

# Illegal Migration Bill

---

---

MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

*The amendments have been marshalled in accordance with the Order of Consideration motion tabled for 27th June 2023, in anticipation of its agreement, as follows –*

Clauses 1 to 5	Schedule 2
Schedule 1	Clauses 15 to 68
Clauses 6 to 14	Title

*[Amendments marked ★ are new or have been altered]*

**Amendment  
No.**

---

**Clause 1**

BARONESS CHAKRABARTI

**1★** Clause 1, page 1, line 3, leave out “unlawful migration, and in particular”

BARONESS CHAKRABARTI

**2★** Clause 1, page 1, line 4, leave out “illegal” and insert “irregular”

BARONESS CHAKRABARTI

**3★** Clause 1, page 1, line 6, at end insert “and preventing the consideration of any claims for human rights protection in the United Kingdom made by such persons.”

LORD HOPE OF CRAIGHEAD  
LORD ANDERSON OF IPSWICH

**4** Clause 1, page 2, line 38, at end insert –

“(6) The Secretary of State must lay before each House of Parliament guidance as to how the provisions of this Act are to be read and given effect in a way that is compatible with the Convention rights within the meaning of the Human Rights Act 1998.

- (7) Guidance under subsection (6) does not have effect until approved by each House of Parliament.”

***Member's explanatory statement***

*This amendment directs attention to the statement in the Government's ECHR memorandum that the clauses which it identifies as engaging with Convention rights are compatible, and to the need for guidance to be given to those by whom the provisions of this Bill are to be applied.*

BARONESS CHAKRABARTI  
LORD PADDICK  
LORD ETHERTON  
LORD KIRKHOPE OF HARROGATE

- 5 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 2**

LORD CARLILE OF BERRIEW  
LORD ETHERTON  
BARONESS HAMWEE

- 6 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.*

BARONESS RITCHIE OF DOWNPATRICK  
BARONESS SUTTIE

7 Clause 2, page 4, line 21, at end insert –

“(e) the person enters the United Kingdom from Ireland across the land border with Northern Ireland.”

***Member's explanatory statement***

*This probing amendment would provide an exemption from the duty to remove for people who arrive in the UK from the Republic of Ireland via the land border with Northern Ireland.*

LORD HACKING

8★ Leave out Clause 2

**After Clause 2**

LORD COAKER

9 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 58 (inadmissibility of certain asylum and human rights claims).
- (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 BUTLER-SLOSS

10★ 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.”

LORD MURRAY OF BLIDWORTH

11 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 4

LORD HUNT OF KINGS HEATH

LORD CORMACK

BARONESS BUTLER-SLOSS

BARONESS HAMWEE

12 Clause 4, page 6, line 6, 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  
BARONESS CHAKRABARTI  
BARONESS LUDFORD

- 13 Clause 4, page 6, line 9, leave out paragraph (d)

***Member's explanatory statement***

*This amendment is consequential to the amendment to clause 1 tabled by Baroness Chakrabarti 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 provisions there.*

LORD DUBS  
LORD SCRIVEN  
BARONESS BUTLER-SLOSS  
THE LORD BISHOP OF DURHAM

- 14 Clause 4, page 6, line 11, 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 GERMAN  
LORD KERR OF KINLOCHARD

- 15 Clause 4, page 6, line 16, 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 six months of the day the claim is deemed inadmissible.

(3A) From the point at which the provisions of subsection (3) apply to a person, no other provision made by or by virtue of this Act applies to that person.”

***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, and disapply other provisions at this point.*

LORD ETHERTON

- 16 Clause 4, page 6, line 29, leave out subsection (6)

***Member's explanatory statement***

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

LORD CARLILE OF BERRIEW  
LORD ETHELTON  
BARONESS HAMWEE

- 17 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 MURRAY OF BLIDWORTH

- 18 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.*

LORD CARLILE OF BERRIEW  
BARONESS BUTLER-SLOSS

- 19 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 PURVIS OF TWEED

- 20★ Clause 5, page 8, line 23, at end insert “and it is safe for the particular claimant, following a review of their individual circumstances which must be taken into account.”

***Member's explanatory statement***

*This amendment limits removal to states that are safe for the particular claimant.*

LORD ALTON OF LIVERPOOL

- 21** Clause 5, page 8, line 23, at end insert –  
 “(9A) No person may be removed to a country listed in Schedule 1 if doing so would put that person at risk due to their protected characteristics as defined in section 4 of the Equality Act 2010.”

***Member's explanatory statement***

*This amendment seeks to ensure that asylum seekers can only be removed to countries in Schedule 1 if they would be safe there and not face any risk due to their protected characteristics.*

LORD CARLILE OF BERRIEW  
 LORD ETHERTON  
 BARONESS HAMWEE

- 22** 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  
 LORD ETHERTON  
 BARONESS HAMWEE

- 23** 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.*

**Schedule 1**

LORD PURVIS OF TWEED

- 24★** Schedule 1, page 69, leave out line 25

***Member's explanatory statement***

*India has not signed the 1951 Convention relating to the Status of Refugees (the Refugee Convention).*

LORD PURVIS OF TWEED

- 25★** Schedule 1, page 69, leave out line 30

***Member's explanatory statement***

*Kosovo has not signed the 1951 Convention relating to the Status of Refugees (the Refugee Convention).*

LORD PURVIS OF TWEED

- 26★ Schedule 1, page 70, leave out line 7

***Member's explanatory statement***

*Mauritius has not signed the 1951 Convention relating to the Status of Refugees (the Refugee Convention).*

LORD PURVIS OF TWEED

- 27★ Schedule 1, page 70, leave out line 9

***Member's explanatory statement***

*Mongolia has not signed the 1951 Convention relating to the Status of Refugees (the Refugee Convention).*

LORD PURVIS OF TWEED

- 28★ Schedule 1, page 70, leave out line 25

***Member's explanatory statement***

*South Korea has not signed the 1951 Convention relating to the Status of Refugees (the Refugee Convention).*

**Clause 6**

BARONESS HAMWEE

- 29★ Clause 6, page 9, line 7, leave out “, or part of a country or territory”

***Member's explanatory statement***

*This 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

- 30★ Clause 6, page 9, line 8, leave out from “is” to “no”

***Member's explanatory statement***

*This 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

- 31★ Clause 6, page 9, line 10, leave out “, or part,”

*Member's explanatory statement*

*This amendment is consequential on Baroness Hamwee's amendment to page 9, line 7.*

## BARONESS HAMWEE

- 32★ Clause 6, page 9, line 11, leave out “in general”

*Member's explanatory statement*

*This amendment tightens the reference to contraventions.*

LORD CARLILE OF BERRIEW  
BARONESS BUTLER-SLOSS

- 33 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).*

## BARONESS HAMWEE

- 34★ Clause 6, page 9, line 12, at end insert “, and

(c) that country or territory is a party to the 1951 Convention relating to the Status of Refugees.”

*Member's explanatory statement*

*Clause 6 allows the Secretary of State to add countries or territories to the list of those in Schedule 1 to which a person may be removed. This amendment requires that such countries must be a party to the Refugee Convention.*

## BARONESS HAMWEE

- 35★ Clause 6, page 9, line 29, leave out “, or part of a country or territory,”

***Member's explanatory statement***

*This amendment is consequential on Baroness Hamwee's amendment to page 9, line 7.*

BARONESS HAMWEE

- 36★ Clause 6, page 9, line 35, leave out “, or part of a country or territory;”

***Member's explanatory statement***

*This amendment is consequential on Baroness Hamwee's amendment to page 9, line 7.*

**After Clause 6**

LORD ETHELTON  
LORD CASHMAN  
BARONESS BUTLER-SLOSS  
LORD SCRIVEN

- 37 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 7**

LORD MURRAY OF BLIDWORTH

- 38 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

- 39 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

- 40 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

- 41 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  
LORD WOODLEY

- 42 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  
LORD WOODLEY

- 43 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  
LORD WOODLEY

- 44 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  
LORD WOODLEY

- 45 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

- 46 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

- 47 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  
LORD WOODLEY

48 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 GERMAN

49★ Clause 10, page 14, line 21, leave out “and (3)” and insert “, (3) and (3A)”

***Member's explanatory statement***

*This amendment is consequential on Lord German's amendment to page 15, line 37.*

LORD HUNT OF KINGS HEATH  
LORD CORMACK  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

50 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.*

BARONESS MOBARIK  
THE LORD BISHOP OF DURHAM  
BARONESS STROUD  
BARONESS HELIC

51 Clause 10, page 15, leave out lines 10 to 35 and insert—

“(2D) Detention under sub-paragraph (2C) is to be treated as detention under 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).*

## LORD MURRAY OF BLIDWORTH

52 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 GERMAN

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

- “(2IA) But sub-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 37 and page 17, line 14 limit the place of detention in the Bill to those that are presently authorised for detention.*

## LORD MURRAY OF BLIDWORTH

54 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 HUNT OF KINGS HEATH  
LORD CORMACK  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

55 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 GERMAN

56★ Clause 10, page 15, line 37, 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 sub-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 sub-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 sub-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 29 and page 17, line 14 limit the place of detention in the Bill to those that are presently authorised for detention.*

BARONESS MOBARIK  
 THE LORD BISHOP OF DURHAM  
 BARONESS STROUD  
 BARONESS HELIC

57 Clause 10, page 15, line 38, 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 HUNT OF KINGS HEATH  
 LORD CORMACK  
 BARONESS BUTLER-SLOSS  
 BARONESS HAMWEE

58 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.*

BARONESS MOBARIK  
 THE LORD BISHOP OF DURHAM  
 BARONESS STROUD  
 BARONESS HELIC

59 Clause 10, page 16, line 44, leave out from beginning to end of line 20 on page 17 and insert—

“(2B) Detention under subsection (2A) 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 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).*

LORD MURRAY OF BLIDWORTH

60 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 GERMAN

61★ Clause 10, page 17, line 14, 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 29 and page 15, line 37 limit the place of detention in the Bill to those that are presently authorised for detention.*

## LORD MURRAY OF BLIDWORTH

62 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 MOBARIK  
THE LORD BISHOP OF DURHAM  
BARONESS STROUD  
BARONESS HELIC

63 Clause 10, page 17, line 23, 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

64 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.*

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

- 65 Clause 10, page 17, line 32, leave out from “paragraph” to end of line 33 and insert “(a) of the definition of “relevant detention power”, after “paragraph 16(2)” insert “or (2C)”.”

***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.*

**Clause 11**

LORD CARLILE OF BERRIEW

- 66★ Clause 11, page 18, line 2, at beginning insert—  
 “17A(A1) This paragraph is subject to section 11(7) of the Illegal Migration Act 2023.”

***Member's explanatory statement***

*This relates to the amendment in the name of Lord Carlile of Berriew to Clause 11, page 21, line 15.*

LORD CARLILE OF BERRIEW

- 67★ Clause 11, page 19, line 6, after “to” insert “section 11(7) of the Illegal Migration Act 2023,”

***Member's explanatory statement***

*This relates to the amendment in the name of Lord Carlile of Berriew to Clause 11, page 21, line 15.*

LORD CARLILE OF BERRIEW

- 68★ Clause 11, page 19, line 13, at beginning insert “Subject to section 11(7) of the Illegal Migration Act 2023,”

***Member's explanatory statement***

*This relates to the amendment in the name of Lord Carlile of Berriew to Clause 11, page 21, line 15.*

LORD CARLILE OF BERRIEW

- 69★ Clause 11, page 20, line 2, at end insert—  
 “(c) section 11(7) of the Illegal Migration Act 2023.”

***Member's explanatory statement***

*This relates to the amendment in the name of Lord Carlile of Berriew to Clause 11, page 21, line 15.*

LORD CARLILE OF BERRIEW

- 70★ Clause 11, page 20, line 8, at beginning insert “Subject to section 11(7) of the Illegal Migration Act 2023,”

***Member's explanatory statement***

*This relates to the amendment in the name of Lord Carlile of Berriew to Clause 11, page 21, line 15.*

LORD CARLILE OF BERRIEW

- 71★ Clause 11, page 20, line 24, after “to” insert “section 11(7) of the Illegal Migration Act 2023,”

***Member's explanatory statement***

*This relates to the amendment in the name of Lord Carlile of Berriew to Clause 11, page 21, line 15.*

LORD CARLILE OF BERRIEW

- 72★ Clause 11, page 20, line 30, at beginning insert “Subject to section 11(7) of the Illegal Migration Act 2023,”

***Member's explanatory statement***

*This relates to the amendment in the name of Lord Carlile of Berriew to Clause 11, page 21, line 15.*

LORD CARLILE OF BERRIEW

- 73★ Clause 11, page 21, line 1, at beginning insert “Subject to section 11(7) of the Illegal Migration Act 2023,”

***Member's explanatory statement***

*This relates to the amendment in the name of Lord Carlile of Berriew to Clause 11, page 21, line 15.*

LORD CARLILE OF BERRIEW

- 74★ Clause 11, page 21, line 4, at beginning insert “Subject to section 11(7) of the Illegal Migration Act 2023,”

**Member's explanatory statement**

*This relates to the amendment in the name of Lord Carlile of Berriew to Clause 11, page 21, line 15.*

LORD CARLILE OF BERRIEW

- 75★ Clause 11, page 21, line 9, at beginning insert “Subject to section 11(7) of the Illegal Migration Act 2023,”

**Member's explanatory statement**

*This relates to the amendment in the name of Lord Carlile of Berriew to Clause 11, page 21, line 15.*

LORD CARLILE OF BERRIEW

- 76 Clause 11, page 21, line 15, at end insert –

- “(7) None of the amendments made in this section permit detention that is inconsistent with the following principles –
- (a) the Secretary of State must intend to remove the person being detained and can only use the power to detain for that purpose,
  - (b) the person being removed may only be detained for a period that is reasonable in all the circumstances,
  - (c) if, before the expiry of the reasonable period, it becomes apparent that the Secretary of State will not be able to effect removal within a reasonable period, they must not seek to exercise the power of detention, and
  - (d) the Secretary of State must act with reasonable diligence and expedition to effect removal.”

**Member's explanatory statement**

*This amendment would confirm that the lawfulness of immigration detention remains subject to the principles established in the common law. It would reinstate the existing Hardial Singh principles in a single amendment and would be consistent with the JCHR's conclusion and recommendation at para 202 of the Report.*

BARONESS LUDFORD  
LORD ANDERSON OF IPSWICH

- 77 Leave out Clause 11

**Member's explanatory statement**

*The Hardial Singh principles provide that the reasonableness of the length of detention remains a matter for judges and not for the Secretary of State. Clause 11 provides that detention may be for such a period as, in the opinion of the Secretary of State, is reasonably necessary. The effect of this and associated amendments is to retain the current Hardial Singh principles.*

**Clause 12**

BARONESS LUDFORD  
LORD ANDERSON OF IPSWICH

78 Clause 12, page 21, line 30, leave out paragraph (b)

***Member's explanatory statement***

*The Hardial Singh principles provide that the reasonableness of the length of detention remains a matter for judges and not for the Secretary of State. Clause 11 provides that detention may be for such a period as, in the opinion of the Secretary of State, is reasonably necessary. The effect of this and associated amendments is to retain the current Hardial Singh principles.*

BARONESS LUDFORD  
LORD ANDERSON OF IPSWICH

79 Clause 12, page 22, line 1, leave out subsection (4)

***Member's explanatory statement***

*The Hardial Singh principles provide that the reasonableness of the length of detention remains a matter for judges and not for the Secretary of State. Clause 11 provides that detention may be for such a period as, in the opinion of the Secretary of State, is reasonably necessary. The effect of this and associated amendments is to retain the current Hardial Singh principles.*

**Schedule 2**

LORD MURRAY OF BLIDWORTH

80 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

81 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

82 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

83 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

84 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  
LORD WOODLEY

85 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

86 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.*

**Before Clause 15**

LORD SCRIVEN

87 Before Clause 15, insert the following new Clause –

**“Children Act 1989**

- (1) Upon entry or arrival into England, every child to whom section 3 of this Act applies must have afforded to them all rights under the Children Act 1989.
- (2) Nothing in this Act may 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 a primary consideration and that particular regard be given to the child’s wishes and feelings.
- (3) 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 all children who enter or arrive in England under section 2 are afforded the rights available under the Children Act 1989. It also provides that well-established duties under that Act are not undermined by the requirements of this Bill.*

**Clause 15**

LORD CARLILE OF BERRIEW  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

88 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 16**

THE LORD BISHOP OF DURHAM  
LORD COAKER  
BARONESS HELIC  
LORD GERMAN

89★ Clause 16, page 24, line 13, 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.*

**Clause 21**

LORD HUNT OF KINGS HEATH  
LORD CORMACK  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

90 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  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

91 Clause 21, page 26, line 16, 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 HUNT OF KINGS HEATH  
LORD CORMACK  
BARONESS HAMWEE

92 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  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

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

LORD HUNT OF KINGS HEATH  
LORD CORMACK  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

94 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 RANDALL OF UXBRIDGE

95 Clause 21, page 26, leave out line 38 and insert –

- “(3A) Subsection (2) also does not apply in relation to a person if the relevant exploitation took place in the United Kingdom.
- (3B) Where subsection (3) or (3A) applies in relation to a person the following do not apply in relation to the person –
  - (a) section 22,
  - (b) section 23, and
  - (c) section 24.
- (4) In this section –”

***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 from being provided with support during the recovery period or being granted limited leave to remain.*

LORD CARLILE OF BERRIEW  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

96 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  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

97 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  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

98 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 RANDALL OF UXBRIDGE

99 Clause 22, page 28, line 15, leave out paragraph (c)

***Member's explanatory statement***

*This amendment is consequential to the amendment to clause 21 in the name of Lord Randall of Uxbridge.*

LORD HUNT OF KINGS HEATH  
LORD CORMACK  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

100 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 23**

LORD RANDALL OF UXBRIDGE

101 Clause 23, page 28, line 41, leave out subsections (3) to (6)

**Member's explanatory statement**

*This amendment is consequential to the amendment to Clause 21 in the name of Lord Randall of Uxbridge.*

BARONESS BRYAN OF PARTICK  
LORD MORROW

102★ Clause 23, page 29, line 22, 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 23(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 adds a 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.*

**Clause 24**

LORD MORROW  
LORD WEIR OF BALLYHOLME

103★ Clause 24, page 30, line 17, 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 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.”

***Member's explanatory statement***

*This amendment would ensure that modern slavery victims in Northern Ireland can continue to receive support under the EU Victims and Trafficking Directives.*

LORD RANDALL OF UXBRIDGE

**104** Clause 24, page 30, line 29, leave out subsections (3) to (6)

***Member's explanatory statement***

*This amendment is consequential to the amendment to Clause 21 in the name of Lord Randall of Uxbridge.*

LORD MORROW  
LORD CARLILE OF BERRIEW  
BARONESS BRYAN OF PARTICK

**105** Clause 24, page 31, line 7, 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 24(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 adds a 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.*

**Clause 25**

LORD HUNT OF KINGS HEATH  
LORD CORMACK  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

**106** 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  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

107 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  
BARONESS HAMWEE

108 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  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

109 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  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

110 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  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

- 111 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.*

BARONESS BUTLER-SLOSS

- 112★ Clause 28, page 34, line 24, at end insert –

“(2B) A competent authority must not determine that subsection (2) is to apply to a person if a positive reasonable grounds decision has been made in respect of a person which relates to an incident or incidents which occurred when the person was under 18 years.”

LORD HUNT OF KINGS HEATH  
LORD CORMACK  
BARONESS BUTLER-SLOSS  
BARONESS HAMWEE

- 113 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.*

**Clause 29**

BARONESS LUDFORD

- 114 Clause 29, page 35, line 35, leave out “has ever” and insert “was over the age of 18 at the time they”

***Member's explanatory statement***

*This amendment aims to exclude children from the provisions of Clause 29.*

**Clause 30**

LORD MOYLAN  
BARONESS LISTER OF BURTERSETT

- 115** Clause 30, page 37, line 3, 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

- 116** Clause 30, page 37, line 7, leave out “has ever” and insert “was over the age of 18 at the time they”

***Member's explanatory statement***

*This amendment aims to exclude children from the provisions of Clause 30, and thereby the provisions of Clauses 31 to 34.*

**Clause 31**

LORD MOYLAN  
BARONESS LISTER OF BURTERSETT

- 117** Clause 31, page 37, line 41, leave out subsection (1)

***Member's explanatory statement***

*This amendment, along with the amendment to Clause 31, page 38, line 12, in the name of Lord Moylan, removes the Bill's effect on registration as a British citizen.*

LORD MOYLAN  
BARONESS LISTER OF BURTERSETT

- 118** Clause 31, page 38, line 12, leave out paragraph (a)

***Member's explanatory statement***

*This amendment, along with the amendment to Clause 31, page 37, line 41, in the name of Lord Moylan, removes the Bill's effect on registration as a British citizen.*

**Clause 32**

LORD MOYLAN  
BARONESS LISTER OF BURTERSETT

**119** Clause 32, page 38, line 26, 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

**120** Clause 32, page 38, line 36, leave out paragraph (a)

***Member's explanatory statement***

*This amendment, along with the amendment to Clause 32, page 38, line 26, removes the Bill's effect on registration as a British overseas territories citizen.*

**Clause 33**

LORD MOYLAN  
BARONESS LISTER OF BURTERSETT

**121** Leave out Clause 33

**Clause 34**

LORD MOYLAN  
BARONESS LISTER OF BURTERSETT

**122** Leave out Clause 34

**Clause 36**

LORD MOYLAN  
BARONESS LISTER OF BURTERSETT

**123** Clause 36, page 39, line 22, 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

124 Clause 36, page 40, line 5, 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

125 Clause 36, page 40, line 20, 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.*

**Clause 37**

LORD MURRAY OF BLIDWORTH

126 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

127 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

128 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

129 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 38

LORD ETHERTON  
LORD CARLILE OF BERRIEW  
LORD PADDICK

130 Leave out Clause 38 and insert the following new Clause –

**“Serious harm suspensive claims: interpretation**

- (1) The definitions in subsections (2) and (3) have effect for the purposes of section 37, this section and sections 39 to 51.
- (2) A “serious harm suspensive claim” means a claim by a person (“P”) who has been given a third country removal notice that the serious harm condition is met in relation to P.
- (3) The “serious harm condition” is that P would face a real risk of serious harm if removed from the United Kingdom under this Act to the country or territory specified in the third country removal notice.
- (4) The following are examples of harm that constitute serious harm for the purposes of this Act –
  - (a) death;
  - (b) persecution falling within subsection (2)(a) or (b) of section 31 of the Nationality and Borders Act 2022 (read together with subsections (1) and (3) of that section) (Article 1(A)(2) of the Refugee Convention: persecution) where P is not able to avail themselves of protection from that persecution;
  - (c) torture;
  - (d) inhuman or degrading treatment or punishment;
  - (e) onward removal from the country or territory specified in the third country removal notice to another country or territory where P would face a real risk of any harm mentioned in paragraphs (a) to (d).
- (5) For the purposes of subsection (4) –
  - (a) protection from persecution can be provided by –
    - (i) the government of the relevant country or territory, or
    - (ii) any party or organisation, including any international organisation, controlling the relevant country or territory or a substantial part of it;
  - (b) P is to be taken to be able to avail themselves of protection from persecution if –

- (i) the government, party or organisation mentioned in paragraph (a) takes reasonable steps to prevent the persecution by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution, and
- (ii) P is able to access the protection.”

***Member's explanatory statement***

*This revised version of Clause 38: (1) removes any reference to “the relevant period”, (2) removes any reference to irreversibility of harm, and (3) removes examples of harm that do not constitute or are unlikely to constitute serious and irreversible harm.*

**Clause 39**

LORD HOPE OF CRAIGHEAD  
LORD ANDERSON OF IPSWICH

- 131** Clause 39, page 43, line 6 at end insert “, provided that they may not remove, or diminish the nature of, any of the examples of harm that are listed in section 38(4).”

***Member's explanatory statement***

*This amendment seeks to preserve the list of examples of harm listed in subsection 38(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  
LORD PADDICK

- 132** Leave out Clause 39

***Member's explanatory statement***

*This amendment removes the power of the Secretary of State to amend section 38 by regulation by making provision about the meaning of “serious and irreversible harm”.*

**Clause 41**

LORD HOPE OF CRAIGHEAD  
LORD ANDERSON OF IPSWICH

- 133** Clause 41, page 44, line 21, leave out “compelling” and insert “reliable, substantial and material”

***Member's explanatory statement***

*This amendment seeks to place on the face of the Bill the Minister’s statement that ‘Evidence that is compelling is defined as that which is reliable, substantial and material to a person’s claim’ (Hansard 12 June 2023, col 1774).*

**Clause 42**

LORD MURRAY OF BLIDWORTH

- 134 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

- 135 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

- 136 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 HOPE OF CRAIGHEAD  
LORD ANDERSON OF IPSWICH

- 137 Clause 42, page 45, line 18, leave out “compelling” and insert “reliable, substantial and material”

LORD MURRAY OF BLIDWORTH

- 138 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

- 139 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

- 140 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

- 141 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 HOPE OF CRAIGHEAD  
LORD ANDERSON OF IPSWICH

- 142 Clause 43, page 46, line 13, leave out “compelling” and insert “reliable, substantial and material”

LORD MURRAY OF BLIDWORTH

- 143 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

- 144 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 HOPE OF CRAIGHEAD  
LORD ANDERSON OF IPSWICH

- 145 Clause 44, page 47, line 3, leave out “compelling” and insert “reliable, substantial and material”

LORD MURRAY OF BLIDWORTH

- 146 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 HOPE OF CRAIGHEAD  
LORD ANDERSON OF IPSWICH

- 147 Clause 44, page 47, line 8, leave out “compelling” and insert “reliable, substantial and material”

LORD MURRAY OF BLIDWORTH

- 148 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

- 149 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

150 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.*

LORD HOPE OF CRAIGHEAD  
LORD ANDERSON OF IPSWICH

151 Clause 45, page 48, line 4, leave out first “compelling” and insert “reliable, substantial and material”

**Clause 53**BARONESS CHAKRABARTI  
BARONESS LUDFORD

152 Leave out Clause 53

**Clause 54**BARONESS CHAKRABARTI  
BARONESS LUDFORD

153 Leave out Clause 54

**Clause 55**

## LORD MURRAY OF BLIDWORTH

154 Clause 55, page 58, line 19, at end insert –

“(6) The Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)) is amended in accordance with subsections (7) and (8).

(7) In Article 14 (decisions about provision of funded services), after paragraph (2A) insert –

“(2AA) But paragraph (2A) does not apply to a grant of representation for the purposes of –

- (a) proceedings before the Upper Tribunal mentioned in paragraph 2(ic) of Schedule 2 (proceedings under or for the purposes of the Illegal Migration Act 2023),
- (b) proceedings before the Special Immigration Appeals Commission under or by virtue of section 2AA of the Special Immigration Appeals Commission Act 1997 (jurisdiction: appeals in relation to

- the Illegal Migration Act 2023), or under rules under section 5 of that Act made for the purposes of that section, or
- (c) an appeal to the Court of Appeal or the Supreme Court in respect of proceedings mentioned in sub-paragraph (a) or (b).”
- (8) In paragraph 2 of Schedule 2 (civil legal services: exceptions to excluded services), after paragraph (ib) insert—
- “(ic) proceedings before the Upper Tribunal under any of sections 43 to 48 of the Illegal Migration Act 2023, or under Tribunal Procedure Rules made for the purposes of any of those sections,
- (id) proceedings before the Upper Tribunal on an application for judicial review within the meaning of the Illegal Migration Act 2023 (see section 4(6) of that Act), where the application relates to that Act,”.
- (9) The Civil Legal Services (General) Regulations (Northern Ireland) 2015 (S.R. (N.I.) 2015 No. 195) are amended in accordance with subsections (10) to (14).
- (10) In regulation 2 (interpretation), in the definition of “representation (higher courts)”, in paragraph (f), after “2(ib)” insert “, (ic) or (id)”.
- (11) In regulation 31 (applications for advice and assistance)—
- (a) in paragraph (1), after “Subject to” insert “paragraph (1A) and”,
- (b) after paragraph (1), insert—
- “(1A) An application for advice and assistance may be made to a supplier by an applicant by telephone where the applicant is being detained under paragraph 16(2C) of Schedule 2 to the Immigration Act 1971 (detention under authority of immigration officer for the purposes of the Illegal Migration Act 2023) or section 62(2A) of the Nationality, Immigration and Asylum Act 2002 (detention under authority of Secretary of State for the purposes of the Illegal Migration Act 2023).”, and
- (c) in paragraph (3), after “except where” insert “paragraph (1A),”
- (12) In regulation 32 (extensions)—
- (a) in paragraph (1), for “paragraph (2)” substitute “paragraphs (2) and (2A)”, and
- (b) after paragraph (2) insert—
- “(2A) No extension shall be required under paragraph (1) if the advice and assistance is advice and assistance mentioned in regulation 4(1)(n) of the Financial Regulations (advice and assistance relating to removal notices under the Illegal Migration Act 2023).”
- (13) In regulation 41 (applications for certificates)—
- (a) in paragraph (2), after “Subject to” insert “paragraph (2A) and”,

- (b) after paragraph (2), insert –
  - “(2A) An application for a certificate under this Part may be made to a supplier by an applicant by telephone where the applicant is being detained under paragraph 16(2C) of Schedule 2 to the Immigration Act 1971 (detention under authority of immigration officer for the purposes of the Illegal Migration Act 2023) or section 62(2A) of the Nationality, Immigration and Asylum Act 2002 (detention under authority of Secretary of State for the purposes of the Illegal Migration Act 2023).”
  - (c) in paragraph (3), after “The applicant shall” insert “, except where paragraph (2A) applies,” and
  - (d) in paragraph (3)(b), after “met” insert “(where they apply)”.
- (14) In regulation 43 (determination of applications for certificates) –
  - (a) in paragraph (1), for “paragraph (2)” substitute “paragraphs (2) and (3)”, and
  - (b) after paragraph (2) insert –
    - “(3) But paragraphs (1) and (2) do not apply to an application for a certificate in respect of –
      - (a) proceedings before the Upper Tribunal mentioned in paragraph 2(ic) of Schedule 2 to the Order (proceedings under or for the purposes of the Illegal Migration Act 2023),
      - (b) proceedings before the Special Immigration Appeals Commission under or by virtue of section 2AA of the Special Immigration Appeals Commission Act 1997 (jurisdiction: appeals in relation to the Illegal Migration Act 2023), or under rules under section 5 of that Act made for the purposes of that section, or
      - (c) an appeal to the Court of Appeal or the Supreme Court in respect of proceedings mentioned in sub-paragraph (a) or (b).”
- (15) In regulation 4 of the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015 (S.R. (N.I.) 2015 No. 196) (exceptions from requirement to make a determination in respect of an individual's financial resources) –
  - (a) in paragraph (1), after sub-paragraph (m) insert –
    - “(n) advice and assistance provided to an individual who has received a removal notice, in relation to the removal notice, and such advice and assistance –
      - (i) includes advice and assistance in relation to a suspensive claim relating to the removal notice, and an application under section 45(4) of the Illegal Migration Act 2023 as regards such a claim, but
      - (ii) does not include advice and assistance in relation to an application for judicial review within the meaning of the Illegal Migration Act 2023 (see

- section 4(6) of that Act) relating to the removal notice;
- (o) representation in respect of—
- (i) proceedings before the Upper Tribunal mentioned in paragraph 2(ic) of Schedule 2 to the Order (proceedings under or for the purposes of the Illegal Migration Act 2023),
  - (ii) proceedings before the Special Immigration Appeals Commission under or by virtue of section 2AA of the Special Immigration Appeals Commission Act 1997 (jurisdiction: appeals in relation to the Illegal Migration Act 2023), or under rules under section 5 of that Act made for the purposes of that section, or
  - (iii) an appeal to the Court of Appeal or the Supreme Court in respect of proceedings mentioned in paragraph (i) or (ii).”;
- (b) in paragraph (3), at the appropriate places insert—
- ““removal notice” has the meaning given by section 37 of the Illegal Migration Act 2023;”
- ““suspensive claim” has the meaning given by section 37 of the Illegal Migration Act 2023;”.”

***Member's explanatory statement***

*This amendment makes provision about legal aid in Northern Ireland for the purposes of the Bill.*

**After Clause 55**

LORD BACH  
BARONESS LUDFORD  
LORD CARLILE OF BERRIEW

**155** After Clause 55, 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 56**

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

**156** Clause 56, page 58, line 25, 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  
BARONESS BRINTON

**157** Clause 56, page 58, line 34, 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 MURRAY OF BLIDWORTH

- 158 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

- 159 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

- 160 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.*

**Clause 57**

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

- 161 Clause 57, page 60, line 13, 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.*

**Clause 59**

THE LORD BISHOP OF DURHAM  
 BARONESS LISTER OF BURTERSETT  
 BARONESS STROUD  
 BARONESS BRINTON

**162** Clause 59, page 63, line 17, at end insert –

- “(6A) The Secretary of State may not make regulations under subsection (1) specifying any limit on the number of persons who arrive under the following schemes –
- (a) the Ukraine Sponsorship Scheme,
  - (b) the Ukraine Family Scheme,
  - (c) the Afghan Relocations and Assistance Policy, and
  - (d) the Hong Kong British National (Overseas) routes.”

***Member's explanatory statement***

*This amendment would exclude the schemes for those displaced from Ukraine, the Afghan Relocations and Assistance Policy (ARAP) and the Hong Kong BN(O) routes from the safe and legal routes cap. None of these schemes are currently capped.*

**After Clause 59**

LORD ALTON OF LIVERPOOL

**163** After Clause 59, insert the following new Clause –

**“Safe and legal route for persons persecuted for their protected characteristics**

- (1) The Secretary of State must make regulations specifying a new safe and legal route for people persecuted because of their protected characteristics, and for their dependants under the age of 22, or older if those dependants cannot support themselves due to mental or physical conditions.
- (2) The Secretary of State may by regulations place a cap on the number of people granted asylum under subsection (1) in any given calendar year, within the cap imposed for all arrivals under section 59 (cap on number of entrants using safe and legal routes).
- (3) For the purposes of this section, “protected characteristics” has the meaning given in section 4 of the Equality Act 2010.”



BARONESS STROUD  
LORD KIRKHOPE OF HARROGATE  
BARONESS HELIC  
LORD KERR OF KINLOCHARD

164 After Clause 59, insert the following new Clause –

**“Duty to establish safe and legal routes**

- (1) The Secretary of State must, within two months of the publication of the report required by section 60(1), make regulations specifying additional safe and legal routes.
- (2) In subsection (1), a “safe and legal route” means a route which allows relevant persons to come to the United Kingdom lawfully from abroad.
- (3) In subsection (2), a “relevant person” is –
  - (a) a person who, if they were in the United Kingdom, would be a refugee within the meaning of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and the Protocol to that Convention,
  - (b) a person who, if they were in the United Kingdom, would be eligible for a grant of humanitarian protection in accordance with the immigration rules, or
  - (c) a person who, if they were in the United Kingdom, could not lawfully be removed from the United Kingdom by virtue of Article 3 or 4 of the Human Rights Convention.”

LORD PURVIS OF TWEED

165★ After Clause 59, insert the following new Clause –

**“Safe and legal route: protection claim**

- (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 listed 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 (procedure), 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”);
  - “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 safe and legal route to allow 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.*

**After Clause 60**

BARONESS KENNEDY OF THE SHAWS

166 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.*

BARONESS LUDFORD

167 After Clause 60, insert the following new Clause –

**“Refugee family reunion**

- (1) The Secretary of State must, within 6 months of the day on which this Act is passed, lay before 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) 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 –
  - (a) with protection status,
  - (b) resettled through pathways 1 or 3 of the Afghan Citizens Resettlement Scheme, or
  - (c) who is permitted to enter the UK through a safe and legal route specified in regulations made under section 59(1) (see also subsection (7) of that section).

- (3) The rules under subsection (1) must –
  - (a) lay down no practice which would be contrary to the 1951 Convention relating to the Status of Refugees and the Protocol to that Convention, and
  - (b) apply equally in relation to persons granted any protection status or resettled through the Afghan Citizens Resettlement Scheme.
- (4) For the purposes of this section “protection status” has the same meaning as in the immigration rules.
- (5) In this section, “family members” include a person’s –
  - (a) parent, if the person was under the age of 18 at the time they made an application for protection status or when they were resettled under pathways 1 or 3 of the Afghan Citizens Resettlement Scheme, including adoptive parent;
  - (b) spouse, civil partner or unmarried partner;
  - (c) child, including adopted child, who is either –
    - (i) under the age of 18, or
    - (ii) over the age of 18 and dependent on the person;
  - (d) 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 protection status or resettled under pathways 1 or 3 of the Afghan Citizens Resettlement Scheme and another person,
    - (iv) any risk to the physical, emotional or psychological wellbeing of a person granted protection status or resettled under pathways 1 or 3 of the Afghan Citizens Resettlement Scheme, 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 is to 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.*

**After Clause 61**

LORD COAKER

168 After Clause 61, insert the following new Clause –

**“Organised immigration crime enforcement**

- (1) The Crime and Courts Act 2013 is amended as follows.
- (2) In section 1 (the National Crime Agency), after subsection (10) insert –
  - “(10A) The NCA has a specific function to combat organised crime where the purpose of that crime is to enable the illegal entry of a person into the United Kingdom via the English Channel.
  - (10B) The NCA must maintain a unit (a “Cross-Border People Smuggling Unit”) to coordinate the work undertaken in cooperation with international partners in pursuit of the function mentioned in subsection (10A).”

***Member's explanatory statement***

*This new Clause would give the National Crime Agency a legal responsibility for tackling organised immigration crime across the Channel, and to maintain a specific unit to undertake work related to that responsibility.*

**Clause 67**

LORD MURRAY OF BLIDWORTH

169 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.*

# Illegal Migration Bill

---

---

MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

---

*26 June 2023*

---

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS