

Illegal Migration Bill

AMENDMENTS
TO BE MOVED
ON REPORT

Clause 1

BARONESS CHAKRABARTI
LORD PADDICK
LORD ETHERTON
LORD KIRKHOPE OF HARROGATE

Revised version of the amendment in the name of Baroness Chakrabarti on sheet HL Bill 148(a)

Leave out Clause 1 and insert the following new clause—

“Introduction

Nothing in this Act shall require any act or omission that conflicts with the obligations of the United Kingdom under—

- (a) the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms;
- (b) the 1951 UN Convention relating to the Status of Refugees including the Protocol to that Convention;
- (c) the 1954 and 1961 UN Conventions on the Reduction of Statelessness;
- (d) the 1989 UN Convention on the Rights of the Child;
- (e) the 2005 Council of Europe Convention on Action against Trafficking Human Beings.”

Member's explanatory statement

This amendment replaces the narrative and interpretation provisions of Clause 1 with clear provision for compliance with all the key international obligations engaged by the Bill.

Clause 3

LORD MURRAY OF BLIDWORTH

Clause 3, page 5, line 35, at end insert—

- “(10A) A statutory instrument containing regulations under subsection (7) must be laid before Parliament after being made.
- (10B) Regulations contained in a statutory instrument laid before Parliament under subsection (10A) cease to have effect at the end of the period of 28 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.

- (10C) In calculating the period of 28 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.
- (10D) If regulations cease to have effect as a result of subsection (10B) that does not—
- (a) affect the validity of anything previously done under the regulations, or
 - (b) prevent the making of new regulations.”

Member's explanatory statement

This amendment applies the “made affirmative” procedure to regulations under clause 3(7) (power to make provision for other exceptions from the duty in clause 2(1)).

Clause 5

LORD MURRAY OF BLIDWORTH

Clause 5, page 7, line 31, at end insert “or territory”

Member's explanatory statement

This amendment supplements the reference to a country in subsection (4)(b) of clause 5 with a reference to a territory, for consistency with the earlier reference in subsection (4) to a country or territory within subsection (3)(a) or (b) of that clause.

Clause 7

LORD MURRAY OF BLIDWORTH

Clause 7, page 10, line 37, after “State” insert “or an immigration officer”

Member's explanatory statement

This amendment supplements the reference to the Secretary of State in clause 7(8) with a reference to an immigration officer.

LORD MURRAY OF BLIDWORTH

Clause 7, page 10, line 41, after “State” insert “or an immigration officer”

Member's explanatory statement

This amendment and the amendments in the name of Lord Murray of Blidworth at page 10, line 42 and page 11, line 1 supplement the references to the Secretary of State in clause 7(9) with references to an immigration officer.

LORD MURRAY OF BLIDWORTH

Clause 7, page 10, line 42, after “State” insert “or an immigration officer”

Member's explanatory statement

See the explanatory statement in the name of Lord Murray of Blidworth at page 10, line 41.

LORD MURRAY OF BLIDWORTH

Clause 7, page 11, line 1, after “State” insert “or an immigration officer”

Member's explanatory statement

See the explanatory statement in the name of Lord Murray of Blidworth at page 10, line 41.

LORD DAVIES OF BRIXTON

Clause 7, page 11, line 7, at end insert “so long as P is accompanied by a suitably trained and qualified escort with the powers of a constable”

Member's explanatory statement

This amendment would require a person (who may be a child) subject to removal to be accompanied by an escort trained and employed for this task and with the power of arrest.

LORD DAVIES OF BRIXTON

Clause 7, page 11, line 10, leave out “must” and insert “may”

Member's explanatory statement

This amendment would remove the mandatory nature of the requirement, if so instructed by an immigration officer, for a ship or aircraft captain, a train manager or a vehicle driver to prevent a person getting off.

LORD DAVIES OF BRIXTON

Clause 7, page 11, line 12, after “fulfilled,” insert “to the extent that so doing does not conflict with any duty of his or hers under his or her contract of employment or under any other statutory obligation whether in relation to safety or otherwise”

Member's explanatory statement

This amendment would prevent difficulty being caused where the contractual or safety or other statutory duties of a ship or aircraft captain, a train manager or a vehicle driver conflict with the instruction of an immigration officer to prevent a person getting off.

LORD DAVIES OF BRIXTON

Clause 7, page 11, line 14, at end insert “to the extent that so doing does not conflict with any duty of his or hers under his or her contract of employment or under any other statutory obligation whether in relation to safety or otherwise”

Member's explanatory statement

This amendment would prevent difficulty being caused where the contractual or safety or other statutory duties of a ship or aircraft captain, a train manager or a vehicle driver conflict with the instruction of an immigration officer to detain a person.

Clause 9

LORD MURRAY OF BLIDWORTH

Clause 9, page 12, line 16, leave out “(2) and” and insert “(1A) to”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 12, line 17.

LORD MURRAY OF BLIDWORTH

Clause 9, page 12, line 17, at end insert –

“(1A) In section 24(1) (illegal entry and similar offences), after paragraph (f) insert –

“(fa) if the person disembarks in the United Kingdom from a ship, aircraft, train or vehicle after being placed on board under section 7(11) of the Illegal Migration Act 2023 with a view to the person’s removal from the United Kingdom;”.

Member's explanatory statement

This amendment provides for section 24(1) of the Immigration Act 1971 to be amended so that it is an offence for a person to disembark in the United Kingdom from a ship, aircraft, train or vehicle if they have been placed on board with a view to their removal under the Bill.

LORD DAVIES OF BRIXTON

Clause 9, page 12, leave out lines 19 to 24

Member's explanatory statement

This amendment would remove the possibility of it being a criminal offence for a ship or aircraft captain, a train manager or a vehicle driver, when instructed by an immigration officer, to fail (for whatever reason) to prevent a person getting off.

Clause 10

LORD MURRAY OF BLIDWORTH

Clause 10, page 15, line 29, at end insert –

- “(2IA) A statutory instrument containing the first regulations under sub-paragraph (2D) or (2E) must be laid before Parliament after being made.
- (2IB) Regulations contained in a statutory instrument laid before Parliament under sub-paragraph (2IA) cease to have effect at the end of the period of 28 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.
- (2IC) In calculating the period of 28 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.
- (2ID) If regulations cease to have effect as a result of sub-paragraph (2IB) that does not—
- (a) affect the validity of anything previously done under the regulations, or
 - (b) prevent the making of new regulations.”

Member's explanatory statement

This amendment applies the “made affirmative” procedure to the first regulations made under paragraph 16(2D) or (2E) of Schedule 2 to the Immigration Act 1971 (detention of unaccompanied children).

LORD MURRAY OF BLIDWORTH

Clause 10, page 15, line 30, leave out from “containing” to end of line 32 and insert “any other regulations under sub-paragraph (2D) or (2E) 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 applies the “draft affirmative” procedure to regulations made under paragraph 16(2D) or (2E) of Schedule 2 to the Immigration Act 1971 (detention of unaccompanied children), other than the first such regulations.

LORD MURRAY OF BLIDWORTH

Clause 10, page 17, line 14, at end insert –

- “(2GA) A statutory instrument containing the first regulations under subsection (2B) or (2C) must be laid before Parliament after being made.
- (2GB) Regulations contained in a statutory instrument laid before Parliament under subsection (2GA) cease to have effect at the end of the period of 28 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.

- (2GC) In calculating the period of 28 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.
- (2GD) If regulations cease to have effect as a result of subsection (2GB) that does not—
- (a) affect the validity of anything previously done under the regulations, or
 - (b) prevent the making of new regulations.”

Member's explanatory statement

This amendment applies the “made affirmative” procedure to the first regulations made under section 62(2B) or (2C) of the Nationality, Immigration and Asylum Act 2002 (detention of unaccompanied children).

LORD MURRAY OF BLIDWORTH

Clause 10, page 17, line 15, leave out from “containing” to end of line 17 and insert “any other regulations under subsection (2B) or (2C) 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 applies the “draft affirmative” procedure to regulations made under section 62(2B) or (2C) of the Nationality, Immigration and Asylum Act 2002 (detention of unaccompanied children), other than the first such regulations.

BARONESS LISTER OF BURTERSETT

Clause 10, page 17, line 30, leave out subsection (10)

Member's explanatory statement

This is a technical amendment that is consequent on the amendment in my name to Clause 10, page 17, line 32. This is because section 10(10) as currently in the Bill is consistent with the exclusion of pregnant women from section 60 protection, and should therefore be removed as a consequence of the other amendment.

Clause 37

LORD MURRAY OF BLIDWORTH

Clause 37, page 41, line 1, leave out “factual” and insert “removal conditions”

Member's explanatory statement

This amendment changes the name of a “factual suspensive claim” to a “removal conditions suspensive claim”.

LORD MURRAY OF BLIDWORTH

Clause 37, page 41, line 2, leave out “Factual” and insert “Removal conditions”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 41, line 1.

LORD MURRAY OF BLIDWORTH

Clause 37, page 41, line 3, leave out from “the” to end of line 4 and insert “person does not meet the removal conditions”

Member's explanatory statement

This amendment changes the definition of what will become a “removal conditions suspensive claim” so that it includes any claim that a person does not meet the removal conditions.

LORD MURRAY OF BLIDWORTH

Clause 37, page 41, line 19, leave out subsections (9) and (10)

Member's explanatory statement

This amendment removes the power of the Secretary of State to make regulations which amend the definition of “working day” in clause 37(8).

Clause 42

LORD MURRAY OF BLIDWORTH

Clause 42, page 45, line 2, leave out “factual” and insert “removal conditions”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 41, line 1.

LORD MURRAY OF BLIDWORTH

Clause 42, page 45, line 6, leave out paragraphs (a) and (b) and insert –

- “(a) that the person does not meet the removal conditions, or
- (b) that the person meets the removal conditions.”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 41, line 3.

LORD MURRAY OF BLIDWORTH

Clause 42, page 45, line 13, leave out “factual” and insert “removal conditions”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 41, line 1.

LORD MURRAY OF BLIDWORTH

Clause 42, page 45, line 18, leave out from “the” to end of line 20 and insert “person does not meet the removal conditions,”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 41, line 3.

LORD MURRAY OF BLIDWORTH

Clause 42, page 45, line 26, leave out “factual” and insert “removal conditions”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 41, line 1.

LORD MURRAY OF BLIDWORTH

Clause 42, page 45, line 33, leave out “factual” and insert “removal conditions”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 41, line 1.

Clause 43

LORD MURRAY OF BLIDWORTH

Clause 43, page 46, line 10, leave out paragraph (b) and insert—

“(b) in the case of a removal conditions suspensive claim, the person does not meet the removal conditions,”

Member's explanatory statement

This amendment is consequential on the amendments in the name of Lord Murray of Blidworth at page 41, line 1 and page 41, line 3.

LORD MURRAY OF BLIDWORTH

Clause 43, page 46, line 16, leave out “factual” and insert “removal conditions”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 41, line 1.

LORD MURRAY OF BLIDWORTH

Clause 43, page 46, line 24, leave out paragraph (b) and insert—

“(b) in relation to a removal conditions suspensive claim, whether the person meets the removal conditions.”

Member's explanatory statement

This amendment is consequential on the amendments in the name of Lord Murray of Blidworth at page 41, line 1 and page 41, line 3.

Clause 44

LORD MURRAY OF BLIDWORTH

Clause 44, page 47, line 6, leave out “factual” and insert “removal conditions”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 41, line 1.

LORD MURRAY OF BLIDWORTH

Clause 44, page 47, line 8, leave out from “the” to end of line 10 and insert “person does not meet the removal conditions”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 41, line 3.

Clause 45

LORD MURRAY OF BLIDWORTH

Clause 45, page 47, line 31, leave out “factual” and insert “removal conditions”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 41, line 1.

LORD MURRAY OF BLIDWORTH

Clause 45, page 47, line 32, leave out “factual” and insert “removal conditions”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 41, line 1.

Clause 56

LORD MURRAY OF BLIDWORTH

Clause 56, page 58, line 37, after “tribunal” insert “must determine the application on the basis that the person’s age is a matter of fact to be determined by the relevant authority; and accordingly the court or tribunal”

Member's explanatory statement

This amendment confirms that, on an application for judicial review of a decision mentioned in clause 56(3), the court or tribunal must treat a person’s age as a matter of fact to be determined by the relevant authority.

LORD MURRAY OF BLIDWORTH

Clause 56, page 58, line 38, leave out from “may” to “was” and insert “grant relief only on the basis that the decision”

Member's explanatory statement

This amendment and the amendment in the name of Lord Murray of Blidworth at page 59, line 1 expand the references in clause 56(5) to a court or tribunal quashing a decision to cover all of the kinds of relief that a court or tribunal may grant on an application.

LORD MURRAY OF BLIDWORTH

Clause 56, page 59, line 1, leave out “quash the decision” and insert “grant relief”

Member's explanatory statement

See the explanatory statement for the amendment in the name of Lord Murray of Blidworth at page 58, line 38.

After Clause 60

BARONESS KENNEDY OF THE SHAWS

After Clause 60, insert the following new Clause –

“Emergency visas for human rights defenders

- (1) The Secretary of State must, within six months of the day on which this Act is passed, amend the immigration rules in order to ensure that human rights

defenders at particular risk are entitled to enter the United Kingdom and be provided with temporary accommodation.

- (2) For the purposes of this section, “human rights defenders at particular risk” means individuals who –
- (a) act to promote or protect human rights in a peaceful manner including, but not limited to, lawyers and journalists, and
 - (b) are at an imminent risk because of their work, as evidenced by credible direct threats to their life or personal safety.”

Member's explanatory statement

This new Clause would allow human rights defenders at particular risk to be able to be provided with safety in the UK.

Clause 67

LORD MURRAY OF BLIDWORTH

Clause 67, page 68, line 29, leave out paragraph (h)

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 41, line 19.

Schedule 2

LORD MURRAY OF BLIDWORTH

Schedule 2, page 71, line 9, leave out “local” and insert “relevant”

Member's explanatory statement

This amendment, the first amendment in the name of Lord Murray of Blidworth at page 71, line 22 and the amendment in the name of Lord Murray of Blidworth at page 71, line 25 have the effect that the reference to a person in the care of a local authority in the definition of “appropriate adult” in paragraph 2(1) of Schedule 2 is replaced with a reference to a person in the care of a relevant authority as defined by that paragraph.

LORD MURRAY OF BLIDWORTH

Schedule 2, page 71, line 12, leave out “social worker of a local authority” and insert “registered social worker”

Member's explanatory statement

This amendment and the second amendment in the name of Lord Murray of Blidworth at page 71, line 22 have the effect that the reference to a social worker of a local authority in the definition of “appropriate adult” in paragraph 2(1) of Schedule 2 is replaced with a reference to a registered social worker as defined by that paragraph.

LORD MURRAY OF BLIDWORTH

Schedule 2, page 71, line 22, at end insert –

““local authority” –

- (a) in relation to England, means a county council, a district council for an area for which there is no county council, a London borough council, the Common Council of the City of London in its capacity as a local authority or the Council of the Isles of Scilly;
- (b) in relation to Wales, means a county council or a county borough council;
- (c) in relation to Scotland, means a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;”

Member's explanatory statement

See the amendment in the name of Lord Murray of Blidworth at page 71, line 9.

LORD MURRAY OF BLIDWORTH

Schedule 2, page 71, line 22, at end insert –

““registered social worker” means a person registered as a social worker in a register maintained by –

- (a) Social Work England,
- (b) Social Care Wales,
- (c) the Scottish Social Services Council, or
- (d) the Northern Ireland Social Care Council;”

Member's explanatory statement

See the amendment in the name of Lord Murray of Blidworth at page 71, line 12.

LORD MURRAY OF BLIDWORTH

Schedule 2, page 71, line 25, at end insert –

““relevant authority” –

- (a) in relation to England and Wales and Scotland, means a local authority;
- (b) in relation to Northern Ireland, means an authority within the meaning of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)) (see Article 2(2) of that Order);”

Member's explanatory statement

See the amendment in the name of Lord Murray of Blidworth at page 71, line 9.

LORD DAVIES OF BRIXTON

Schedule 2, page 71, line 38, at end insert –

“which is chartered or hired by the Secretary of State for the purposes of sections 2 or 3”

Member's explanatory statement

This amendment would prevent disruption to public transport by confining the obligations for the purpose of conducting searches to vehicles hired by the Secretary of State to remove a person or persons pursuant to sections 2 or 3.

LORD MURRAY OF BLIDWORTH

Schedule 2, page 71, line 38, at end insert –

““voluntary organisation” –

- (a) in relation to England and Wales, has the same meaning as in the Children Act 1989 (see section 105(1) of that Act);
- (b) in relation to Scotland, has the same meaning as in Part 2 of the Children (Scotland) Act 1995 (see section 93(1) of that Act);
- (c) in relation to Northern Ireland, has the same meaning as in the Children (Northern Ireland) Order 1995 (see Article 74(1) of that Order).”

Member's explanatory statement

This amendment defines “voluntary organisation” for the purposes of the reference to a person in the care of a voluntary organisation in the definition of “appropriate adult” in paragraph 2(1) of Schedule 2.

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