF BLIDWORTH

- 16 Clause 3, page 4, line 40, leave out “or citizen”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 5, line 38.

BARONESS BUTLER-SLOSS

- 16A 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.

BARONESS BUTLER-SLOSS
BARONESS LISTER OF BURTERSETT
BARONESS BENNETT OF MANOR CASTLE

- 17 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.”

BARONESS HAMWEE

18 Clause 3, page 5, line 14, at end insert –

- “(6A) The Secretary of State must by regulations make provision for exceptions where the Secretary of State has been unable to comply with the duty to make arrangements for the removal of a person under section 2(1) either –
- (a) within six months after the person’s entry or arrival in the United Kingdom, or,
 - (b) where the person has ceased to be an unaccompanied child, within six months after the person has ceased to be an unaccompanied child.”

Member's explanatory statement

This probing amendment would require the Secretary of State to make an exception for anyone previously subject to the duty to remove from the duty if the Secretary of State has been unable to make arrangements for removal within 6 months. This would prevent the Secretary of State from having failed to comply with the duty.

LORD MURRAY OF BLIDWORTH

19 Clause 3, page 5, line 38, at end insert –

““national” includes citizen;”

Member's explanatory statement

This amendment insert a Bill-wide definition of “national”. The effect is that references to a country of which a person is a national include a country of which the person is a citizen and references to a person who is (or is not) a national of a country include a person who is (or is not) a citizen of that country. This is for consistency across the Bill.

LORD GERMAN

Lord German gives notice of his intention to oppose the Question that Clause 3 stand part of the Bill.

Clause 4

LORD HUNT OF KINGS HEATH
LORD BACH
BARONESS HAMWEE

19A Clause 4, page 6, line 3, leave out paragraph (c)

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

LORD ETHERTON
LORD CARLILE OF BERRIEW
BARONESS CHAKRABARTI

20 Clause 4, page 6, line 6, leave out paragraph (d)

Member's explanatory statement

This amendment is consequential to the amendment to Clause 1 tabled by Baroness Chakrabati and would enable an application for judicial review to be made while the applicant is in the UK regarding an act or omission in conflict with the obligations specified there.

LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH

21 Clause 4, page 6, line 8, leave out subsections (2) and (3)

Member's explanatory statement

This amendment seeks to explore the reasoning behind subsections (2) and (3), which have significant implications for the rule of law.

LORD DUBS
BARONESS MEACHER
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
LORD KERR OF KINLOCHARD

22 Clause 4, page 6, line 8, after “2” insert “and does not fall within the exceptions in section 3”

Member's explanatory statement

This amendment would make asylum and human rights claims admissible from unaccompanied children, who are exempted from the duty to remove by Clause 3. This would continue current policy under which unaccompanied children’s asylum claims are not subject to the inadmissibility regime.

LORD DUBS
BARONESS HAMWEE
LORD KERR OF KINLOCHARD
THE LORD BISHOP OF DURHAM

23 Clause 4, page 6, line 13, leave out “cannot be considered under the immigration rules” and insert “must be considered under the immigration rules if the person who made the claim has not been removed from the United Kingdom within a period of six months starting on the day the claim is deemed inadmissible”

Member's explanatory statement

This amendment would require the Home Secretary to consider a protection claim or a human rights claim if the applicant has not been removed from the UK within six months of the claim being deemed inadmissible.

LORD MURRAY OF BLIDWORTH

24 Clause 4, page 6, line 21, leave out “or citizen”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 5, line 38.

LORD ETHERTON
LORD CARLILE OF BERRIEW
BARONESS CHAKRABARTI

25 Clause 4, page 6, line 26, leave out subsection (6)

Member's explanatory statement

This amendment is consequential to the amendment removing subsection 4(1)(d).

LORD MURRAY OF BLIDWORTH

25A 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.

LORD CARLILE OF BERRIEW
BARONESS HAMWEE
LORD ETHERTON
BARONESS CHAKRABARTI

26 Clause 4, page 6, line 31, leave out from first “claim” to end of line 34 and insert “are only to claims made on or after the date on which this section comes into force.”

Member's explanatory statement

This amendment ensures that protection or human rights claims made before the Bill comes into force cannot be declared inadmissible under the Bill.

LORD GERMAN
BARONESS CHAKRABARTI
BARONESS JONES OF MOULSECOOMB

The above-named Lords give notice of their intention to oppose the Question that Clause 4 stand part of the Bill.

Clause 5

BARONESS HAMWEE
BARONESS BENNETT OF MANOR CASTLE

27 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 MURRAY OF BLIDWORTH

28 Clause 5, page 7, line 8, leave out “or citizen”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 5, line 38.

LORD MURRAY OF BLIDWORTH

29 Clause 5, page 7, line 17, after “States),” insert “or has obtained a passport or other document of identity in such a country,”

Member's explanatory statement

This amendment and the amendments in the name of Lord Murray of Blidworth at page 7, line 24; page 7, line 27; page 7, line 43; page 8, line 5; and page 8, line 28 supplement references in Clause 5 to a person who is (or is not) a national of a country listed in section 80AA(1) of the Nationality, Immigration and Asylum Act 2002 (inserted by Clause 57) with references to a person who has (or has not) obtained a passport or other document of identity in such a country.

BARONESS HAMWEE

30 Clause 5, page 7, line 20, leave out paragraph (b)

Member's explanatory statement

This amendment removes a subjective power of the Secretary of State to determine that there are “exceptional circumstances” to prevent a removal.

LORD MURRAY OF BLIDWORTH

31 Clause 5, page 7, line 24, after “Convention,” insert “or has obtained a passport or other document of identity in such a country,”

Member's explanatory statement

See the explanatory statement for the amendment in the name of Lord Murray of Blidworth at page 7, line 17.

LORD MURRAY OF BLIDWORTH

- 32 Clause 5, page 7, line 27, after “State,” insert “or has obtained a passport or other document of identity in a member State,”

Member's explanatory statement

See the explanatory statement for the amendment in the name of Lord Murray of Blidworth at page 7, line 17.

LORD MURRAY OF BLIDWORTH

- 33 Clause 5, page 7, line 43, after “2002,” insert “or has obtained a passport or other document of identity in such a country,”

Member's explanatory statement

See the explanatory statement for the amendment in the name of Lord Murray of Blidworth at page 7, line 17.

LORD CARLILE OF BERRIEW

- 33A Clause 5, page 8, line 2, at end insert “and the Secretary of State is satisfied in relation to the proposed country of removal that it is a safe third State as defined in section 80B of the Nationality, Immigration and Asylum Act 2002.”

Member's explanatory statement

This amendment, and others in the name of Lord Carlile of Berriew, seek to ensure that asylum seekers can only be removed to third countries or territories listed in Schedule 1 if those countries are places where they will be protected from onward refoulement in breach of the Refugee Convention and be able to be recognised as a refugee and receive protection in accordance with the Refugee Convention (if so recognised).

LORD MURRAY OF BLIDWORTH

- 34 Clause 5, page 8, line 5, after “2002,” insert “and has not obtained a passport or other document of identity in such a country,”

Member's explanatory statement

See the explanatory statement for the amendment in the name of Lord Murray of Blidworth at page 7, line 17.

LORD CARLILE OF BERRIEW

- 34A Clause 5, page 8, line 9, at end insert “and the Secretary of State is satisfied in relation to the proposed country of removal that it is a safe third State as defined in section 80B of the Nationality, Immigration and Asylum Act 2002.”

Member's explanatory statement

This amendment, and others in the name of Lord Carlile of Berriew, seek to ensure that asylum seekers can only be removed to third countries or territories listed in Schedule 1 if those countries are places where they will be protected from onward refoulement in breach of the Refugee Convention and be able to be recognised as a refugee and receive protection in accordance with the Refugee Convention (if so recognised).

LORD EHERTON
LORD CARLILE OF BERRIEW
LORD CASHMAN

35 Clause 5, page 8, line 13, at end insert –

- “(10A) Where a country or territory in Schedule 1 is qualified by a description of person, P may not be removed to that country or territory if P falls outside the description of persons who may be removed there.
- (10B) A description for the purposes of subsection (10A) may refer to one or more of the matters in section 6(3).”

Member's explanatory statement

These amendments to clause 5 are to be read with the other amendments tabled to Schedule 1 in the name of Lord Etherton, which exclude from a listed country or territory persons of a certain description who would have a well founded fear of persecution in the territory or country (the legal test laid down in HJ (Iran) and HT (Cameroon) v SSHD [2010] UKSC 31, [2011] 1AC 596).

LORD EHERTON
LORD CARLILE OF BERRIEW
LORD CASHMAN

36 Clause 5, page 8, line 15, leave out “and 10” and insert “, (10), (10A) and (10B)”

Member's explanatory statement

This amendment is consequential to the amendment inserting new subsections (10A) and (10B).

LORD CARLILE OF BERRIEW
BARONESS HAMWEE
LORD EHERTON
BARONESS CHAKRABARTI

37 Clause 5, page 8, line 17, leave out from first “claim” to end of line 20 and insert “are only to claims made on or after the date on which this section comes into force.”

Member's explanatory statement

This amendment ensures that the removal provisions in Clause 5 only apply to those who make protection or human rights claims after the Bill comes into force.

LORD MURRAY OF BLIDWORTH

- 38 Clause 5, page 8, line 28, after “State” insert “, or who has obtained a passport or other document of identity in that State,”

Member's explanatory statement

See the explanatory statement for the amendment in the name of Lord Murray of Blidworth at page 7, line 17.

LORD HOPE OF CRAIGHEAD

- 39 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.

LORD CARLILE OF BERRIEW
BARONESS HAMWEE
LORD ETHELTON
BARONESS CHAKRABARTI

- 40 Clause 5, page 8, leave out lines 30 to 32 and insert “the date on which this section comes into force.”

Member's explanatory statement

This amendment ensures that Clause 5 only applies to protection or human rights claims made on or after the date the Bill comes into force.

LORD PURVIS OF TWEED

Lord Purvis of Tweed gives notice of his intention to oppose the Question that Clause 5 stand part of the Bill.

Schedule 1LORD ETHELTON
LORD CARLILE OF BERRIEW
LORD CASHMAN
BARONESS BENNETT OF MANOR CASTLE

- 41 Schedule 1, page 67, line 9, at end insert “(in respect of persons other than trans men and women)”

Member's explanatory statement

Trans people have a well founded fear of persecution in Brazil.

LORD EHERTON
LORD CARLILE OF BERRIEW
LORD CASHMAN
BARONESS BENNETT OF MANOR CASTLE

- 42 Schedule 1, page 67, line 19, after “men” insert “other than gay, bisexual and trans men”

Member's explanatory statement

Gay, bisexual and trans men have a well founded fear of persecution in Gambia.

LORD EHERTON
LORD CARLILE OF BERRIEW
LORD CASHMAN
BARONESS BENNETT OF MANOR CASTLE

- 43 Schedule 1, page 67, line 21, after “men” insert “other than gay, bisexual and trans men”

Member's explanatory statement

Gay, bisexual and trans men have a well founded fear of persecution in Ghana.

LORD EHERTON
LORD CASHMAN

- 43A Schedule 1, page 67, leave out line 23

Member's explanatory statement

Hungary is presently subject to proceedings under Article 7 of the Treaty on European Union.

LORD EHERTON
LORD CARLILE OF BERRIEW
LORD CASHMAN
BARONESS BENNETT OF MANOR CASTLE

- 44 Schedule 1, page 67, line 28, at end insert “(in respect of persons other than LGBT persons)”

Member's explanatory statement

LGBT persons have a well founded fear of persecution in Jamaica.

LORD EHERTON
LORD CARLILE OF BERRIEW
LORD CASHMAN
BARONESS BENNETT OF MANOR CASTLE

- 45 Schedule 1, page 67, line 29, after “men” insert “other than gay, bisexual and trans men”

Member's explanatory statement

Gay, bisexual and trans men have a well founded fear of persecution in Kenya.

LORD EHERTON
 LORD CARLILE OF BERRIEW
 LORD CASHMAN
 BARONESS BENNETT OF MANOR CASTLE

46 Schedule 1, page 67, line 32, after “men” insert “other than gay, bisexual and trans men”

Member's explanatory statement

Gay, bisexual and trans men have a well founded fear of persecution in Liberia.

LORD EHERTON
 LORD CARLILE OF BERRIEW
 LORD CASHMAN
 BARONESS BENNETT OF MANOR CASTLE

47 Schedule 1, page 68, line 4, after “men” insert “other than gay, bisexual and trans men”

Member's explanatory statement

Gay, bisexual and trans men have a well founded fear of persecution in Malawi.

LORD EHERTON
 LORD CARLILE OF BERRIEW
 LORD CASHMAN
 BARONESS BENNETT OF MANOR CASTLE

48 Schedule 1, page 68, line 7, at end insert “(in respect of persons other than LGBT persons)”

Member's explanatory statement

LGBT persons have a well founded fear of persecution in Mauritius.

LORD EHERTON
 LORD CASHMAN
 BARONESS BENNETT OF MANOR CASTLE

49 Schedule 1, page 68, line 12, after “men” insert “other than gay, bisexual and trans men”

Member's explanatory statement

Gay, bisexual and trans men have a well founded fear of persecution in Nigeria.

LORD EHERTON
 LORD CASHMAN

49A Schedule 1, page 68, leave out line 16

Member's explanatory statement

Poland is presently subject to proceedings under Article 7 of the Treaty on European Union.

LORD ETHELTON
LORD CARLILE OF BERRIEW
LORD CASHMAN
BARONESS BENNETT OF MANOR CASTLE

50 Schedule 1, page 68, leave out line 19

Member's explanatory statement

This amendment removes Rwanda from the list on the grounds that the legality of the arrangements for removal of refugees from the UK to Rwanda is currently the subject of Court proceedings.

LORD ETHELTON
LORD CARLILE OF BERRIEW
LORD CASHMAN
BARONESS BENNETT OF MANOR CASTLE

51 Schedule 1, page 68, line 19, at end insert “(in respect of persons other than LGBT persons)”

Member's explanatory statement

LGBT persons have a well founded fear of persecution in Rwanda.

LORD ETHELTON
LORD CARLILE OF BERRIEW
LORD CASHMAN
BARONESS BENNETT OF MANOR CASTLE

52 Schedule 1, page 68, line 21, after “men” insert “other than gay, bisexual and trans men”

Member's explanatory statement

Gay, bisexual and trans men have a well founded fear of persecution in Sierra Leone.

LORD PURVIS OF TWEED

Lord Purvis of Tweed gives notice of his intention to oppose the Question that Schedule 1 be the first Schedule to the Bill.

Clause 6

BARONESS HAMWEE

52A Clause 6, page 8, line 35, leave out “, or part of a country or territory,”

Member's explanatory statement

This probing amendment ensures that only the entirety of a country or territory can be added to the Schedule of countries or territories to which a person may be removed.

BARONESS HAMWEE

52B Clause 6, page 8, line 36, leave out from “is” to “no”

Member's explanatory statement

This probing amendment tightens the criteria for adding a country or territory to the Schedule of countries or territories to which a person may be removed.

BARONESS HAMWEE

52C Clause 6, page 8, line 38, leave out “, or part,”

Member's explanatory statement

This amendment is consequential on Baroness Hamwee’s amendment to page 8, line 35.

BARONESS HAMWEE

52D Clause 6, page 8, line 39, leave out “in general”

Member's explanatory statement

This amendment is intended to probe the meaning of “in general” in relation to contravening the UK’s obligations under the Human Rights Convention.

LORD CARLILE OF BERRIEW

52E Clause 6, page 8, line 40, at end insert “, and

“(c) the country or territory is a safe third State as defined in section 80B of the Nationality, Immigration and Asylum Act 2002.

(1A) In determining whether paragraphs (a), (b) and (c) of subsection (1) apply, the Secretary of State must consult with, and pay due regard to the views of, the United Nations High Commissioner for Refugees.”

Member's explanatory statement

This amendment, and others in the name of Lord Carlile of Berriew, seek to ensure that asylum seekers can only be removed to third countries or territories listed in Schedule 1 if those countries are places where they will be protected from onward refoulement in breach of the Refugee Convention and be able to be recognised as a refugee and receive protection in accordance with the Refugee Convention (if so recognised).

LORD ALTON OF LIVERPOOL

52F Clause 6, page 8, line 40, at end insert –

“(c) they have undertaken a detailed consultation with relevant safeguarding and support organisations, including government and non-government bodies, within the country or territory and provided an assessment of

levels of protection and support on offer in the country in comparison with the UK;

- (d) they have assessed the –
 - (i) human rights situation;
 - (ii) protection and support available to potential and identified victims of modern slavery;
 - (iii) risks of exploitation;
 - (iv) risks of re-exploitation;
 - (v) risks of human trafficking;
 - (vi) risks of re-trafficking;
 - (vii) risk of direct and indirect refoulement in the country;
- (e) the removal of any person to that country or territory, or part of that territory or country, pursuant to the duty in section (2) and powers in section (3) would not contravene the following legal instruments in addition to the Human Rights Convention –
 - (i) the Equality Act 2010, specifically how it relates to victims of modern slavery;
 - (ii) the Windsor Framework;
 - (iii) the 1926 Slavery Convention;
 - (iv) the Council of Europe Convention against Trafficking in Human Beings 2005;
 - (v) Directive 2011/36/EU “the Trafficking Directive”;
 - (vi) the United Nations Convention against Transnational Organized Crime (UNTOC) and its protocols including the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children Supplementing UNTOC and the Protocol Against the Smuggling of Migrants by Land, Sea and Air Supplementing UNTOC;
 - (vii) the 1951 Refugee Convention;
 - (viii) the UN Convention on the Rights of the Child 1989;
 - (ix) the Convention Concerning Forced or Compulsory Labour 1930 No. 29 (including the Protocol of 2014 to the Forced Labour Convention);
 - (x) the Abolition of Forced Labour Convention 1957 No. 105;
 - (xi) the Worst Forms of Child Labour Convention 1999 No.182;
 - (xii) the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 1956 Worst Forms of Child Labour Convention 1999 No.182;
 - (xiii) the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 1956.”

Member's explanatory statement

This amendment would ensure that there is consultation with relevant stakeholders in the country to ensure compliance with international obligations and detailed assessments are made in respect of protection and support.

BARONESS HAMWEE

52G Clause 6, page 9, line 15, leave out “, or part of a country or territory,”

Member's explanatory statement

This amendment is consequential on Baroness Hamwee’s amendment to page 8, line 35.

LORD ETHERTON
LORD CARLILE OF BERRIEW
BARONESS CHAKRABARTI
LORD ANDERSON OF IPSWICH

53 Clause 6, page 9, line 18, leave out “have regard” and insert “apply relevant decisions of courts and tribunals operating in the United Kingdom, and have regard to decisions of the European Court of Human Rights and”

Member's explanatory statement

This amendment requires the Secretary of State to apply relevant decisions of UK courts and tribunals and to have regard to decisions of the European Court of Human Rights concerning the risk of persecution in any country or territory.

BARONESS HAMWEE

53A Clause 6, page 9, line 21, leave out “, or part of a country or territory;”

Member's explanatory statement

This amendment is consequential on Baroness Hamwee’s amendment to page 8, line 35

LORD ETHERTON
LORD CARLILE OF BERRIEW

54 Clause 6, page 9, line 24, at end insert “, or
(c) have the effect that a description of person is excluded.”

Member's explanatory statement

This amendment would enable a description of person to be expressly omitted from a country or territory in Schedule 1.

LORD PURVIS OF TWEED
 BARONESS CHAKRABARTI
 BARONESS BENNETT OF MANOR CASTLE

The above-named Lords give notice of their intention to oppose the Question that Clause 6 stand part of the Bill.

Clause 7

BARONESS HAMWEE

- 55 Clause 7, page 9, line 36, at end insert “and,
- (c) the Secretary of State has published guidance regarding what criteria will be used to determine the order in which individuals who the Secretary of State is required by section 2(1) to make arrangements for removal will be removed from the United Kingdom.”

Member's explanatory statement

This is a probing amendment regarding the process the Home Secretary will put in place to determine the order in which individuals will be removed from the UK once the duty to remove is in force.

BARONESS HAMWEE

- 55A Clause 7, page 9, line 40, after “has” insert “by informing an immigration officer”

Member's explanatory statement

This amendment is intended to probe evidence of notification.

LORD COAKER
 BARONESS JONES OF MOULSECOOMB

- 56 Clause 7, page 10, line 11, at end insert –
- “(c) be provided in a language understood by P, and
 (d) provide information about how P may access legal advice.”

Member's explanatory statement

This amendment would require the notices of removal to be provided in a language understood by the recipient, and to include information about how the recipient may access legal advice.

LORD GERMAN

- 57 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.

BARONESS HAMWEE

57A Clause 7, page 10, line 24, leave out “or indicated”

Member's explanatory statement

This amendment is intended to probe the unspecific nature of the phrase “or indicated”.

LORD DAVIES OF BRIXTON
LORD COAKER

57B 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.

LORD GERMAN

Lord German gives notice of his intention to oppose the Question that Clause 7 stand part of the Bill.

Clause 8

BARONESS LISTER OF BURTERSETT
BARONESS HAMWEE
THE LORD BISHOP OF DURHAM

57C Clause 8, page 11, line 18, leave out “and (3)” and insert “, (3) and (3A).”

Member's explanatory statement

This amendment, and another in the name of Baroness Lister, would amend the Immigration and Asylum Act 1999 to create a right of appeal against a decision to refuse an application for support under section 95A of the Act, or to stop support under that same section.

BARONESS LISTER OF BURTERSETT
 BARONESS HAMWEE
 THE LORD BISHOP OF DURHAM

57D Clause 8, page 11, line 23, at end insert –

“(b) after subsection (2) of that section insert –

“(2A) The Secretary of State may provide for the essential living needs of a person if –

- (a) the person was (but is no longer) an asylum-seeker,
- (b) their claim for asylum was rejected or declared inadmissible (see sections 80A and 80B of the Nationality, Immigration and Asylum Act 2002 and section 4 of the Illegal Migration Act 2023), and
- (c) it appears to the Secretary of State that the person is destitute, or is likely to become destitute within such period as may be prescribed.

(2B) For the purposes of subsection (2A), subsections (3) to (8) of section 95 (meaning of “destitute”) apply as they apply for the purposes of that section.””

Member's explanatory statement

This amendment to section 4 of the Immigration and Asylum Act 1999 would allow for a person to be provided with financial support without also requiring them to be provided with accommodation, where that person is no longer an asylum seeker. This includes where someone's asylum claim has been deemed inadmissible under Clause 4 of the Illegal Migration Bill.

BARONESS LISTER OF BURTERSETT
 BARONESS HAMWEE
 THE LORD BISHOP OF DURHAM

57E Clause 8, page 11, line 23, at end insert –

“(b) after subsection (6)(c) of that section insert –

- “(d) provide for the temporary provision of accommodation to a person while the Secretary of State is determining their eligibility for support under this section.””

Member's explanatory statement

This amendment would amend section 4 of the Immigration and Asylum Act 1999 to allow for the provision of accommodation pending full determination of someone's application for accommodation under that section.

BARONESS LISTER OF BURTERSETT
BARONESS HAMWEE
THE LORD BISHOP OF DURHAM

57F Clause 8, page 11, line 31, at end insert –

“(3A) In section 103 (appeals) after subsection (2A) insert –

“(2B) If the Secretary of State decides not to provide accommodation for a person under section 95A (inserted by paragraph 9 of Schedule 11 to the Immigration Act 2016), or not to continue to provide accommodation for a person under section 95A, the person may appeal to the First-tier Tribunal.””

Member's explanatory statement

This amendment, and another in the name of Baroness Lister of Burtersett, would amend the Immigration and Asylum Act 1999 to create a right of appeal against a decision to refuse an application for support under section 95A of the Act, or to stop support under that same section.

BARONESS LISTER OF BURTERSETT
BARONESS HAMWEE
THE LORD BISHOP OF DURHAM

57G Clause 8, page 11, line 40, at end insert –

“(8) The Immigration Act 2016 is amended as follows.

(9) In section 95A of the Immigration and Asylum Act 1999 (inserted by paragraph 9 of Schedule 11 to this Act), after subsection (1), insert –

“(1A) For the purposes of subsection (1)(d), a person who the Secretary of State is under a duty to make arrangements to remove under section 2 of the Illegal Migration Act 2023 but who has not yet been removed will be considered to face a genuine obstacle to leaving the United Kingdom.””

Member's explanatory statement

This amendment amends the Immigration Act 2016 to provide clarity on the definition of genuine obstacle to leaving the United Kingdom for the purpose of support under section 95A of the Immigration and Asylum Act 1999, which is prospectively created by the 2016 Act.

LORD GERMAN

Lord German gives notice of his intention to oppose the Question that Clause 8 stand part of the Bill.

After Clause 8

BARONESS HAMWEE
LORD SCRIVEN

58 After Clause 8, insert the following new Clause –

“Repeal of asylum seeker accommodation regulations

The Houses in Multiple Occupation (Asylum-Seeker Accommodation) (England) Regulations 2023 are repealed on the day on which this Act is passed.”

Member's explanatory statement

This amendment provides for the repeal of the Houses in Multiple Occupation (Asylum-Seeker Accommodation) Regulations 2023.

Clause 9

LORD DAVIES OF BRIXTON
LORD COAKER

58A 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.

LORD GERMAN

Lord German gives notice of his intention to oppose the Question that Clause 9 stand part of the Bill.

Clause 10

LORD GERMAN
THE LORD BISHOP OF DURHAM

58B Clause 10, page 14, line 5, leave out “and (3)” and insert “, (3) and (3A)”

LORD GERMAN
BARONESS HAMWEE

58C Clause 10, page 14, line 9, leave out “suspects” and insert “has reasonable grounds for suspecting”

Member's explanatory statement

This amendment probes the threshold for detention.

LORD GERMAN
BARONESS HAMWEE

- 58D** Clause 10, page 14, line 13, leave out “suspects” and insert “has reasonable grounds for suspecting”

Member's explanatory statement

This amendment probes the threshold for detention.

LORD HUNT OF KINGS HEATH
BARONESS HAMWEE
LORD BACH

- 58E** Clause 10, page 14, leave out lines 29 to 32

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

BARONESS MOBARIK
BARONESS HELIC
LORD BOURNE OF ABERYSTWYTH
THE LORD BISHOP OF DURHAM

- 59** Clause 10, page 14, line 38, leave out from beginning to end of line 19 on page 15 and insert –

“(2D) Detention under sub-paragraph (2C) is to be treated as detention under sub-paragraph 16(2) for the purposes of the limitations in paragraph 18B (limitation on detention of unaccompanied children).”

Member's explanatory statement

This amendment, with others to Clause 10 in the name of Baroness Mobarik, would retain existing limits on the detention of unaccompanied children (24 hours).

BARONESS HAMWEE

- 59A** Clause 10, page 15, leave out lines 1 and 2

Member's explanatory statement

This amendment is to probe the nature of such “discretion” that may be conferred on the Secretary of State or an immigration officer by regulations.

LORD SCRIVEN

59B Clause 10, page 15, line 3, at end insert –

“(za) are to be made by the Secretary of State for Education;”

Member's explanatory statement

This amendment ensures that regulations made in relation to unaccompanied children are made the by Secretary of State for Education.

LORD SCRIVEN

LORD GERMAN

BARONESS LISTER OF BURTERSETT

BARONESS BENNETT OF MANOR CASTLE

60 Clause 10, page 15, leave out lines 11 to 13 and insert –

“(2I) Detention under sub-paragraph (2C) or (2D) is to be treated as detention under paragraph 16(2) of Schedule 2 to the Immigration Act 1971 for the purposes of the limitations in paragraph 18B of Schedule 2 of that Act.”

Member's explanatory statement

This amendment seeks to remove the provision which enables a person of any age to be detained “in any place that the Secretary of State considers appropriate” and reapply the existing statutory time and location restrictions on the detention of unaccompanied children.

LORD GERMAN

THE LORD BISHOP OF DURHAM

61★ Clause 10, page 15, line 13, at end insert –

“(2IA) But paragraph (2H) does not authorise the detention of a person under sub-paragraph (2C) otherwise than in a place directed by the Secretary of State under paragraph 18(1).”

Member's explanatory statement

This amendment, and Lord German’s amendments to page 15, line 21 and page 16, line 45 limit the place of detention in the Bill to those that are presently authorised for detention.

LORD SCRIVEN

61A Clause 10, page 15, line 13, at end insert –

“(2IA) A place under subsection (2I) is not to be considered “appropriate” for a person under the age of 18 unless it meets the standards and safeguards under Section 22 of the Children Act 1989.”

Member's explanatory statement

There are currently no standards, safeguards or protective obligations for the Home Office-provided accommodation for children. This amendment, and Lord Scriven’s amendment to page 16, line

45, ensures that accommodation provided for children must meet the standards and safeguards under Section 22 of the Children Act 1989.

BARONESS HAMWEE

- 61B** Clause 10, page 15, line 15, leave out from “(2E)” to “House” in line 16 and insert “may not be made unless a draft of the instrument has been laid before and approved by a resolution of each”

Member's explanatory statement

This amendment ensures that regulations are made by the affirmative procedure, as recommended by the DPRRC.

LORD HUNT OF KINGS HEATH
BARONESS HAMWEE
LORD BACH

- 61C** Clause 10, page 15, line 19, at end insert –

“(2L) The Secretary of State may not exercise the powers to detain a person under section (2C) if that person falls within section 21(3) of this Act.”

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

LORD GERMAN
THE LORD BISHOP OF DURHAM

- 62** Clause 10, page 15, line 21, at end insert –

“(3A) After paragraph 18(1A), insert –

- “(1B) Save as otherwise provided by or under any other Act, a direction may not be given in respect of a place under paragraph (1) unless it is
- (a) a removal centre;
 - (b) a short-term holding facility;
 - (c) pre-departure accommodation;
 - (d) a prison, a young offender institution or a remand centre;
 - (e) a place used by an immigration officer for the purposes of their functions at the port at which that person is seeking leave to enter or to enter or has been refused leave to enter, as the case may be, or in a control zone or supplementary control zone, or a control area designated under paragraph 26 of Schedule 2 to the Immigration Act 1971;
 - (f) a place specifically provided for the purpose of detention –

- (i) at any port;
 - (ii) at any place used by an immigration officer for the purposes of their functions;
 - (iii) in a control zone or a supplementary control zone;
 - (g) a vehicle which has been specifically designed or adapted for use as a mobile detention facility and approved by the Secretary of State for such use;
 - (h) a hospital;
 - (i) in respect of a person under 18, a place of safety.
- (1C) If the Secretary of State proposes to give a direction in respect of any place mentioned in sub-paragraph (1B)(a) to (c), they must consult residents of the area of the local authority in which the place is situated.
- (1D) A detained person shall not continue to be detained in any such place as is mentioned in paragraph (1B)(e), (f) or (g) if a period of 24 hours has elapsed since the time at which the person was first detained.
- (1E) A detained person shall not be detained in any such place as is mentioned in paragraph (1B)(e), (f) or (g) unless the Secretary of State or the immigration officer under whose authority the person is detained, as the case may be, is satisfied that—
- (a) that place provides suitable accommodation for the detained person, and
 - (b) adequate provision will be made in that place for the safety and welfare of the detained person.
- (1F) In section 5A of the Prison Act 1952—
- (a) in subsection (5A)(ba) omit “and”, and
 - (b) after subsection (5A)(c) insert “, and
 - “(d) in relation to places mentioned in paragraph 18(1B)(e), (f) and (g) of Schedule 2 to the Immigration Act 1971.”
- (1G) In sub-paragraphs (1B) and (1C)—
- “control zone” has the same meaning as in the Channel Tunnel (International Arrangements) Order 1993 and includes a control zone within the meaning of the Channel Tunnel (Miscellaneous Provisions) Order 1994 and the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003;
- “hospital” has, in England and Wales, the same meaning as in the Mental Health Act 1983, in Scotland, the same meaning as in the Mental Health (Care and Treatment) (Scotland) Act 2003, and in Northern Ireland, the same meaning as in the Mental Health (Northern Ireland) Order 1986;
- “local authority” means—
- (a) in England, a district council, a London borough council, the Common Council of the City of London, or the Council of the Isles of Scilly;

- (b) in Wales, a county council or a county borough council;
 - (c) in Scotland, a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;
 - (d) in Northern Ireland, a district council;
- “place of safety” –
- (a) in England and Wales, has the same meaning as in the Children and Young Persons Act 1933;
 - (b) in Scotland, has the same meaning as in the Children’s Hearings (Scotland) Act 2011; and
 - (c) in Northern Ireland, means a home provided under Part VII of the Children (Northern Ireland) Order 1995, any police station, any hospital or surgery, or any other suitable place, the occupier of which is willing temporarily to receive a person under the age of 18;
- “removal centre”, “short-term holding facility” and “pre-departure accommodation” have the meanings given by section 147 of the Immigration and Asylum Act 1999;
- “supplementary control zone” and “tunnel system” have the same meanings as in the Channel Tunnel (International Arrangements) Order 1993.”

Member's explanatory statement

This amendment, and Lord German’s amendments to page 15, line 13 and page 16, line 45 limit the place of detention in the Bill to those that are presently authorised for detention.

BARONESS MOBARIK
 BARONESS HELIC
 LORD BOURNE OF ABERYSTWYTH
 THE LORD BISHOP OF DURHAM

63 Clause 10, page 15, line 22, leave out subsection (4)

Member's explanatory statement

This amendment would retain existing limits on the detention of children (72 hours or one week with ministerial approval).

LORD GERMAN
 BARONESS HAMWEE

63A Clause 10, page 16, line 1, leave out “suspects” and insert “has reasonable grounds for suspecting”

Member's explanatory statement

This amendment probes the threshold for detention.

LORD GERMAN
BARONESS HAMWEE

- 63B** Clause 10, page 16, line 5, leave out “suspects” and insert “has reasonable grounds for suspecting”

Member's explanatory statement

This amendment probes the threshold for detention.

LORD HUNT OF KINGS HEATH
BARONESS HAMWEE
LORD BACH

- 63C** Clause 10, page 16, leave out lines 21 to 23

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

BARONESS MOBARIK
BARONESS HELIC
LORD BOURNE OF ABERYSTWYTH
THE LORD BISHOP OF DURHAM

- 64** Clause 10, page 16, line 29, leave out from beginning to end of line 6 on page 17 and insert –

“(2B) Detention under subsection (2A) is to be treated as detention under sub-paragraph 16(2) of Schedule 2 to the Immigration Act 1971 for the purposes of the limitations in paragraph 18B of Schedule 2 to the Immigration Act 1971 (limitation on detention of unaccompanied children).”

Member's explanatory statement

This amendment, with others to Clause 10 in the name of Baroness Mobarik, would retain existing limits on the detention of unaccompanied children (24 hours).

BARONESS HAMWEE

- 64A** Clause 10, page 16, leave out lines 35 and 36

Member's explanatory statement

This amendment is to probe the nature of such “discretion” that may be conferred on the Secretary of State or an immigration officer by regulations.

LORD SCRIVEN

64B Clause 10, page 16, line 37, at end insert –

“(za) are to be made by the Secretary of State for Education;”

Member's explanatory statement

This amendment ensures that regulations made in relation to unaccompanied children are made by Secretary of State for Education.

BARONESS HAMWEE

64C Clause 10, page 16, line 41, at end insert –

“(d) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

Member's explanatory statement

This amendment ensures that regulations are made by the affirmative procedure, as recommended by the DPRRC.

LORD SCRIVEN

LORD GERMAN

BARONESS LISTER OF BURTERSETT

BARONESS BENNETT OF MANOR CASTLE

65 Clause 10, page 16, leave out lines 44 to 45 and insert –

“(2G) Detention under sub-paragraph (2A) or (2B) is to be treated as detention under paragraph 16(2) of Schedule 2 to the Immigration Act 1971 for the purposes of the limitations in paragraph 18B of Schedule 2 of that Act.”

Member's explanatory statement

This amendment seeks to remove the provision which enables a person of any age to be detained “in any place that the Secretary of State considers appropriate” and reapply the existing statutory time and location restrictions on the detention of unaccompanied children.

LORD GERMAN

66 Clause 10, page 16, line 45, at end insert –

“(2GA) But subsection (2G) does not authorise the detention of a person under subsection (2A) or (2B) otherwise than in a place directed by the Secretary of State under paragraph 18(1) of Schedule 2 to the Immigration Act 1971.”

Member's explanatory statement

This amendment, and Lord German’s amendments to page 15, line 13 and page 15, line 21 limit the place of detention in the Bill to those that are presently authorised for detention.

LORD SCRIVEN

66A Clause 10, page 16, line 45, at end insert –

“(2GA) A place under subsection (2G) is not to be considered “appropriate” for a person under the age of 18 unless it meets the standards and safeguards under Section 22 of the Children Act 1989.”

Member's explanatory statement

There are currently no standards, safeguards or protective obligations for the Home Office-provided accommodation for children. This amendment, and Lord Scriven's amendment to page 15, line 13, ensures that accommodation provided for children must meet the standards and safeguards under Section 22 of the Children Act 1989.

BARONESS MOBARIK
BARONESS HELIC
LORD BOURNE OF ABERYSTWYTH
THE LORD BISHOP OF DURHAM

67 Clause 10, page 17, line 9, leave out subsection (8)

Member's explanatory statement

This amendment, with others to Clause 10 in the name of Baroness Mobarik, would retain existing limits on the detention of unaccompanied children (24 hours).

BARONESS LISTER OF BURTERSETT
THE LORD BISHOP OF GLOUCESTER
BARONESS SUGG
BARONESS GOHIR

68 Clause 10, page 17, line 18, leave out from “paragraph” to the end of line 19 and insert “(a) of the definition of “relevant detention power”, after “paragraph 16(2)” insert “, (2C) or (2D)””

Member's explanatory statement

The effect of this amendment is that section 60 of the Immigration Act 2016 (which limits the detention of pregnant women normally to 72 hours under existing powers of immigration detention) will apply to the new powers of detention created by Clause 10 of the Bill.

LORD EHERTON
LORD CARLILE OF BERRIEW
BARONESS CHAKRABARTI
LORD CASHMAN

69 Clause 10, page 17, line 19, at end insert –

“(12) The conditions under which persons are detained pursuant to this section must comply with United Nations High Commissioner for Refugees Detention Guidelines.”

Member's explanatory statement

This amendment provides that the living conditions of those who are detained shall at a minimum comply with UNHCR Detention Guidance.

LORD GERMAN
BARONESS CHAKRABARTI
BARONESS MEACHER

The above-named Lords give notice of their intention to oppose the Question that Clause 10 stand part of the Bill.

After Clause 10

BARONESS LISTER OF BURTERSETT
THE LORD BISHOP OF GLOUCESTER
BARONESS GOHIR
BARONESS CHAKRABARTI

70 After Clause 10, insert the following new Clause –

“Prohibition of use of force against children and pregnant women

- (1) The use of force against a person to whom this section applies cannot be justified in any proceedings on the ground that such force was reasonably necessary –
 - (a) to effect that person’s detention under a relevant detention power; or
 - (b) to effect that person’s removal from the United Kingdom pursuant to a direction given under a relevant removal power.
- (2) This section applies to –
 - (a) a person who is pregnant; or
 - (b) a person who is under the age of 18.
- (3) In this section, “relevant detention power” means a power to detain under –
 - (a) paragraph 16(2), (2C) or (2D) 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 of persons liable to examination or removal); or
 - (d) section 36(1) of the UK Borders Act 2007 (detention pending deportation).
- (4) In this section, “relevant removal power” means a power to give directions for a person’s removal under –
 - (a) paragraphs 8 to 10 of Schedule 2 to the Immigration Act 1971 (removal of persons refused leave to enter and illegal entrants);
 - (b) paragraph 1 of Schedule 3 to that Act (removal of persons liable to deportation);

- (c) section 10(7) of the Immigration and Asylum Act 1999 (removal of persons unlawfully in the United Kingdom); or
- (d) section 7 of this Act.”

Member's explanatory statement

The purpose is to ensure that protections against the use of force to effect detention and removal are in place for children and pregnant women.

BARONESS BRINTON
LORD GERMAN

70A 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 HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH
BARONESS JONES OF MOULSECOOMB

71 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 GERMAN

71A Clause 11, page 18, leave out lines 8 to 12

Member's explanatory statement

This amendment probes whether detention for the purpose of making arrangement for release is permissible under Article 5 ECHR.

LORD DAVIES OF BRIXTON

71B Clause 11, page 18, 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.

LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH
BARONESS JONES OF MOULSECOOMB

72 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.

LORD GERMAN
BARONESS CHAKRABARTI
BARONESS BUTLER-SLOSS

The above-named Lords give notice of their intention to oppose the Question that Clause 11 stand part of the Bill.

After Clause 11

LORD GERMAN
LORD SCRIVEN
BARONESS CHAKRABARTI
BARONESS LISTER OF BURTERSETT

73 After Clause 11, insert the following new Clause —

“Limits on detention

- (1) No person under the age of 18 may be detained in asylum accommodation at any time.
- (2) No person aged 18 or over may be detained in asylum accommodation for a consecutive or aggregate period of more than 28 days.”

Member's explanatory statement

This amendment ensures that children cannot be held in asylum accommodation at any time. It also places a limit on the length of time that an adult may be held in asylum accommodation.

BARONESS HAMWEE

74 After Clause 11 insert the following new Clause—

“Time limit on detention of vulnerable persons

- (1) Subsections (2) to (4) apply to a person if the Secretary of State has reason to suspect that they are a vulnerable person.
- (2) In determining whether to detain or continue to detain a person to whom this subsection applies, the Secretary of State must have regard to their welfare.
- (3) Notwithstanding anything else in this Act, the Secretary of State may not detain or continue to detain a person to whom this subsection applies under a relevant detention power unless they are satisfied by evidence that either—
 - (a) directions have been given for the person’s removal from the United Kingdom and such removal is to take place within 72 hours of the relevant time, a travel document is available for the purposes of their removal, and there are no outstanding legal barriers to removal; or
 - (b) there are very exceptional circumstances justifying the person’s detention.
- (4) Notwithstanding anything else in this Act, the Secretary of State may not detain or continue to detain a person to whom this subsection applies for—
 - (a) more than 72 hours from the relevant time, or
 - (b) more than seven days from the relevant time, in a case where the longer period of detention is authorised personally by a Minister of the Crown within the meaning of the Ministers of the Crown Act 1975.
- (5) Subsection (6) applies to a person if the Tribunal has reason to believe that they are a vulnerable person.
- (6) In deciding whether to grant immigration bail to a person under paragraph 1(3) of Schedule 10 to the Immigration Act 2016 or under any other enactment which empowers the Tribunal to grant immigration bail to a person, the Tribunal may not refuse to grant immigration bail to a person to whom this subsection applies unless it is satisfied by evidence that either—
 - (a) directions have been given for the person’s removal from the United Kingdom and such removal is to take place within 72 hours of the decision on whether the person should be granted immigration bail, a travel document is available for the purposes of their removal, and there are no outstanding legal barriers to removal; or
 - (b) there are very exceptional circumstances justifying the person’s detention.
- (7) In this section “the relevant time” means the time at which a person is first detained under a relevant detention power, or the time at which the Secretary of State first has reason to believe that they are a vulnerable person, whichever is the later.

- (8) Nothing in this section justifies the detention of a vulnerable person under a relevant detention power where such detention would not, apart from this section, be lawful.
- (9) This section is subject to paragraph 18B of Schedule 2 to the Immigration Act 1971 (which restricts the detention of unaccompanied children).”

Member's explanatory statement

This amendment, and associated amendments from Baroness Hamwee, provide for a 72-hour time limit on detention of vulnerable people, or 7 days with ministerial authorisation.

BARONESS HAMWEE

75 After Clause 11 insert the following new Clause—

“Vulnerable persons: duty to provide information to Tribunal

- (1) This section applies to a person (P) who is detained under a relevant detention power and who appears to be a vulnerable person.
- (2) If P applies for immigration bail to the Tribunal pursuant to Schedule 10 to the Immigration Act 2016, or the Tribunal is to hold a hearing to determine whether to grant immigration bail to P pursuant to any enactment, the Secretary of State must provide to the persons listed in subsection (3), not less than 24 hours in advance of the bail hearing, a copy of all information in their possession which is relevant to the question of whether P is a vulnerable person.
- (3) The persons referred to in subsection (2) are—
 - (a) the Tribunal;
 - (b) P; and
 - (c) P’s representative.”

Member's explanatory statement

This amendment, and associated amendments from Baroness Hamwee, provide for a 72-hour time limit on detention of vulnerable people, or 7 days with ministerial authorisation.

BARONESS HAMWEE

76 After Clause 11 insert the following new Clause—

“Vulnerable persons: interpretation

In sections (*Time limit on detention of vulnerable persons*) and (*Vulnerable persons: duty to provide information to Tribunal*)—

“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 of persons liable to examination or removal), or
- (d) section 36(1) of the UK Borders Act 2007 (detention pending deportation);

“day” means a period of 24 hours;

“the Tribunal” means the First-tier Tribunal;

“vulnerable person” means a person who—

- (a) has a mental disorder within the meaning of section 1 of the Mental Health Act 1983;
- (b) has a disability within the meaning of section 6 of the Equality Act 2010;
- (c) is a person who appears to lack capacity in relation to any matter within the meaning of section 2 of the Mental Capacity Act 2005;
- (d) is a victim of torture or other serious physical, psychological or sexual violence or mistreatment;
- (e) is a victim of trafficking in human beings or modern slavery;
- (f) is aged 70 or over;
- (g) belongs to a sexual orientation or gender identity minority group, or is intersex;
- (h) is suffering from a mental or physical condition or impairment, or has experienced a traumatic event, which would render them particularly vulnerable to harm if they are placed in detention or remain in detention; or
- (i) is within any other category identified as an adult at risk under the statutory guidance issued pursuant to section 59 of the Immigration Act 2016;

“torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person;

“trafficking in human beings” has the same meaning as in Article 4(a) of the Council of Europe Convention on Action against Trafficking in Human Beings signed at Warsaw on 16 May 2005, and, for the avoidance of doubt, includes conduct falling within sections 1 to 4 of the Modern Slavery Act 2015.”

Member's explanatory statement

This amendment, and associated amendments from Baroness Hamwee, provide for a 72-hour time limit on detention of vulnerable people, or 7 days with ministerial authorisation.

LORD SCRIVEN
LORD HUNT OF KINGS HEATH

76A After Clause 11 insert the following new Clause—

“Limits on detention: pregnant women

If the Secretary of State is satisfied that a woman is pregnant, she may not be detained in asylum accommodation at any time.”

Member's explanatory statement

This amendment aims to ensure that pregnant women cannot be held in asylum accommodation at any time.

BARONESS HAMWEE

76B 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

LORD BACH

76C Clause 12, page 21, line 3, leave out “(4)” and insert “(4A)”

Member's explanatory statement

This amendment is consequential on the insertion of new subsection (4A).

BARONESS LUDFORD
LORD PADDICK

77 Clause 12, page 21, line 24, leave out subsection (4)

Member's explanatory statement

This amendment removes an ‘ouster Clause’ from the Bill.

THE LORD BISHOP OF DURHAM
BARONESS LISTER OF BURTERSETT
BARONESS NEUBERGER

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

- “(4A) Sub-paragraphs (2) and (3) do not apply where—
- (a) either—
 - (i) the Secretary of State has received a report in respect of the person under rule 35(4) of the Detention Centre Rules 2001 (SI 2001/238) or rule 6A(12) or 32(4) of the Short-Term

- Holding Facility Rules 2018 (SI 2018/409) (special illnesses and conditions), or
- (ii) the Secretary of State has been provided with a report written by a relevant professional about the person’s physical or mental condition, and
- (b) the decision involves or gives rise to any question about whether the immigration officer or the Secretary of State has acted unlawfully in detaining or continuing to detain the person in light of the contents of the report mentioned in paragraph (a).
- (4B) In sub-paragraph (4A) “relevant professional” means –
- (a) a registered medical practitioner,
- (b) a registered dentist within the meaning of the Dentists Act 1984,
- (c) a person registered as a nurse or midwife in the register maintained by the Nursing and Midwifery Council under article 5 of the Nursing and Midwifery Order 2001,
- (d) a registered professional within the meaning of the Health Professions Order 2001, or
- (e) a person registered as a social worker in a register maintained by –
- (i) Social Work England,
- (ii) Social Care Wales,
- (iii) the Scottish Social Services Council, or
- (iv) the Northern Ireland Social Care Council.”

Member's explanatory statement

This amendment provides exceptions to the general ouster of judicial review during the 28 days of detention, for persons for whom the Secretary of State has received a medical report evidencing their vulnerability to suffering harm in detention, including victims of torture or trafficking, pregnant women, and those with mental health conditions.

BARONESS HAMWEE

78A 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”.

BARONESS HAMWEE
LORD BACH

79 Clause 12, page 22, line 23, at end insert –

“(4A) In paragraph 11(1)(b), for “four months” substitute “28 days”.”

Member's explanatory statement

This amendment ensures that an independent review of bail and detention is automatically conducted at the 28-day point when entitlement to apply for bail first arises.

LORD GERMAN
BARONESS CHAKRABARTI
LORD HACKING

The above-named Lords give notice of their intention to oppose the Question that Clause 12 stand part of the Bill.

After Clause 12

LORD BACH
LORD HUNT OF KINGS HEATH

79A After Clause 12, insert the following new Clause –

“Automatic dismissal of applications for immigration bail

- (1) Schedule 10 to the Immigration Act 2016 is amended as follows.
- (2) For paragraph 12(2) substitute –
 - “(2) Tribunal Procedure Rules must secure that, where the First-tier Tribunal has decided not to grant a person immigration bail, the Tribunal must not determine any further application until the end of the relevant period, unless sub-paragraph (4) applies.”
- (3) For paragraph 12(3) substitute –
 - “(3) In this paragraph “the relevant period” means the period of 28 days beginning with the date of the decision mentioned in sub-paragraph (2).”

Member's explanatory statement

This amendment defines the 28 day period between bail applications as being 28 days between bail hearings and not between bail applications.

Clause 13

LORD GERMAN
BARONESS LISTER OF BURTERSETT

The above-named Lords give notice of their intention to oppose the Question that Clause 13 stand part of the Bill.

Clause 14

LORD GERMAN

Lord German gives notice of his intention to oppose the Question that Clause 14 stand part of the Bill.

Schedule 2

BARONESS HAMWEE

79B Schedule 2, page 71, line 29, at end insert –

“(1A) A relevant article may not be retained unless the immigration officer makes arrangements for the relevant person to record the contact details of such persons as they request and enables the person to make contact with such persons for the primary purpose of informing them of the person’s whereabouts.”

Member's explanatory statement

This amendment ensures that those who have mobile phones seized are able to retain contact details of family members and friends.

LORD GERMAN

Lord German gives notice of his intention to oppose the Question that Schedule 2 be the second Schedule to the Bill.

Clause 15

LORD SCRIVEN

79C Clause 15, page 23, line 17, at end insert –

“(3A) In this section, “Secretary of State” means the Secretary of State for Education.”

Member's explanatory statement

This amendment is intended to ensure that the Secretary of State for Education has responsibility for unaccompanied children as soon as they arrive in the UK.

LORD CARLILE OF BERRIEW
BARONESS CHAKRABARTI
BARONESS HAMWEE
LORD KERR OF KINLOCHARD

80 Clause 15, page 23, line 18, leave out subsection (4)

Member's explanatory statement

This amendment ensures that the Home Secretary’s powers over the accommodation of unaccompanied children in England do not apply retrospectively.

LORD SCRIVEN
BARONESS MEACHER

The above-named Lords give notice of their intention to oppose the Question that Clause 15 stand part of the Bill.

Clause 16

LORD SCRIVEN

80A Clause 16, page 23, line 30, leave out subsections (4) to (7)

Member's explanatory statement

This amendment ensures that once a child has become the responsibility of the local authority, the Secretary of State cannot decide that the local authority must cease their responsibility for that child.

THE LORD BISHOP OF DURHAM
BARONESS NEUBERGER

81 Clause 16, page 23, line 32, at end insert –

“(4A) But the Secretary of State may not make a decision under subsection (4) unless to do so is necessary to safeguard and promote the welfare of the child.”

Member's explanatory statement

This amendment limits the Secretary of State's power to transfer a child out of local authority care and into accommodation provided by the Secretary of State, by providing that they may only do so where to do so is necessary to safeguard and promote the welfare of the child.

LORD SCRIVEN
BARONESS MEACHER

The above-named Lords give notice of their intention to oppose the Question that Clause 16 stand part of the Bill.

Clause 17

BARONESS BRINTON

81A 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.

THE LORD BISHOP OF DURHAM
BARONESS NEUBERGER

82 Clause 17, page 24, line 26, at end insert –

- “(4) A local authority may not provide any information to the Secretary of State under this section about an identifiable child, unless to do so is strictly necessary to safeguard and promote the welfare of the child.
- (5) The Secretary of State may not use or disclose any information about an identifiable child provided by a local authority under this section except for the purpose of making a decision under section 16(1) or (4), unless to do so is strictly necessary to safeguard and promote the welfare of the child.”

Member's explanatory statement

This amendment limits the circumstances in which the power conferred by Clause 17 can be used to share information about identifiable children, and limits the use and disclosure of such information.

LORD SCRIVEN
BARONESS MEACHER

The above-named Lords give notice of their intention to oppose the Question that Clause 17 stand part of the Bill.

Clause 18

LORD SCRIVEN

Lord Scriven gives notice of his intention to oppose the Question that Clause 18 stand part of the Bill.

Clause 19

LORD SCRIVEN

Lord Scriven gives notice of his intention to oppose the Question that Clause 19 stand part of the Bill.

Clause 20

LORD SCRIVEN

Lord Scriven gives notice of his intention to oppose the Question that Clause 20 stand part of the Bill.

After Clause 20LORD SCRIVEN
BARONESS TYLER OF ENFIELD

83 After Clause 20 insert the following new Clause –

“Children Act 1989

- (1) Nothing in this Act shall require any act or omission that conflicts with or undermines the obligations, duties or responsibilities of the Secretary of State under the Children Act 1989, in particular the principle that the child’s welfare be the paramount consideration and that particular regard be given to the child’s wishes and feelings.
- (2) This Act must not cause any delay in ensuring that unaccompanied children become looked after as soon as the child's age has been determined.”

Member's explanatory statement

This amendment ensures that well-established duties under the Children Act 1989 are not undermined by the requirements of this Bill.

LORD SCRIVEN
BARONESS BRINTON

83A★ After Clause 20, insert the following new Clause –

“Guidance: welfare of children

- (1) This section applies to any department, agency, local authority or relevant partner with duties or responsibilities under this Act.
- (2) The Secretary of State for Education must issue guidance to those bodies in subsection (1) to ensure that such duties or responsibilities are exercised in a way that safeguards and promotes the welfare of children.
- (3) In this section –
 - (a) “relevant partner” means the bodies listed in section 11 of the Children Act 2004;
 - (b) “safeguard and promote the welfare of children” means –
 - (i) protecting children from maltreatment;
 - (ii) preventing impairment of children's mental and physical health or development;

- (iii) ensuring that children grow up in circumstances consistent with the provision of safe and effective care;
- (iv) taking action to enable all children to have the best outcomes.”

Member's explanatory statement

The current UK law states that local authorities and other agencies providing services to children in relation to immigration or asylum must ensure their functions and services are discharged having regard to their duty to safeguard and promote the welfare of children. This amendment ensures these duties are reflected in this Bill.

Clause 21

LORD ALTON OF LIVERPOOL
BARONESS HAMWEE

84 Clause 21, page 25, line 31, at end insert –

“(A1) No provision of this Act is to be interpreted or applied in a manner which would result in incompatibility with or contravention of the UK’s obligations under the Council of Europe European Convention on Action against Trafficking, or the EU Anti Trafficking Directive, or the European Convention on Human Rights or is to be taken as authorising decisions or policies which would have this result.”

Member's explanatory statement

This amendment ensures compliance with relevant international anti-trafficking legislation.

LORD COAKER
THE LORD BISHOP OF BRISTOL

85 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 HUNT OF KINGS HEATH
LORD BACH
BARONESS HAMWEE

85A Clause 21, page 25, line 35, leave out “and” and insert “or”

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

LORD HUNT OF KINGS HEATH
BARONESS HAMWEE

85B Clause 21, page 25, line 36, leave out paragraph (b) and insert—

“(b) that person is or may be a modern slavery survivor, save where the exceptions set out in section 21(3) apply.”

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

LORD ALTON OF LIVERPOOL

85C Clause 21, page 25, line 39, at end insert—

“(1A) This section does not come into force until a report has been laid before Parliament which—

- (a) provides a human rights and equality assessment for each state listed in Schedule 1, for all protected characteristics laid out in section (4) of the Equality Act 2010;
- (b) provides detail as to the ongoing human rights and equality assessment, monitoring and evaluation of potential harm caused by discrimination against said protected characteristics; and
- (c) provides information as to the potential human rights and equality impact on potential and victims of modern slavery with relevant protected characteristics in the countries listed in Schedule 1.”

Member's explanatory statement

This amendment would help to understand how the Secretary of State will assess Equality in the countries listed in Schedule 1 and the potential harm to those with protected characteristics including victims of Modern Slavery.

BARONESS HAMWEE

85D★ Clause 21, page 26, line 2, leave out paragraph (a)

Member's explanatory statement

This amendment reinstates the period of recovery and reflection for victims of modern slavery.

LORD RANDALL OF UXBRIDGE
LORD MCCOLL OF DULWICH
BARONESS HELIC
BARONESS STROUD

86 Clause 21, page 26, line 9, after “if” insert “either—

- (za) the relevant exploitation took place in the United Kingdom, or”

Member's explanatory statement

This amendment is intended to exempt people who have been unlawfully exploited in the UK from provisions which would otherwise require their removal during the statutory recovery period and prohibit them being granted limited leave to remain.

LORD HUNT OF KINGS HEATH
BARONESS HAMWEE
LORD BACH

86A Clause 21, page 26, line 9, at end insert “any one of the conditions below applies”

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

LORD COAKER
THE LORD BISHOP OF BRISTOL
BARONESS BENNETT OF MANOR CASTLE
LORD ALTON OF LIVERPOOL

87 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 HUNT OF KINGS HEATH
BARONESS HAMWEE
LORD BACH

87A Clause 21, page 26, line 14, leave out “and”

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

LORD COAKER
 BARONESS BUTLER-SLOSS
 THE LORD BISHOP OF GLOUCESTER
 BARONESS BENNETT OF MANOR CASTLE

88 Clause 21, page 26, line 18, at end insert –

“(d) a decision has been made by a competent authority that there are reasonable grounds to believe that the person is a victim of sexual exploitation.”

Member's explanatory statement

This amendment seeks to remove potential victims of sexual exploitation from the provisions requiring them to be removed.

LORD HUNT OF KINGS HEATH
 BARONESS HAMWEE

88A Clause 21, page 26, line 18, at end insert –

“(d) a person has been identified by a First Responder as appropriate for referral into the National Referral Mechanism;
 (e) a decision by a competent authority regarding reasonable grounds is pending;
 (f) a decision has been made by a competent authority that there are reasonable grounds to believe that the person is a victim of slavery or human trafficking (a “positive reasonable grounds decision”), and has not yet received a conclusive grounds decision;
 (g) the person is in the course of challenging a negative reasonable grounds decision;
 (h) the person has received a positive conclusive grounds decision;
 (i) the person is in the course of challenging a negative conclusive grounds decision.”

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

LORD COAKER
 THE LORD BISHOP OF BRISTOL
 BARONESS BENNETT OF MANOR CASTLE

89 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.

BARONESS BUTLER-SLOSS
LORD RANDALL OF UXBRIDGE

90 Clause 21, page 26, line 30, leave out subsections (5) and (6) and insert –

“(5) The Secretary of State may by regulations make provision about the circumstances in which it is necessary for a person to be present in the United Kingdom to provide cooperation of the kind mentioned in subsection (3)(a).”

Member's explanatory statement

This amendment intends to remove the presumption for the purposes of clause 21(3)(b) that it is not necessary for a person to be present in the United Kingdom to cooperate with an investigation or criminal proceedings unless there are compelling circumstances which require the person to be present for that purpose. It also removes the related requirement for the Secretary of State to have regard to guidance in determining whether there are compelling circumstances and replaces the regulation-making power regarding circumstances in which it would be deemed necessary for a victim to remain in the UK to cooperate with investigations or criminal proceedings.

LORD CARLILE OF BERRIEW
BARONESS CHAKRABARTI
BARONESS HAMWEE
LORD KERR OF KINLOCHARD

91 Clause 21, page 27, line 1, leave out subsections (8) to (10)

Member's explanatory statement

This amendment ensures that victims of slavery or human trafficking who were granted limited leave to remain under the Nationality and Borders Act 2022 cannot have their leave retrospectively revoked to permit their deportation.

LORD HUNT OF KINGS HEATH
BARONESS HAMWEE
LORD BACH

91A Clause 21, page 27, line 9, leave out subsection (9)

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

LORD COAKER
BARONESS BUTLER-SLOSS

92 Clause 21, page 27, line 10, at end insert –

- “(9A) A person whose removal from the United Kingdom is enabled by subsection (2), shall only be removed to a state that is a signatory to –
- (a) the European Convention on Human Rights, and
 - (b) the Council of Europe Convention on Action Against Trafficking in Human Beings.”

Member's explanatory statement

This amendment seeks to restrict the removal of victims of modern slavery to countries which are signatories to the European Convention on Human Rights and the Trafficking Convention.

LORD HUNT OF KINGS HEATH
BARONESS HAMWEE
LORD BACH

92ZA Clause 21, page 27, line 12, at end insert –

- “(10A) A person falling within section 2(1) or section 3(2) will not be treated as a threat to public order solely on the grounds of meeting the conditions set out therein.”

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

BARONESS HAMWEE
THE LORD BISHOP OF BRISTOL

The above-named Lords give notice of their intention to oppose the Question that Clause 21 stand part of the Bill.

After Clause 21

LORD ALTON OF LIVERPOOL
BARONESS LUDFORD
BARONESS HAMWEE
LORD HUNT OF KINGS HEATH

92A After Clause 21, insert the following new Clause –

“Early access to legal aid

- (1) After paragraph 32A (victims of slavery, servitude or forced or compulsory labour) of Schedule 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 insert –
 - “32B (1) Civil legal services provided to an individual who is subject to removal to a third country under the Illegal Migration Act 2023, or who might reasonably suspect they are subject to removal under that Act, in relation to referral into the national referral mechanism and connected immigration advice and representation, where there is no other provision for this within the scope of legal aid.
General exclusions
 - (2) Sub-paragraph (1) is subject to the exclusions in Part 2 of this Schedule.
Specific exclusions
 - (3) The civil legal services described in sub-paragraph (1) do not include –
 - (a) advocacy, or
 - (b) attendance at an interview conducted by the competent authority under the national referral mechanism for the purposes of a reasonable grounds decision or a conclusive grounds decision.”
- (2) In regulation 11(9) of the Civil Legal Aid (Merits Criteria) Regulations 2013 (S.I. 2013/104) (qualifying for civil legal services: cases in which merits criteria do not apply), at end omit the full stop and insert –
 - “(e) or, for an individual who is, or might reasonably suspect they are, subject to removal to a third country under the Illegal Migration Act 2023, in relation to any matter described in paragraph 32B of Part 1 of Schedule 1 to the Act (civil legal services provided to an individual in relation to referral into the national referral mechanism).”
- (3) In regulation 5(1) of the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013 (S.I. 2013/480) (exceptions from requirement to make a determination in respect of an individual’s financial resources), after paragraph (r), omit the full stop and insert “and,
 - (s) for an individual who is, or might reasonably suspect they are, subject to removal to a third country under the Illegal Migration Act 2023, civil legal services described in paragraph 32B of Part 1 of Schedule 1 to the Act

(civil legal services provided to an individual in relation to referral into the national referral mechanism).””

Member's explanatory statement

This new clause would give individuals subject to, or who might reasonably suspect they are subject to, removal to a third country under this Act access to early specialist legal advice, which is not means- or merits-tested, allowing for informed consent to a trafficking referral. The intention is that potential victims of modern slavery or human trafficking in that position will be able to understand what the NRM is and what it does, and provide informed consent to be referred into it. This expands the support available for advice on referral into the NRM, which is currently only available if you have a matter that falls within scope of certain types of legal aid.

LORD ALTON OF LIVERPOOL

92B After Clause 21, insert the following new Clause –

“Requirement to Assess and Report on the Impact of this Act on Modern Slavery

- (1) Section 21 does not come into force until –
 - (a) an Independent Anti-Slavery Commissioner has been appointed under Part 4 of the Modern Slavery Act 2015 and has been in post for a period of 6 months; and
 - (b) the Secretary of State has provided an independent report to the Independent Anti-Slavery Commissioner and laid the report before Parliament within 3 months of that date.
- (2) The report must include, but is not limited to –
 - (a) an assessment of whether the Illegal Migration Act 2023 (this Act) will reduce modern slavery;
 - (b) an assessment of the potential impact of this Act on the Modern Slavery Strategy, the Northern Ireland Modern Slavery Strategy, the Scottish Government’s Trafficking and Exploitation Strategy, the Welsh Government’s anti-slavery response, in relation, but not limited, to –
 - (i) the prevention of modern slavery;
 - (ii) the identification and protection of potential and identified victims of modern slavery;
 - (iii) the risks of modern slavery;
 - (iv) the risks of re-exploitation and re-trafficking of victims of modern slavery;
 - (v) the risks of direct and indirect re-outrage;
 - (vi) the disruption and prosecution of modern slavery offenders;
 - (c) a legal assessment of the compatibility of this Act with every section and article of, at a minimum, the following –
 - (i) the Equality Act 2010, specifically how this relates to victims of modern slavery;
 - (ii) the Windsor Framework;
 - (iii) the 1926 Slavery Convention;
 - (iv) the European Convention on Human Rights 1950;

- (v) the Council of Europe Convention against Trafficking in Human Beings 2005;
 - (vi) Directive 2011/36/EU “the Trafficking Directive”;
 - (vii) the United Nations Convention against Transnational Organized Crime (UNTOC) and its protocols, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children Supplementing UNTOC and the Protocol Against the Smuggling of Migrants by Land, Sea and Air Supplementing UNTOC;
 - (viii) the 1951 Refugee Convention:
 - (ix) the UN Convention on the Rights of the Child 1989;
 - (x) the Convention Concerning Forced or Compulsory Labour 1930 No. 29 (including the Protocol of 2014 to the Forced Labour Convention);
 - (xi) Abolition of Forced Labour Convention 1957 No. 105;
 - (xii) Worst Forms of Child Labour Convention 1999 No.182;
 - (xiii) the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 1956; and
- (d) a detailed assessment as to how the Secretary of State will assess, monitor and evaluate legislation, policy, practice and resources in each of the States listed in Schedule 1 in respect of—
- (i) equality and human rights;
 - (ii) the modern slavery situation including, but not limited to, prevention, protection and prosecution;
 - (iii) the risk of re-exploitation and re-trafficking;
 - (iv) the risk of direct and indirect re-outrage;
 - (v) the ability to meet the individual risks and needs of each potential or identified victim of modern slavery;
 - (vi) support offered to potential and identified victims of modern slavery including the resources available in practice.”

Member's explanatory statement

This amendment would ensure that there are detailed assessments of the impact of the Bill on victims and the wider impact on tackling Modern Slavery and compliance with the international legal framework.

Clause 22

LORD COAKER
BARONESS BUTLER-SLOSS

93 Clause 22, page 27, line 36, leave out subsection (2)

Member's explanatory statement

This amendment seeks to remove the Bill's restrictions on the provision of modern slavery support to those subject to the provisions in Clause 2.

BARONESS HAMWEE
THE LORD BISHOP OF BRISTOL
LORD HUNT OF KINGS HEATH

The above-named Lords give notice of their intention to oppose the Question that Clause 22 stand part of the Bill.

Clause 23

LORD COAKER
BARONESS BUTLER-SLOSS

94 Clause 23, page 28, line 9, leave out subsection (2)

Member's explanatory statement

This amendment seeks to remove the Bill's restrictions on the provision of modern slavery support in Scotland to those subject to the provisions in Clause 2.

BARONESS HAMWEE
THE LORD BISHOP OF BRISTOL

The above-named Lords give notice of their intention to oppose the Question that Clause 23 stand part of the Bill.

Clause 24

LORD COAKER
BARONESS BUTLER-SLOSS

95 Clause 24, page 29, line 38, leave out subsection (2)

Member's explanatory statement

This amendment seeks to remove the Bill's restrictions on the provision of modern slavery support in Northern Ireland to those subject to the provisions in Clause 2.

LORD WEIR OF BALLYHOLME
LORD MORROW

96 Clause 24, page 29, line 38, leave out subsections (2) to (6) and insert –

“(2) The Department of Justice in Northern Ireland must ensure that a person may receive assistance and support under section 18 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.)) to the extent necessary to meet their obligations under Articles 8 and 9 of the European Directive 2012/29/EU on the rights of victims of crime and Article 11 of the European Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.”

BARONESS HAMWEE
THE LORD BISHOP OF BRISTOL

The above-named Lords give notice of their intention to oppose the Question that Clause 24 stand part of the Bill.

Clause 25

LORD HUNT OF KINGS HEATH
BARONESS HAMWEE
LORD BACH

96A Clause 25, page 31, line 19, leave out from “suspended” to end of line 20 and insert “on 7 March 2024”

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

BARONESS HAMWEE
THE LORD BISHOP OF BRISTOL

The above-named Lords give notice of their intention to oppose the Question that Clause 25 stand part of the Bill.

Clause 26

LORD HUNT OF KINGS HEATH
LORD BACH
BARONESS HAMWEE

96B Clause 26, page 32, line 16, leave out subsection (2)

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

BARONESS HAMWEE
THE LORD BISHOP OF BRISTOL

The above-named Lords give notice of their intention to oppose the Question that Clause 26 stand part of the Bill.

Clause 27

LORD HUNT OF KINGS HEATH
LORD BACH
BARONESS HAMWEE

96C Clause 27, page 33, line 15, leave out subsection (7)

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

BARONESS RITCHIE OF DOWNPATRICK
BARONESS HAMWEE

97 Clause 27, page 33, line 21, leave out subsection (9)

Member's explanatory statement

This amendment, combined with another to Clause 28 in the name of Baroness Ritchie of Downpatrick, seeks to remove the inclusion of modern slavery victims under this Bill from the public order disqualification in section 63 of the Nationality and Borders Act 2022.

LORD HUNT OF KINGS HEATH
LORD BACH
BARONESS HAMWEE

97A Clause 27, page 33, line 25, leave out subsection (10)

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

LORD HUNT OF KINGS HEATH
LORD BACH
BARONESS HAMWEE

97B Clause 27, page 33, line 29, leave out subsection (12)

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

BARONESS HAMWEE
THE LORD BISHOP OF BRISTOL
LORD HUNT OF KINGS HEATH

The above-named Lords give notice of their intention to oppose the Question that Clause 27 stand part of the Bill.

Clause 28

LORD HUNT OF KINGS HEATH
BARONESS HAMWEE
LORD BACH

97C Clause 28, page 33, line 36, leave out subsections (2) and (3)

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

LORD HUNT OF KINGS HEATH
BARONESS HAMWEE
LORD BACH

97D Clause 28, page 34, line 12, after “imprisonment” insert “of at least 12 months”

Member's explanatory statement

This amendment, with others in the name of Lord Hunt of Kings Heath, seek to amend the Bill so that potential and recognised victims of trafficking will not be detained or removed before they get the opportunity to submit an application to the NRM and have it duly considered.

BARONESS RITCHIE OF DOWNPATRICK
BARONESS HAMWEE

98 Clause 28, page 34, line 14, leave out paragraph (b)

Member's explanatory statement

This amendment, combined with another to Clause 27 in the name of Baroness Ritchie of Downpatrick, seeks to remove the inclusion of modern slavery victims under this Bill from the public order disqualification in section 63 of the Nationality and Borders Act 2022.

BARONESS HAMWEE
THE LORD BISHOP OF BRISTOL

The above-named Lords give notice of their intention to oppose the Question that Clause 28 stand part of the Bill.

Clause 29

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 29 stand part of the Bill.

Clause 30LORD MOYLAN
BARONESS LISTER OF BURTERSETT

98A 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.

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 30 stand part of the Bill.

Clause 31LORD MOYLAN
BARONESS LISTER OF BURTERSETT

98B 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

98C 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.

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 31 stand part of the Bill.

Clause 32

LORD MOYLAN
BARONESS LISTER OF BURTERSETT

98D 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

98E 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.

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 32 stand part of the Bill.

Clause 33

BARONESS LUDFORD
LORD MOYLAN
BARONESS LISTER OF BURTERSETT

The above-named Lords give notice of their intention to oppose the Question that Clause 33 stand part of the Bill.

Clause 34

BARONESS LUDFORD
LORD MOYLAN
BARONESS LISTER OF BURTERSETT

The above-named Lords give notice of their intention to oppose the Question that Clause 34 stand part of the Bill.

Clause 35

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 35 stand part of the Bill.

Clause 36LORD MOYLAN
BARONESS LISTER OF BURTERSETT

98F 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

98G 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

98H 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.

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 36 stand part of the Bill.

After Clause 36

BARONESS BRINTON
THE LORD BISHOP OF ST ALBANS
LORD ALTON OF LIVERPOOL

98I 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 37

LORD MURRAY OF BLIDWORTH

99 Clause 37, page 40, line 30, leave out “or citizen”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 5, line 38.

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 37 stand part of the Bill.

Clause 38

LORD ETHERTON
LORD CARLILE OF BERRIEW
LORD ALTON OF LIVERPOOL

100 Clause 38, page 41, line 12, leave out “, before the end of the relevant period,”

Member's explanatory statement

This amendment, combined with another in the name of Lord Etherton to line 13, would make a serious harm suspensive claim, following a removal notice, directed to the single substantive question whether the country or territory specified in the notice is safe for the claimant, rather than an issue of interim relief.

LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH

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

Member's explanatory statement

This amendment seeks to simply 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”.

LORD ETHERTON
LORD CARLILE OF BERRIEW
LORD ALTON OF LIVERPOOL

102 Clause 38, page 41, line 13, leave out “and irreversible”

Member's explanatory statement

This amendment, combined with another in the name of Lord Etherton to line 12, would make a serious harm suspensive claim, following a removal notice, directed to the single substantive question whether the country or territory specified in the notice is safe for the claimant, rather than an issue of interim relief.

LORD ETHERTON
LORD CARLILE OF BERRIEW

103 Clause 38, page 41, line 16, leave out “and irreversible”

Member's explanatory statement

This amendment relates to the amendments in the name of Lord Etherton to Clause 38, page 41, lines 12 and 13.

LORD ETHERTON
LORD CARLILE OF BERRIEW

104 Clause 38, page 41, line 30, leave out “and irreversible”

Member's explanatory statement

This amendment relates to the amendments in the name of Lord Etherton to Clause 38, page 41, lines 12 and 13.

LORD ETHERTON
LORD CARLILE OF BERRIEW
LORD CASHMAN

105 Clause 38, page 41, line 38, leave out paragraph (c)

Member's explanatory statement

This amendment would allow a human rights claim pursuant to Article 3 of the European Convention on Human Rights and/or a protection claim pursuant to the Refugee Convention based on a disability or a serious medical condition (such as the proposed removal of gay men living with HIV/AIDS to a country or territory where there is no access to medication and/or there is discrimination amounting to persecution based on their disability).

LORD EHERTON
LORD CARLILE OF BERRIEW

106 Clause 38, page 41, line 42, leave out subsection (6)

Member's explanatory statement

This amendment relates to the amendment in the name of Lord Etherton to Clause 38, page 41, line 38.

LORD EHERTON
LORD CARLILE OF BERRIEW

107 Clause 38, page 42, line 1, leave out subsection (7)

Member's explanatory statement

This amendment relates to the amendment in the name of Lord Etherton to Clause 38, page 41, line 38.

LORD EHERTON
LORD CARLILE OF BERRIEW

108 Clause 38, page 42, line 17, leave out subsection (9)

Member's explanatory statement

This amendment relates to the amendments in the name of Lord Etherton to Clause 38, page 41, lines 12 and 13.

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 38 stand part of the Bill.

Clause 39

LORD EHERTON
LORD CARLILE OF BERRIEW

109 Clause 39, page 42, line 27, leave out “and irreversible”

Member's explanatory statement

This amendment relates to the amendments in the name of Lord Etherton to Clause 38, page 41, lines 12 and 13.

LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH

- 110** 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.

LORD ETHERTON
LORD CARLILE OF BERRIEW

- 111** Clause 39, page 42, line 30, leave out “and irreversible”

Member's explanatory statement

This amendment relates to the amendments in the name of Lord Etherton to Clause 38, page 41, lines 12 and 13.

LORD ETHERTON
LORD CARLILE OF BERRIEW

- 112** Clause 39, page 42, line 31, leave out “and irreversible”

Member's explanatory statement

This amendment relates to the amendments in the name of Lord Etherton to Clause 38, page 41, lines 12 and 13.

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 39 stand part of the Bill.

Clause 40

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 40 stand part of the Bill.

Clause 41

LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH

- 113** 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.

BARONESS LUDFORD

- 114** Clause 41, page 44, line 10, leave out “8” and insert “30”

Member's explanatory statement

This amendment increases the claim period.

BARONESS LUDFORD

- 115** Clause 41, page 44, line 12, leave out “4” and insert “30”

Member's explanatory statement

This amendment increases the decision period.

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 41 stand part of the Bill.

Clause 42

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 42 stand part of the Bill.

Clause 43

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 43 stand part of the Bill.

Clause 44

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 44 stand part of the Bill.

Clause 45

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 45 stand part of the Bill.

Clause 46

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 46 stand part of the Bill.

Clause 47

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 47 stand part of the Bill.

Clause 48

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 48 stand part of the Bill.

After Clause 48

LORD MURRAY OF BLIDWORTH

115A 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 49

BARONESS LUDFORD
BARONESS CHAKRABARTI

The above-named Lords give notice of their intention to oppose the Question that Clause 49 stand part of the Bill.

Clause 50

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 50 stand part of the Bill.

Clause 51

LORD MURRAY OF BLIDWORTH

115B 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.

BARONESS LUDFORD
BARONESS CHAKRABARTI

The above-named Lords give notice of their intention to oppose the Question that Clause 51 stand part of the Bill.

Clause 52

LORD MURRAY OF BLIDWORTH

115C 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.

BARONESS CHAKRABARTI
BARONESS LUDFORD

116 Clause 52, page 54, line 1, at beginning insert “Providing the procedure set out under subsection (3A) has been followed,”

LORD MURRAY OF BLIDWORTH

116A 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.

BARONESS CHAKRABARTI
BARONESS LUDFORD

117 Clause 52, page 54, line 3, at end insert –

“(3A) Subsection (3) does not have effect in relation to the removal of the person from the United Kingdom until the Secretary of State lays before each House of Parliament a statement setting out the rationale for the prohibition of interim remedies in relation to that person and this has been approved by resolution of the House of Commons.”

Member's explanatory statement

This amendment ensures that the jurisdiction of His Majesty's courts, in relation to the granting of interim relief preventing removal of a person from the United Kingdom under this legislation, may only be ousted after a statement to both Houses of Parliament and a vote in the House of Commons.

LORD MURRAY OF BLIDWORTH

117A 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.

BARONESS LUDFORD
BARONESS CHAKRABARTI

The above-named Lords give notice of their intention to oppose the Question that Clause 52 stand part of the Bill.

Clause 53

BARONESS CHAKRABARTI
BARONESS LUDFORD

- 118** Clause 53, page 54, line 16, after “not” insert “having followed the procedure set out under subsection (5A)”

BARONESS CHAKRABARTI
BARONESS LUDFORD

- 119** Clause 53, page 54, line 35, at end insert –
“(5A) A final decision not to make a determination under subsection (2) may not be made unless the Minister has laid a statement setting out the rationale for the removal contrary to the interim measure before each House of Parliament and it has been approved by resolution of the House of Commons.”

Member's explanatory statement

This amendment ensures that the Government may not act in contravention of an indication of an interim measure by the European Court of Human Rights without a statement to both Houses of Parliament and a vote in the House of Commons.

BARONESS LUDFORD
BARONESS CHAKRABARTI
LORD ANDERSON OF IPSWICH
BARONESS KENNEDY OF THE SHAWS

The above-named Lords give notice of their intention to oppose the Question that Clause 53 stand part of the Bill.

Clause 54

LORD MURRAY OF BLIDWORTH

- 119A** 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.

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 54 stand part of the Bill.

After Clause 54

BARONESS LUDFORD
BARONESS CHAKRABARTI
LORD BACH
LORD HUNT OF KINGS HEATH

- 120** After Clause 54, insert the following new Clause –

“Provision of Civil Legal Aid under section 9 LASPO

- (1) A Minister of the Crown or public authority may not initiate or defend proceedings under this Act until the Lord Chancellor makes an order in exercise of their powers conferred under section 9(2)(a), and duty under section 1, of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, to secure in England and Wales the availability of civil legal services for all claims, challenges, and legal proceedings under this Act in relation to –
- (a) protection;
 - (b) human rights;
 - (c) detention;
 - (d) modern slavery; and
 - (e) suspension of removal.
- (2) This section comes into force on the day on which this Act is passed.”

Member's explanatory statement

This amendment ensures the availability of civil legal aid services for claims, challenges, and legal proceedings covered by this Act.

LORD BACH
LORD HUNT OF KINGS HEATH

120A After Clause 54, insert the following new Clause –

“Duty to make legal aid available to certain detained persons

- (1) The Lord Chancellor must secure that civil legal services in relation to –
 - (a) a suspensive claim within the meaning of section 37(2) of this Act, and
 - (b) any of the matters set out in paragraphs 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 31A, 31C, 32 or 32A of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012
 are made available to any person who is detained under a relevant detention power within 48 hours of the day on which they are first detained under that power.
- (2) The Lord Chancellor may make such arrangements as they consider necessary for the performance of their duty under subsection (1).
- (3) The duty under subsection (1) is subject to –
 - (a) section 11 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (qualifying for civil legal aid) and any regulations made under that section, and
 - (b) section 21 of that Act (financial resources) and any regulations made under that section.
- (4) In this section –

“civil legal services” has the same meaning as in section 8 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

“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).”

Member's explanatory statement

This amendment places a duty on the Lord Chancellor to make civil legal aid available to certain detained persons in relation to judicial review and immigration matters within 48 hours of their detention.

Clause 55

THE LORD BISHOP OF DURHAM
BARONESS LISTER OF BURTERSETT
BARONESS NEUBERGER

121 Clause 55, page 56, line 21, leave out subsection (2).

Member's explanatory statement

This amendment reinstates the right of appeal against age assessments in respect of putative children whom there is a duty to remove under the Bill.

THE LORD BISHOP OF DURHAM
BARONESS LISTER OF BURTERSETT
BARONESS NEUBERGER

122 Clause 55, page 56, line 30, leave out subsection (4).

Member's explanatory statement

This amendment removes a provision of the Bill that would prevent a judicial review challenge to an age assessment from serving as a barrier to the putative child's removal from the UK.

LORD ANDERSON OF IPSWICH
LORD HOPE OF CRAIGHEAD

123 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.

LORD MURRAY OF BLIDWORTH

123A 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

123B 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

123C 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.

BARONESS BRINTON
BARONESS CHAKRABARTI
BARONESS LISTER OF BURTERSETT

The above-named Lords give notice of their intention to oppose the Question that Clause 55 stand part of the Bill.

Clause 56

BARONESS LISTER OF BURTERSETT
BARONESS NEUBERGER
BARONESS PRASHAR
THE LORD BISHOP OF DURHAM

124 Clause 56, page 57, line 36, leave out “may” and insert “must”

Member's explanatory statement

This amendment would mean that it must be set out in regulations that the refusal to consent to scientific measures of assessing age should not be taken to damage credibility.

BARONESS LISTER OF BURTERSETT
BARONESS NEUBERGER
BARONESS PRASHAR
THE LORD BISHOP OF DURHAM

125 Clause 56, page 57, line 41, leave out paragraph (b)

Member's explanatory statement

This amendment removes the provision in the Bill that would allow regulations to set out that a person claiming to be a child is to be treated as an adult if they refuse to consent to scientific age verification.

THE LORD BISHOP OF DURHAM
BARONESS LISTER OF BURTERSETT

126 Clause 56, page 57, line 42, at end insert –

“(2A) The regulations must provide that the consequence mentioned in paragraph (b) of subsection (2) shall not apply if P’s refusal to consent to the use of the specified scientific method was reasonable in all the circumstances.”

Member's explanatory statement

The Bill provides for regulations to be made under which certain putative children may be treated as adults if they refuse to consent to scientific methods of age assessment. This amendment provides that this may not occur if the child’s refusal to consent was reasonable in all the circumstances.

BARONESS BRINTON
BARONESS LISTER OF BURTERSETT

The above-named Lords give notice of their intention to oppose the Question that Clause 56 stand part of the Bill.

After Clause 56

LORD COAKER
LORD ALTON OF LIVERPOOL

127 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.

Clause 57

LORD MURRAY OF BLIDWORTH

128 Clause 57, page 58, line 41, at end insert –

- “(iii) at the appropriate place insert –
 - ““national” includes citizen;””

Member's explanatory statement

This amendment modifies the amendments to section 80A of the Nationality, Immigration and Asylum Act 2002 in clause 57. The new amendment to section 80A inserts a definition of “national” which applies to references to a person who is a national of a State (in that section and section 80AA of that Act) so that citizens of that State are included. This is for consistency with the freestanding provision in the Bill.

BARONESS LISTER OF BURTERSETT
LORD CASHMAN

128A 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.

BARONESS LUDFORD
BARONESS CHAKRABARTI

The above-named Lords give notice of their intention to oppose the Question that Clause 57 stand part of the Bill.

Clause 58

LORD PURVIS OF TWEED
BARONESS CHAKRABARTI

The above-named Lords give notice of their intention to oppose the Question that Clause 58 stand part of the Bill.

Clause 59

LORD PURVIS OF TWEED

Lord Purvis of Tweed gives notice of his intention to oppose the Question that Clause 59 stand part of the Bill.

After Clause 59

BARONESS LUDFORD
LORD PADDICK
LORD KERR OF KINLOCHARD
BARONESS BENNETT OF MANOR CASTLE

129 After Clause 59, insert the following new Clause –

“Refugee family reunion

- (1) The Secretary of State must, within 6 months of the date on which this Act is passed, lay before each House of Parliament a statement of changes in the rules (the “immigration rules”) under section 3(2) of the Immigration Act 1971 (general provisions for regulation and control) to make provision for refugee family reunion, in accordance with this section, to come into effect after 21 days.
- (2) Before a statement of changes is laid under subsection (1), the Secretary of State must consult with persons as the Secretary of State deems appropriate.
- (3) The statement laid under subsection (1) must set out rules providing for leave to enter and remain in the United Kingdom for family members of a person granted refugee status or humanitarian protection.
- (4) In this section, “refugee status” and “humanitarian protection” have the same meaning as in the immigration rules.
- (5) In this section, “family members” include –
 - (a) a person's parent, including adoptive parent;
 - (b) a person's spouse, civil partner or unmarried partner;
 - (c) a person's child, including adopted child, who is either –
 - (i) under the age of 18, or
 - (ii) under the age of 25 but was either under the age of 18 or unmarried at the time the person granted asylum left their country of residence to seek asylum;

- (d) a person's sibling, including adoptive sibling, who is either –
 - (i) under the age of 18, or
 - (ii) under the age of 25, but was either under the age of 18 or unmarried at the time the person granted asylum left their country of residence to seek asylum; and
- (e) such other persons as the Secretary of State may determine, having regard to –
 - (i) the importance of maintaining family unity,
 - (ii) the best interests of a child,
 - (iii) the physical, emotional, psychological or financial dependency between a person granted refugee status or humanitarian protection and another person,
 - (iv) any risk to the physical, emotional or psychological wellbeing of a person who was granted refugee status or humanitarian protection, including from the circumstances in which the person is living in the United Kingdom, or
 - (v) such other matters as the Secretary of State considers appropriate.
- (6) For the purpose of subsection (5) –
 - (a) “adopted” and “adoptive” refer to a relationship resulting from adoption, including de facto adoption, as set out in the immigration rules;
 - (b) “best interests” of a child must be read in accordance with Article 3 of the 1989 UN Convention on the Rights of the Child.”

Member's explanatory statement

This new clause would make provision for leave to enter or remain in the UK to be granted to the family members of refugees and of people granted humanitarian protection.

BARONESS LISTER OF BURTERSETT
LORD CARLILE OF BERRIEW
LORD DUBS
LORD KERR OF KINLOCHARD

130

After Clause 59, insert the following new Clause –

“Safe passage visa scheme

- (1) Within three months of the passing of this Act, the Secretary of State must lay before each House of Parliament statements of changes to the immigration rules to make provision for a safe passage visa scheme (“the scheme”).
- (2) The purpose of the scheme referred to in subsection (1) is to enable a qualifying person to travel safely to the United Kingdom in order to make an application for asylum (within the meaning given by paragraph 327 of the immigration rules) or a claim for humanitarian protection (within the meaning given by paragraph 327EA of the immigration rules).
- (3) A person is a “qualifying person” for the purposes of subsection (2) if the person –

- (a) is present in a member State of the European Union when the person makes an application to the scheme;
 - (b) is not a national of a member State of the European Union, Liechtenstein, Norway or Switzerland; and
 - (c) would, on securing entry to the United Kingdom, be able to make –
 - (i) a valid application for asylum in accordance with paragraph 327AB of the immigration rules; or
 - (ii) a valid claim for humanitarian protection in accordance with paragraph 327EB of the immigration rules, which would not be clearly unfounded.
- (4) For the purposes of determining whether the conditions in subsection (3)(c) are satisfied, the following are disappplied –
- (a) the conditions in subsections (4) and (5) of section 80C of the Nationality, Immigration and Asylum Act 2002; and
 - (b) the duty in section 2(1) of this Act.
- (5) Changes to the immigration rules made under this section must also make provision for –
- (a) applications to the scheme, including –
 - (i) identification of the relevant gov.uk webpage through which applications must be made;
 - (ii) the provision of relevant biometric data by the person;
 - (iii) the supplying of relevant information and supporting documentation related to applications;
 - (iv) confirmation that applications are without cost to applicants; and
 - (v) provision for legal aid in relation to applications made to the scheme;
 - (b) any additional suitability requirements for applications to the scheme, including matters referred to in Part 9 of the immigration rules;
 - (c) entry requirements for those granted entry clearance under the scheme, including the requirement that the person be provided with a letter by the Secretary of State confirming that the person can enter the United Kingdom;
 - (d) limitations on the entry clearance granted under the scheme, including provision that clearance is provided solely to enable the person to make an application for asylum or a claim for humanitarian protection and requiring that such an application or claim be made immediately on entry into the United Kingdom; and
 - (e) appeal rights for those denied entry clearance under the scheme, including legal aid to be made available for persons making such appeals.
- (6) The scheme referred to in this section is to be specified as a “safe and legal route” for the purposes of regulations referred to in section 58(7) of this Act.
- (7) In this section “immigration rules” means rules under section 3(2) of the Immigration Act 1971.”

Member's explanatory statement

This new clause requires the Secretary of State to make provision for a visa scheme allowing persons with viable asylum claims, who meet specified conditions, to travel safely and legally to the UK in order to make such claims.

LORD PURVIS OF TWEED
LORD PADDICK
LORD CARLILE OF BERRIEW

131 After Clause 59, insert the following new Clause –

“Humanitarian travel permit

- (1) On an application by a person (“P”) to the appropriate decision-maker for entry clearance, the appropriate decision-maker must grant P entry clearance if satisfied that P is a relevant person.
- (2) For the purposes of subsection (1), P is a relevant person if –
 - (a) P intends to make a protection claim in the United Kingdom;
 - (b) P’s protection claim, if made in the United Kingdom, would have a realistic prospect of success; and
 - (c) there are serious and compelling reasons why P’s protection claim should be considered in the United Kingdom.
- (3) For the purposes of subsection (2)(c), in deciding whether there are such reasons why P’s protection claim should be considered in the United Kingdom, the appropriate decision-maker must take into account –
 - (a) the extent of the risk that P will suffer persecution or serious harm if entry clearance is not granted;
 - (b) the strength of P’s family and other ties to the United Kingdom;
 - (c) P’s mental and physical health and any particular vulnerabilities that P has; and
 - (d) any other matter that the decision-maker thinks relevant.
- (4) For the purposes of an application under subsection (1), the appropriate decision-maker must waive any of the requirements in subsection (5) if satisfied that P cannot reasonably be expected to comply with them.
- (5) The requirements are –
 - (a) any requirement prescribed (whether by immigration rules or otherwise) under section 50 of the Immigration, Asylum and Nationality Act 2006; and
 - (b) any requirement prescribed by regulations made under section 5, 6, 7 or 8 of the UK Borders Act 2007 (biometric registration).
- (6) No fee may be charged for the making of an application under subsection (1).
- (7) An entry clearance granted pursuant to subsection (1) has effect as leave to enter for such period, being not less than six months, and on such conditions as the Secretary of State may prescribe by order.

- (8) Upon a person entering the United Kingdom (within the meaning of section 11 of the Immigration Act 1971) pursuant to leave to enter given under subsection (7), that person is deemed to have made a protection claim in the United Kingdom.
- (9) In this section –
- “appropriate decision-maker” means a person authorised by the Secretary of State by rules made under section 3 of the Immigration Act 1971 to grant an entry clearance under subsection (1);
 - “entry clearance” has the same meaning as in section 33(1) of the Immigration Act 1971;
 - “persecution” is to be construed in accordance with its meaning in the Refugee Convention;
 - “protection claim” in relation to a person, means a claim that to remove them from or require them to leave the United Kingdom would be inconsistent with the United Kingdom’s obligations –
 - (a) under the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and the Protocol to that Convention (“the Refugee Convention”);
 - (b) in relation to persons entitled to a grant of humanitarian protection; or
 - (c) under Article 2 or 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4th November 1950 (“the European Convention on Human Rights”); and
 - “serious harm” means treatment that, if it occurred within the jurisdiction of the United Kingdom, would be contrary to the United Kingdom's obligations under Article 2 or 3 of the European Convention on Human Rights (irrespective of where it will actually occur).”

Member's explanatory statement

This amendment provides for a humanitarian travel permit, allowing a person to be granted entry clearance into the UK if they intend to make a protection claim in the UK and that claim would have a realistic prospect of success.

Clause 60

BARONESS LUDFORD

Baroness Ludford gives notice of her intention to oppose the Question that Clause 60 stand part of the Bill.

After Clause 60

BARONESS HAMWEE
LORD PADDICK

132 After Clause 60, insert the following new Clause –

“Operational efficiency

- (1) Within six months of the date on which this Act is passed the Secretary of State must publish a management review undertaken by management experts outside the Home Office, of –
 - (a) the efficiency of the processing by UK Visas and Immigration of applications, and
 - (b) the efficiency of the removal by Immigration Control of persons whose leave to remain has expired.
- (2) For the purposes of this section –
 - (a) “efficiency” includes fairness, and
 - (b) the review must include information regarding the numbers of appeals and their success rate.”

Member's explanatory statement

This amendment requires the Secretary of State to commission an independent management review of the efficiency of UK Visas and Immigration in processing applications and the efficiency of the removal process for those whose leave to remain has expired.

BARONESS LUDFORD
LORD CARLILE OF BERRIEW
THE LORD BISHOP OF CHELMSFORD
LORD KERR OF KINLOCHARD

133 After Clause 60, insert the following new Clause –

“Asylum seekers’ right to work

The Secretary of State must make regulations providing that adults applying for asylum in the United Kingdom may apply to the Secretary of State for permission to take up employment if a decision at first instance has not been taken on the applicant’s asylum application within 3 months of the date on which it was recorded.”

Member's explanatory statement

This new clause would require the Secretary of State to make regulations enabling asylum seekers to work once they have been waiting for a decision on their claim for 3 months or more.

LORD COAKER
LORD CARLILE OF BERRIEW

134 After Clause 60, insert the following new Clause –

“Publication of financial impact assessment

Within the period of one month beginning with the day on which this Act is passed, the Secretary of State must lay before each House of Parliament an assessment of the likely financial impacts of all measures set out in the Act.”

Member's explanatory statement

This amendment requires the Government to publish an impact assessment on the financial consequences of the bill within one month of it coming into force.

LORD COAKER
LORD CARLILE OF BERRIEW

135 After Clause 60, insert the following new Clause –

“Publication of impact assessment on asylum accommodation

Within the period of one month beginning with the day on which this Act is passed, the Secretary of State must lay before each House of Parliament an assessment of the likely impacts of this Act on the use of contingency asylum accommodation, and the costs associated with any necessary increase in use of contingency asylum accommodation as a consequence of this Act, including the use of hotels, barges, and cruise ships.”

Member's explanatory statement

This amendment requires the Government to publish an impact assessment on the use of hotels, barges, cruise ships and other temporary accommodation as a consequence of the measures introduced by this bill.

BARONESS HAMWEE
LORD PADDICK

136 After Clause 60, insert the following new Clause –

“People smuggling

- (1) Not less than six months before the other provisions of this Act come into force, the Secretary of State must lay before each House of Parliament a report regarding agreements and discussions with the governments and authorities of other countries, including those bordering the English Channel and the North Sea, concerning the steps taken or agreed or proposed to prevent or deter a person from –
 - (a) charging refugees for assistance or purported assistance in travelling to or entering the United Kingdom;
 - (b) endangering the safety of refugees travelling to the United Kingdom.

- (2) The report must focus on steps other than the provisions of this Act.
- (3) This section comes into force on the day on which this Act is passed.”

Member's explanatory statement

This new clause requires the Secretary of State to publish a report on the actions that are being taken to tackle people smugglers.

LORD COAKER
BARONESS LUDFORD

137 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.

LORD COAKER
BARONESS LUDFORD

138 After Clause 60, insert the following new Clause –

“Negotiating objective: cross-border police cooperation

- (1) It must be a negotiating objective of His Majesty’s Government to negotiate with relevant States formal agreements which facilitate cross-border police cooperation enabling the identification and detaining of persons suspected of modern slavery and human trafficking offences, for the purposes of preventing and deterring illegal migration.
- (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 agreements which facilitate cross-border police cooperation enabling the identification and detaining of persons suspected of modern slavery and human trafficking offences, for the purposes of preventing and deterring illegal migration, and

- (b) lay the report before both Houses of Parliament.”

Member's explanatory statement

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

BARONESS CHAKRABARTI

139 After Clause 60, insert the following new Clause—

“Office for Refugees and Asylum Seekers

- (1) The Secretary of State must establish an Office for Refugees and Asylum Seekers within His Majesty’s Foreign, Commonwealth and Development Office.
- (2) The Office shall be responsible for—
 - (a) exercising the Secretary of State’s functions in considering claims for protection under—
 - (i) Articles 2, 3 and 4 of the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms;
 - (ii) the 1951 UN Convention relating to the Status of Refugees including the Protocol to that Convention;
 - (iii) the 1961 Convention on the Reduction of Statelessness;
 - (iv) the 2005 Council of Europe Convention on Action against Trafficking in Human Beings;
 - (b) exercising the Secretary of State’s functions in considering and providing safe legal routes to the United Kingdom for those in need of humanitarian protection from specific countries from time to time and more generally;
 - (c) for the purposes of reducing the need for protection in the United Kingdom, advising the Secretary of State in relation to aid and other action in conflict and other zones in which significant numbers of people are being or likely to be displaced and enter the United Kingdom as refugees, relevant treaty negotiations, other relevant international partnerships and liaison with the UN High Commissioner for Human Rights;
 - (d) such other related functions as delegated by the Secretary of State.”

Member's explanatory statement

This amendment probes into whether current inter-departmental responsibilities and structures are best designed for the expert processing of refugee and other humanitarian protection claims and the kind of international working needed to address the number of people seeking to enter the UK as refugees.

LORD ALTON OF LIVERPOOL
 BARONESS HAMWEE
 THE LORD BISHOP OF LONDON

139A After Clause 60, insert the following new Clause –

“Secure reporting for victims of crime

- (1) The Secretary of State must, by regulations, make provision for the prohibition of automatic sharing of personal data of a victim or witness of crime for the purposes of section 2(1).
- (2) In section 20 of the Immigration and Asylum Act 1999 (power to supply information etc to Secretary of State), after subsection (2B) insert –
 - “(2C) For the purposes of section 2(1) of the Illegal Migration Act 2023, this section does not apply to information held about a person as a result of the person reporting criminal behaviour which they are a victim of or a witness to.”

Member's explanatory statement

This new Clause would prevent immigration data being shared for the purposes of section 2(1) about a victim or witness of crime who reports an offence. This is to ensure victims are able to approach the authorities for assistance without fear of removal under section 2(1) as a result of that contact or resultant data sharing with immigration enforcement.

THE LORD BISHOP OF DURHAM
 BARONESS LISTER OF BURTERSETT
 LORD SCRIVEN

139B After Clause 60, insert the following new Clause –

“Duty to comply with recommendations of Chief Inspector of Prisons

- (1) This section applies to a report made by the Chief Inspector of Prisons to the Secretary of State under section 5A(3) of the Prison Act 1952 (appointment and functions of His Majesty’s Chief Inspector of Prisons) in relation to the impact of this Act on –
 - (a) removal centres,
 - (b) short-term holding facilities,
 - (c) pre-departure accommodation, and
 - (d) escort arrangements
 within the meaning of section 147 of the Immigration and Asylum Act 1999 (interpretation).
- (2) The Secretary of State must, within six months, implement any recommendations made by the Chief Inspector of Prisons in a report to which this section applies.”

Member's explanatory statement

This Clause would place the Secretary of State under a statutory duty to implement recommendations of the Chief Inspector of Prisons in relation to immigration detention and the impact of this Act within six months.

THE LORD ARCHBISHOP OF CANTERBURY
LORD KIRKHOPE OF HARROGATE
LORD HUNT OF KINGS HEATH
LORD BLUNKETT

139C After Clause 60, insert the following new Clause –

“Ten-year strategy on human trafficking

- (1) The Secretary of State must prepare a ten-year strategy for tackling human trafficking to the UK through collaboration with signatories to the European Convention against Trafficking or any other international agreement on human trafficking.
- (2) The Secretary of State must make and lay before Parliament a statement of policies for implementing the strategy.
- (3) The first statement must be made within twelve months of the passing of this Act; and a subsequent statement must be made within twelve months of the making of the previous statement.
- (4) A Minister of the Crown must, within 28 sitting days of the statement being laid before Parliament, table a motion for resolution in each House of Parliament in relation to the statement.
- (5) “Ten-year strategy” means a strategy for the period of ten years beginning with the day on which preparation of the strategy is completed.
- (6) “The European Convention against Trafficking” means the Council of Europe Convention on Action against Trafficking in Human Beings done at Warsaw on 16th May 2005.
- (7) A “sitting day”, in relation to each House of Parliament, means a day on which that House begins to sit.”

Member's explanatory statement

This amendment would require the Secretary of State to have a ten-year strategy for collaborating internationally to tackle human trafficking into the UK.

THE LORD ARCHBISHOP OF CANTERBURY
LORD BOURNE OF ABERYSTWYTH
LORD BLUNKETT
BARONESS KENNEDY OF THE SHAWS

139D After Clause 60, insert the following new Clause –

“Ten-year strategy on refugees

- (1) The Secretary of State must prepare a ten-year strategy for tackling refugee crises driving people to enter the UK as refugees through collaboration with signatories to the Refugee Convention or any other international agreement on the rights of refugees.
- (2) The Secretary of State must make and lay before Parliament a statement of policies for implementing the strategy.
- (3) The first statement must be made within twelve months of the passing of this Act; and a subsequent statement for the strategy must be made within twelve months of the making of the previous statement.
- (4) A Minister of the Crown must, within 28 sitting days of the statement being laid before Parliament, table a motion for resolution in each House of Parliament in relation to the statement.
- (5) “Ten-year strategy” means a strategy for the period of ten years beginning with the day on which preparation of the strategy is completed.
- (6) “The Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and its Protocol.
- (7) A “sitting day”, in relation to each House of Parliament, means a day on which that House begins to sit.”

Member's explanatory statement

This amendment would require the Secretary of State to have a ten-year strategy for collaborating internationally to tackle refugee crises driving people to enter the UK as refugees.

LORD SWIRE
LORD GARNIER
LORD SOAMES OF FLETCHING

139E After Clause 60, insert the following new Clause –

“Illegal migration in the UK

- (1) The Secretary of State must, one year after the passing of this Act, and annually after that, lay before each House of Parliament a report on illegal migration in the UK.
- (2) The report must provide statistics for each reporting year on the number of –
 - (a) illegal immigrants in the UK;

- (b) illegal immigrants that have been removed from the UK, and to which countries, each year;
- (c) foreign national offenders that arrived in the UK illegally and are in prison in the UK;
- (d) foreign national offenders that qualify for removal from the UK; and
- (e) foreign national offenders that have been removed from the UK.”

BARONESS KENNEDY OF THE SHAWS
LORD ALTON OF LIVERPOOL

139F 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 61

BARONESS HAMWEE

Baroness Hamwee gives notice of her intention to oppose the Question that Clause 61 stand part of the Bill.

Clause 62

BARONESS HAMWEE

Baroness Hamwee gives notice of her intention to oppose the Question that Clause 62 stand part of the Bill.

Clause 63

LORD MURRAY OF BLIDWORTH

139G 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.

LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH**140** Clause 63, page 63, line 31 at end 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.

BARONESS HAMWEE

Baroness Hamwee gives notice of her intention to oppose the Question that Clause 63 stand part of the Bill.

Clause 64

LORD MURRAY OF BLIDWORTH

141 Clause 64, page 64, line 20, at end insert –

“national	section 3(11)”
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Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 5, line 38.

BARONESS HAMWEE

Baroness Hamwee gives notice of her intention to oppose the Question that Clause 64 stand part of the Bill.

Clause 65

BARONESS HAMWEE

Baroness Hamwee gives notice of her intention to oppose the Question that Clause 65 stand part of the Bill.

Clause 66

LORD GERMAN

142 Clause 66, page 65, line 29, after “subsections” insert “(2A),”

Member's explanatory statement

This amendment is consequential on Lord German's amendment to page 65, line 32.

LORD GERMAN

143 Clause 66, page 65, line 32, at end insert –

“(2A) Regulations under subsection (1) may not be made until –

- (a) the Chairman of the Inquiry has notified the Secretary of State under section 14(1)(a) of the Inquiries Act 2005 that the Inquiry has fulfilled its terms of reference,
- (b) the report of the Inquiry has been laid before Parliament under section 26 of that Act, and
- (c) a Minister of the Crown has laid before Parliament a statement setting out how they propose to implement the recommendations of the Inquiry.”

Member's explanatory statement

This amendment and consequential amendments would prevent the provisions of the Bill from being brought into force until the Brook House Inquiry has fulfilled its terms of reference.

LORD GERMAN

144 Clause 66, page 65, line 35, leave out paragraph (a)

Member's explanatory statement

This amendment is consequential on Lord German's amendment to page 65, line 32.

THE LORD ARCHBISHOP OF CANTERBURY
LORD KIRKHOPE OF HARROGATE
LORD HUNT OF KINGS HEATH
LORD BLUNKETT

144A Clause 66, page 65, line 36, at end insert –

“(ba) section (*ten-year strategy on human trafficking*) (ten-year strategy on human trafficking);”

Member's explanatory statement

This amendment would provide for the new Clause on a ten-year strategy on human trafficking tabled by the Lord Archbishop of Canterbury to come into force on the day on which this Act is passed.

THE LORD ARCHBISHOP OF CANTERBURY
LORD BOURNE OF ABERYSTWYTH
LORD BLUNKETT
BARONESS KENNEDY OF THE SHAWES

144B Clause 66, page 65, line 36, at end insert –

“(ba) section (*ten-year strategy on refugees*) (ten-year strategy on refugees);”

Member's explanatory statement

This amendment would provide for the new Clause on a ten-year strategy on refugees tabled by the Lord Archbishop of Canterbury to come into force on the day on which this Act is passed.

LORD MORROW

145 Clause 66, page 66, line 15, at end insert –

“(4A) The Secretary of State may not make regulations under subsection (1) to bring sections 21 to 28 into force until –

- (a) the Secretary of State has published an assessment of the impact of Part 5 of the Nationality and Borders Act 2022;
- (b) the Secretary of State has published an impact statement with regards to this Act on –
 - (i) the costs of detention and removal under sections 21 to 28,
 - (ii) the estimated number of persons who will not receive assistance and support under sections 22 to 24,
 - (iii) the estimated number of persons who will receive an exemption under sections 21, 23 or 24 because they are cooperating with a public authority in connection with an investigation or criminal proceedings in respect of the relevant exploitation,
 - (iv) the anticipated impact on the number of persons likely to be referred to a competent authority under sections 21, 23 and 24,

- (v) the anticipated impact on the well-being of persons to whom sections 21 to 28 apply, and
- (vi) the anticipated impact of sections 21 to 28 on the number of prosecutions for offences connected to modern slavery across the United Kingdom.”

Member's explanatory statement

This amendment is intended to delay the entry into force of the Bill's provisions on modern slavery until such time as the Secretary of State has assessed the impact of Part 5 of the Nationality and Borders Act 2022 and published an impact statement on the effects of the Clauses on modern slavery.

LORD MCCOLL OF DULWICH
LORD COAKER
BARONESS HAMWEE

146 Clause 66, page 66, line 15, at end insert –

- “(4A) The Secretary of State may not make regulations under subsection (1) bringing into force the provisions in sections 21 to 28 until after an Independent Anti-Slavery Commissioner has –
- (a) been appointed,
 - (b) been consulted by the Secretary of State on the potential implications of the relevant sections, and
 - (c) published an assessment of the Bill.”

Member's explanatory statement

This amendment is intended to delay the entry into force of the Bill's provisions on modern slavery until such time as the Secretary of State has appointed and consulted with a new Independent Anti-Slavery Commissioner.

LORD GERMAN

147 Clause 66, page 66, line 17, at end insert –

- “(6) In this section “the Inquiry” means the inquiry announced by Priti Patel MP on 5 November 2019, pursuant to the provisions of the Inquiries Act 2005, into the decisions, actions and circumstances surrounding the mistreatment of detainees broadcast in the BBC Panorama programme ‘Undercover: Britain’s Immigration Secrets’ on 4 September 2017.”

Member's explanatory statement

This amendment is consequential on Lord German's amendment to page 65, line 32.

BARONESS LUDFORD
LORD PADDICK
BARONESS JONES OF MOULSECOOMB

148 Leave out Clause 66 and insert the following new Clause –

“Commencement: Human Rights Act

- (1) Subject to subsection (4), the provisions in this Act do not come into force until at least 28 days after the Secretary of State has published a statement that in their view its provisions are compatible with the Convention rights as defined by the Human Rights Act 1998.
- (2) Subject to subsections (1) and (4) provisions in this Act come into force on such day as the Secretary of State may by regulations appoint.
- (3) Regulations under subsection (2) may appoint different days for different purposes.
- (4) The following provisions come into force on the day on which this Act is passed –
 - (a) this section,
 - (b) section 67.”

Member's explanatory statement

This amendment provides that other provisions in this Act cannot come into force until the Home Secretary is able to make a positive statement that its provisions are compatible with the Convention rights as defined by the 1998 Human Rights Act.

BARONESS HAMWEE
LORD PADDICK

149 Leave out Clause 66 and insert the following new Clause –

“Commencement: impact assessment

- (1) Subject to subsection (4), the provisions in this Act do not come into force until at least 28 days after the Secretary of State has published an impact assessment on this Act.
- (2) Subject to subsections (1) and (4) provisions in this Act come into force on such day as the Secretary of State may by regulations appoint.
- (3) Regulations under subsection (2) may appoint different days for different purposes.
- (4) The following provisions come into force on the day on which this Act is passed–
 - (a) this section,
 - (b) section 67.”

Member's explanatory statement

This amendment provides that the Act cannot come into force until the Home Secretary publishes an impact assessment on the Bill.

BARONESS HAMWEE
LORD PADDICK
LORD CARLILE OF BERRIEW
BARONESS NEUBERGER

150 Leave out Clause 66 and insert the following new Clause—

“Commencement: backlog of claims

- (1) Subject to subsection (4), the provisions in this Act do not come into force until at least 28 days after the Secretary of State has published a statement confirming that the number of persons who have for a period of six months or longer been awaiting the final determination of their claim for asylum in the United Kingdom has for not less than six months been not more than twenty thousand.
- (2) Subject to subsections (1) and (4) provisions in this Act come into force on such day as the Secretary of State may by regulations appoint.
- (3) Regulations under subsection (2) may appoint different days for different purposes.
- (4) The following provisions come into force on the day on which this Act is passed—
 - (a) this section,
 - (b) section 67.”

Member's explanatory statement

This amendment provides that provisions in this Act cannot come into force until the backlog of asylum claims has been significantly reduced.

BARONESS HAMWEE
LORD CARLILE OF BERRIEW

The above-named Lords give notice of their intention to oppose the Question that Clause 66 stand part of the Bill.

Clause 67

BARONESS HAMWEE

Baroness Hamwee gives notice of her intention to oppose the Question that Clause 67 stand part of the Bill.

Illegal Migration Bill

REVISED SECOND MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

2 June 2023

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