

Illegal Migration Bill

AMENDMENTS TO BE MOVED ON REPORT

Clause 2

LORD CARLILE OF BERRIEW

Clause 2, page 3, line 26, leave out “7 March 2023” and insert “the date on which this section comes into force”

Member's explanatory statement

This amendment ensures the duty to deport in Clause 2 does not apply retrospectively to those who entered or arrived in the United Kingdom before the Bill comes into force.

Clause 4

LORD HUNT OF KINGS HEATH
LORD CORMACK

Clause 4, page 6, line 6, leave out subsection (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 CARLILE OF BERRIEW

Clause 4, page 6, line 37, leave out from first “claim” to end of line 40 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.

Clause 5

LORD CARLILE OF BERRIEW

Clause 5, page 8, line 23, 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 CARLILE OF BERRIEW

Clause 5, page 8, 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 the removal provisions in Clause 5 only apply to those who make protection or human rights claims after the Bill comes into force.

LORD CARLILE OF BERRIEW

Clause 5, page 9, leave out lines 2 to 4 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.

Clause 6

LORD CARLILE OF BERRIEW

Clause 6, page 9, line 12, 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).

After Clause 6

LORD ETHELTON
LORD CASHMAN

After Clause 6, insert the following new Clause—

“Restrictions on removal destinations: LGBT persons

- (1) Where the Secretary of State is required by section 2(1) to make arrangements for the removal of a person from the United Kingdom—
 - (a) trans men and women must not be removed to Brazil;
 - (b) LGBT persons must not be removed to Gambia, Ghana, Jamaica, Kenya, Liberia, Malawi, Mauritius, Nigeria, Rwanda or Sierra Leone;
 - (c) no person may be removed to a territory or country listed in Schedule 1 (Countries or territories to which a person may be removed) if the exceptional circumstances specified in section 5(5)(b) apply to that territory or country.
- (2) The Secretary of State may by regulations amend subsection (1) to—
 - (a) add or remove a country or territory, or part of a country or territory;
 - (b) reflect changes made to Schedule 1 by regulations made under section 6.”

Member's explanatory statement

This amendment would prevent LGBT people being moved to countries where they have a well-founded fear of persecution; or to a country which is subject to proceedings under Article 7 of the Treaty on European Union, as is currently the case with Hungary and Poland, and as is recognised as inappropriate by the existing Clause 5(5).

Clause 10

LORD HUNT OF KINGS HEATH
LORD CORMACK

Clause 10, page 15, leave out lines 1 to 4

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 CORMACK

Clause 10, page 15, line 35, at end insert—

“(2L) The Secretary of State may not exercise these powers to detain a person under section (2C) where they fall 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 HUNT OF KINGS HEATH
LORD CORMACK

Clause 10, page 16, leave out lines 36 to 38

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.

Clause 15

LORD CARLILE OF BERRIEW

Clause 15, page 23, line 35, 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.

Clause 21

LORD HUNT OF KINGS HEATH
LORD CORMACK

Clause 21, page 26, line 15, 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
LORD CORMACK

Clause 21, page 26, line 16, leave out subsection (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 HUNT OF KINGS HEATH
LORD CORMACK

Clause 21, page 26, line 28, after “if” insert “any one of the below conditions 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 HUNT OF KINGS HEATH
LORD CORMACK

Clause 21, page 26, line 33, leave out “and”

LORD HUNT OF KINGS HEATH
LORD CORMACK

Clause 21, page 26, line 37, 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 CARLILE OF BERRIEW

Clause 21, page 27, line 9, 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 HUNT OF KINGS HEATH
LORD CORMACK

Clause 21, page 27, line 33, 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 HUNT OF KINGS HEATH
LORD CORMACK

Clause 21, page 27, line 36, 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.

Clause 22

LORD HUNT OF KINGS HEATH
LORD CORMACK

Leave out Clause 22

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.

Clause 25

LORD HUNT OF KINGS HEATH
LORD CORMACK

Clause 25, page 31, line 40, leave out from second “of” to end of line 41 and insert “12 months from 7 March 2023”

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.

Clause 26

LORD HUNT OF KINGS HEATH
LORD CORMACK

Clause 26, page 32, line 35, 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.

Clause 27

LORD HUNT OF KINGS HEATH
LORD CORMACK

Clause 27, page 33, line 33, 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.

LORD HUNT OF KINGS HEATH
LORD CORMACK

Clause 27, page 34, line 5, 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 CORMACK

Clause 27, page 34, line 9, 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.

Clause 28

LORD HUNT OF KINGS HEATH
LORD CORMACK

Clause 28, page 34, line 16, 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
LORD CORMACK

Clause 28, page 34, line 31, after “imprisonment” add “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.

Illegal Migration Bill

AMENDMENTS
TO BE MOVED
ON REPORT

16 June 2023

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS