

# Illegal Migration Bill

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COMMONS REASONS, AMENDMENTS IN LIEU AND AMENDMENTS TO THE WORDS  
SO RESTORED TO THE BILL

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*[The page and line references are to HL Bill 133, the Bill as first printed for the Lords]*

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## Clause 1

### LORDS AMENDMENT 1

**1** 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.”

### COMMONS REASON

*The Commons disagree to Lords Amendment 1 for the following Reason—*

**1A** *Because it is unnecessary, as the Bill does not require any act or omission that conflicts with the obligations of the United Kingdom under the European Convention of Human Rights or other listed international instruments, and it would undermine the UK’s dualist legal system.*

**Clause 2**

LORDS AMENDMENT 2

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

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

*The Commons disagree to Lords Amendment 2 and propose Amendments 22A, 22B, 22C, 22D, 22E, 22F, 22G, 22H, 22J, 22K, 22L, 22M, 22N, 22P and 22Q in lieu*

**Clause 4**

LORDS AMENDMENT 6

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

COMMONS REASON

*The Commons disagree to Lords Amendments 6, 51, 52, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64 and 65 for Reason 65A*

LORDS AMENDMENT 7

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

COMMONS REASON

*The Commons disagree to Lords Amendment 7 for the following Reason –*

- 7A *Because, as the Bill provides for two classes of suspensive claims, with a right of appeal to the Upper Tribunal, it is appropriate that any application for judicial review does not suspend removal.*

LORDS AMENDMENT 8

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

COMMONS REASON

*The Commons disagree to Lords Amendment 8 for the following Reason –*

- 8A *Because unaccompanied children will be removed only in the limited circumstances set out in clause 3(3) or once they turn 18 and will be able to challenge their removal by making a serious harm suspensive claim.*

LORDS AMENDMENT 9

- 9 Clause 4, page 6, line 13, leave out “cannot be considered under the immigration rules” and insert “must be considered under the immigration rules if the person who made the

claim has not been removed from the United Kingdom within 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.”

#### COMMONS REASON

*The Commons disagree to Lords Amendment 9 for the following Reason –*

**9A** *Because the Amendment is contrary to the purpose of the Bill to prevent and deter unlawful migration.*

#### LORDS AMENDMENT 12

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

#### COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

*The Commons disagree to Lords Amendment 12 and propose Amendments 22A, 22B, 22C, 22D, 22E, 22F, 22G, 22H, 22J, 22K, 22L, 22M, 22N, 22P and 22Q in lieu*

#### Clause 5

#### LORDS AMENDMENT 20

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

#### COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

*The Commons disagree to Lords Amendment 20 and propose Amendments 22A, 22B, 22C, 22D, 22E, 22F, 22G, 22H, 22J, 22K, 22L, 22M, 22N, 22P and 22Q in lieu*

#### LORDS AMENDMENT 22

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

#### COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

*The Commons disagree to Lords Amendment 22 and propose the following Amendments to the Bill in lieu of Lords Amendments 2, 12, 20 and 22 –*

**22A** Clause 2, page 3, line 26, leave out “7 March 2023” and insert “the day on which this Act is passed”

**22B** Page 4, line 21, at end insert the following new Clause—

**“Amendment of date in section 2(3) etc**

- (1) The Secretary of State may by regulations amend the date which is for the time being specified in—
  - (a) section 2(3) (duty to remove: date of entry or arrival in the United Kingdom);
  - (b) section 4(7)(a) (application to claims made on or after passing of this Act);
  - (c) section 5(12)(a) or (14)(a) (application to claims made on or after passing of this Act).
- (2) Regulations under subsection (1) may make consequential amendments to this Act or any other enactment.
- (3) Provision made by virtue of subsection (2) may, in particular, amend this Act or any other enactment to modify the operation of a provision which would otherwise apply to a person who meets, or has ever met, the condition in section 2(3) (including to enable that provision to operate as if an amendment to section 2(3) had not been made).
- (4) An amendment made by virtue of subsection (1) may have the effect that a provision mentioned in that subsection specifies—
  - (a) a particular calendar date, or
  - (b) a date which is determined by the occurrence of a particular event (for example the coming into force of a provision of this Act, generally or for a particular purpose).
- (5) But such an amendment may not have the effect that the provision specifies a date which is earlier than the date specified before the amendment was made.”

**22C** Clause 3, page 5, line 7, after “this Act” insert “(other than sections 15 and 16)”

**22D** Clause 4, page 6, line 32, leave out “7 March 2023” and insert “the day on which this Act is passed”

**22E** Clause 5, page 8, line 18, leave out “7 March 2023” and insert “the day on which this Act is passed”

**22F** Clause 5, page 8, line 30, leave out “7 March 2023” and insert “the day on which this Act is passed”

**22G** Clause 15, page 23, line 19, at end insert—

- “(5) For the purposes of this section and section 16, a person (“C”) is an unaccompanied child if—
- (a) C meets the four conditions in section 2, reading subsection (3) of that section as if it referred to a person entering or arriving in the United Kingdom as mentioned in subsection (2) of that section on or after 7 March 2023,
  - (b) C is under the age of 18, and

- (c) at the time of C’s entry or arrival in the United Kingdom by virtue of which C meets the condition in section 2(3), no individual (whether or not a parent of C) who was aged 18 or over had care of C.”

- 22H** Clause 20, page 25, line 27, after “meaning of” insert “section 15 of”
- 22J** Clause 20, page 25, line 28, leave out “(see section 3(5) of that Act)”
- 22K** Clause 29, page 35, line 8, after “Kingdom)” insert “, reading subsection (3) of that section as if it referred to a person entering or arriving in the United Kingdom as mentioned in subsection (2) of that section on or after 7 March 2023”
- 22L** Clause 29, page 35, line 14, after “Kingdom)” insert “, reading subsection (3) of that section as if it referred to a person entering or arriving in the United Kingdom as mentioned in subsection (2) of that section on or after 7 March 2023”
- 22M** Clause 29, page 36, line 17, at end insert –
- “(4) Until section 2(1) comes into force in relation to a person, section 8AA of the Immigration Act 1971 has effect in relation to that person as if it also permitted the Secretary of State to give the person limited leave to enter or limited leave to remain in the United Kingdom in any other circumstances, subject as follows.
  - (5) If a person in relation to whom section 8AA of the Immigration Act 1971 applies leaves or is removed from the United Kingdom after having become such a person, subsection (4) of this section does not permit the Secretary of State to give the person limited leave to enter the United Kingdom if the person returns to the United Kingdom (but see section 8AA(3) of that Act).
  - (6) If a person in relation to whom section 8AA of the Immigration Act 1971 applies is given limited leave to enter the United Kingdom under subsection (3) of that section, subsection (4) of this section does not permit the Secretary of State to give the person limited leave to remain in the United Kingdom (but see section 8AA(4) of that Act).
  - (7) Any leave to enter or remain in the United Kingdom given to a person by virtue of subsection (4) is to be disregarded in determining, for the purposes of this Act or any other enactment, whether the person meets the four conditions in section 2.”
- 22N** Clause 30, page 36, line 26, after “Kingdom)” insert “, reading subsection (3) of that section as if it referred to a person entering or arriving in the United Kingdom as mentioned in subsection (2) of that section on or after 7 March 2023”
- 22P** Clause 64, page 64, line 22, after “3(5)” insert “(subject to section 15(5))”.
- 22Q** Clause 66, page 65, line 41, at end insert –
- “(za) section (*Amendment of date in section 2(3) etc*) (amendment of date in section 2(3) etc);”

**After Clause 6**

LORDS AMENDMENT 23

**23** 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.”

COMMONS REASON

*The Commons disagree to Lords Amendment 23 for the following Reason –*

**23A** *Because the Amendment is unnecessary as an LGBT person who is a national of a country specified in the Amendment and who makes a protection claim will not be returned to their home country and can make a serious harm suspensive claim in the event that it is proposed to remove them to a safe third country.*

**Clause 10**

LORDS AMENDMENT 30

**30** Clause 10, page 14, leave out lines 29 to 31

COMMONS REASON

*The Commons disagree to Lords Amendments 30, 32 and 34 for Reason 34A*

LORDS AMENDMENT 31

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

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

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

*The Commons disagree to Lords Amendment 31 and propose Amendments 36A and 36B in lieu*

LORDS AMENDMENT 32

**32** Clause 10, page 15, line 19, at end insert –

“(2L) The Secretary of State may not exercise these powers to detain a person under sub-paragraph (2C) where they fall within section 21(3) of the Illegal Migration Act 2023.”

COMMONS REASON

*The Commons disagree to Lords Amendments 30, 32 and 34 for Reason 34A*

LORDS AMENDMENT 33

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

COMMONS REASON

*The Commons disagree to Lords Amendment 33 for the following Reason –*

**33A** *Because the Amendment is contrary to the purpose of the Bill to prevent and deter unlawful migration.*

LORDS AMENDMENT 34

**34** Clause 10, page 16, leave out lines 21 to 23

COMMONS REASON

*The Commons disagree to Lords Amendments 30, 32 and 34 for the following Reason –*

**34A** *Because it is necessary to ensure that the National Referral Mechanism is not used as a loophole by persons arriving illegally to make false claims to avoid being detained in or removed from the United Kingdom and that persons subject to the clause 2 duty may be detained in order to facilitate their swift removal from the UK.*

LORDS AMENDMENT 35

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

“(2B) Detention under subsection (2A) is to be treated as detention under 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).”

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

*The Commons disagree to Lords Amendment 35 and propose Amendments 36A and 36B in lieu*

LORDS AMENDMENT 36

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

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

*The Commons disagree to Lords Amendment 36 and propose the following Amendments to the Bill in lieu of Lords Amendments 31, 35 and 36 –*

**36A** Clause 12, page 21, leave out lines 16 to 23 and insert –

“(3A) A person who is being detained under paragraph 16(2C)(d)(iv) of Schedule 2 to the Immigration Act 1971 or section 62(2A)(d)(iv) of the Nationality, Immigration and Asylum Act 2002 (detention of unaccompanied child for purposes of removal) must not be granted immigration bail by the First-tier Tribunal until after the earlier of –

- (a) the end of the period of 28 days beginning with the date on which the person’s detention under any provision of paragraph 16(2C) of Schedule 2 to the Immigration Act 1971 or section 62(2A) of the Nationality, Immigration and Asylum Act 2002 began, and
- (b) the end of the period of 8 days beginning with the date on which the person’s detention under paragraph 16(2C)(d)(iv) of Schedule 2 to the Immigration Act 1971 or section 62(2A)(d)(iv) of the Nationality, Immigration and Asylum Act 2002 began.

(3B) A person who is being detained under –

- (a) paragraph 16(2C)(a), (b), (c) or (d)(i) to (iii) of Schedule 2 to the Immigration Act 1971, or
- (b) section 62(2A)(a), (b), (c) or (d)(i) to (iii) of the Nationality, Immigration and Asylum Act 2002,

must not be granted immigration bail by the First-tier Tribunal until after the end of the period of 28 days beginning with the date on which the person’s detention under paragraph 16(2C) of that Schedule or section 62(2A) of that Act began.

(3C) Where a person is detained under a provision of the Immigration Act 1971 and then (without being released) under a provision of the Nationality, Immigration and Asylum Act 2002, or vice versa, the periods referred to in sub-paragraphs (3A) and (3B) begin with the date on which the person was first detained under the relevant provisions of either of those Acts.”

**36B** Clause 12, page 22, line 26, after “(3A),” insert “(3B),”

LORDS AMENDMENT 37

**37** Clause 10, page 17, line 16, leave out subsection (10)

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

*The Commons disagree to Lords Amendment 37 and propose Amendments 38A, 38B, 38C, 38D and 38E in lieu*

LORDS AMENDMENT 38

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



COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

*The Commons disagree to Lords Amendment 38 and propose the following Amendments to the Bill in lieu of Lords Amendments 37 and 38 –*

**38A** Clause 10, page 14, line 37, at end insert –

“(2CA) But if the immigration officer is satisfied that a woman being detained under sub-paragraph (2C) is pregnant, then the woman may not be detained under that sub-paragraph for a period of –

- (a) more than 72 hours from the relevant time, or
- (b) more than seven days from the relevant time, in a case where the longer period of detention is authorised personally by a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975).

(2CB) A woman who has been released as a result of sub-paragraph (2CA) may be detained again under sub-paragraph (2C) in accordance with sub-paragraph (2CA).

(2CC) Where a woman being detained under sub-paragraph (2C) has previously been detained under section 62(2A) of the Nationality, Immigration and Asylum Act 2002 and has not been released in between, the definition of “the relevant time” in sub-paragraph (2CD) is to be read as if paragraph (b) referred to the time when the woman was first detained under sub-paragraph (2C) or section 62(2A) of that Act.

(2CD) In sub-paragraphs (2CA) to (2CC) –

“the relevant time” means the later of –

- (a) the time at which the immigration officer is first satisfied that the woman is pregnant, and
- (b) the time at which the detention under sub-paragraph (2C) begins;

“woman” means a female of any age.”

**38B** Clause 10, page 16, line 28, at end insert –

“(2AA) But if the Secretary of State is satisfied that a woman being detained under subsection (2A) is pregnant, then the woman may not be detained under that subsection for a period of –

- (a) more than 72 hours from the relevant time, or
- (b) more than seven days from the relevant time, in a case where the longer period of detention is authorised personally by a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975).

(2AB) A woman who has been released as a result of subsection (2AA) may be detained again under subsection (2A) in accordance with subsection (2AA).

(2AC) Where a woman being detained under subsection (2A) has previously been detained under paragraph 16(2C) of Schedule 2 to the Immigration Act 1971 and has not been released in between, the definition of “the relevant time” in subsection (2AD) is to be read as if paragraph (b) referred to the time when the woman was first detained under subsection (2A) or paragraph 16(2C) of that Schedule to that Act.

- (2AD) In subsections (2AA) to (2AC) –  
“the relevant time” means the later of –  
(a) the time at which the Secretary of State is first satisfied that the woman is pregnant, and  
(b) the time at which the detention under subsection (2A) begins;  
“woman” means a female of any age.”

38C Clause 11, page 17, line 24, after “17A” insert “further”

38D Clause 11, page 18, line 2, at end insert –  
“(d) paragraph 16(2CA) to (2CD) (limitation on detention of pregnant women).”

38E Clause 11, page 19, line 27, at end insert –  
“(aa) subsections (2AA) to (2AD) (limitation on detention of pregnant women);”

### Clause 11

#### LORDS AMENDMENT 39

39 Clause 11, page 17, line 27, at beginning insert –  
“17A(A1) This paragraph is subject to section 11(7) of the Illegal Migration Act 2023.”

#### COMMONS REASON

*The Commons disagree to Lords Amendments 39 to 49 for Reason 49A*

#### LORDS AMENDMENT 40

40 Clause 11, page 18, line 34, after “to” insert “section 11(7) of the Illegal Migration Act 2023,”

#### COMMONS REASON

*The Commons disagree to Lords Amendments 39 to 49 for Reason 49A*

#### LORDS AMENDMENT 41

41 Clause 11, page 18, line 41, at beginning insert “Subject to section 11(7) of the Illegal Migration Act 2023,”

#### COMMONS REASON

*The Commons disagree to Lords Amendments 39 to 49 for Reason 49A*

LORDS AMENDMENT 42

- 42 Clause 11, page 19, line 29, at end insert –  
“(c) section 11(7) of the Illegal Migration Act 2023.”

COMMONS REASON

*The Commons disagree to Lords Amendments 39 to 49 for Reason 49A*

LORDS AMENDMENT 43

- 43 Clause 11, page 19, line 35, at beginning insert “Subject to section 11(7) of the Illegal Migration Act 2023,”

COMMONS REASON

*The Commons disagree to Lords Amendments 39 to 49 for Reason 49A*

LORDS AMENDMENT 44

- 44 Clause 11, page 20, line 10, after “to” insert “section 11(7) of the Illegal Migration Act 2023,”

COMMONS REASON

*The Commons disagree to Lords Amendments 39 to 49 for Reason 49A*

LORDS AMENDMENT 45

- 45 Clause 11, page 20, line 16, at beginning insert “Subject to section 11(7) of the Illegal Migration Act 2023,”

COMMONS REASON

*The Commons disagree to Lords Amendments 39 to 49 for Reason 49A*

LORDS AMENDMENT 46

- 46 Clause 11, page 20, line 28, at beginning insert “Subject to section 11(7) of the Illegal Migration Act 2023,”

COMMONS REASON

*The Commons disagree to Lords Amendments 39 to 49 for Reason 49A*

LORDS AMENDMENT 47

- 47 Clause 11, page 20, line 31, at beginning insert “Subject to section 11(7) of the Illegal Migration Act 2023,”

COMMONS REASON

*The Commons disagree to Lords Amendments 39 to 49 for Reason 49A*

LORDS AMENDMENT 48

- 48 Clause 11, page 20, line 36, at beginning insert “Subject to section 11(7) of the Illegal Migration Act 2023,”

COMMONS REASON

*The Commons disagree to Lords Amendments 39 to 49 for Reason 49A*

LORDS AMENDMENT 49

- 49 Clause 11, page 20, line 42, 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.”

COMMONS REASON

*The Commons disagree to Lords Amendments 39 to 49 for the following Reason –*

- 49A *Because it is properly a matter for the Secretary of State to determine whether continued detention of a person is reasonable in all the circumstances.*

**Clause 16**

LORDS AMENDMENT 50

- 50 Clause 16, page 23, line 32, at end insert –
- “(4A) But the Secretary of State may not make a decision under subsection (4) unless to do so is necessary to safeguard and promote the welfare of the child.”

COMMONS REASON

*The Commons disagree to Lords Amendment 50 for the following Reason –*

- 50A *Because the Secretary of State will be required under section 55 of the Borders, Citizenship and Immigration Act 2009 to have regard to the need to safeguard and promote the welfare of the child when making a decision under clause 16(4).*

**Clause 21**

LORDS AMENDMENT 51

- 51 Clause 21, page 25, line 35, leave out “and” and insert “or”

COMMONS REASON

*The Commons disagree to Lords Amendments 6, 51, 52, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64 and 65 for Reason 65A*

LORDS AMENDMENT 52

- 52 Clause 21, page 25, line 36, leave out paragraph (b) and insert –  
“(b) that person is or may be a modern slavery survivor, save where the exceptions set out in section 21(3) apply.”

COMMONS REASON

*The Commons disagree to Lords Amendments 6, 51, 52, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64 and 65 for Reason 65A*

LORDS AMENDMENT 53

- 53 Clause 21, page 26, line 9, after “if” insert “any one of the below conditions applies”

COMMONS REASON

*The Commons disagree to Lords Amendments 6, 51, 52, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64 and 65 for Reason 65A*

LORDS AMENDMENT 54

- 54 Clause 21, page 26, line 14, leave out “and”

COMMONS REASON

*The Commons disagree to Lords Amendments 6, 51, 52, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64 and 65 for Reason 65A*

LORDS AMENDMENT 55

- 55 Clause 21, page 26, line 18, at end insert –  
“(d) a person has been identified by a First Responder as appropriate for referral into the National Referral Mechanism;  
(e) a decision by a competent authority regarding reasonable grounds is pending;  
(f) a decision has been made by a competent authority that there are reasonable grounds to believe that the person is a victim of slavery or

- human trafficking (a “positive reasonable grounds decision”), and has not yet received a conclusive grounds decision;
- (g) the person is in the course of challenging a negative reasonable grounds decision;
  - (h) the person has received a positive conclusive grounds decision;
  - (i) the person is in the course of challenging a negative conclusive grounds decision.”

#### COMMONS REASON

*The Commons disagree to Lords Amendments 6, 51, 52, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64 and 65 for Reason 65A*

#### LORDS AMENDMENT 56

- 56** Clause 21, page 26, leave out line 19 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—”

#### COMMONS REASON

*The Commons disagree to Lords Amendment 56 for the following Reason—*

- 56A** *Because the Bill already makes sufficient provision to enable a potential victim of modern slavery to remain in the UK where the Secretary of State considers it necessary for the person to do so for the purpose of cooperating with a public authority which is investigating their exploitation.*

#### LORDS AMENDMENT 57

- 57** Clause 21, page 26, line 30, leave out subsections (5) and (6) and insert—
- “(5) The Secretary of State may by regulations make provision about the circumstances in which it is necessary for a person to be present in the United Kingdom to provide cooperation of the kind mentioned in subsection (3)(a).”

#### COMMONS REASON

*The Commons disagree to Lords Amendment 57 for the following Reason—*

- 57A** *Because the Bill already makes sufficient provision to enable a potential victim of modern slavery to remain in the UK where the Secretary of State considers it necessary for the person to do so for the purpose of cooperating with a public authority which is investigating their exploitation.*

LORDS AMENDMENT 58

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

COMMONS REASON

*The Commons disagree to Lords Amendments 6, 51, 52, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64 and 65 for Reason 65A*

LORDS AMENDMENT 59

59 Clause 21, page 27, line 12, at end insert –

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

COMMONS REASON

*The Commons disagree to Lords Amendments 6, 51, 52, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64 and 65 for Reason 65A*

**Clause 22**

LORDS AMENDMENT 60

60 Leave out Clause 22

COMMONS REASON

*The Commons disagree to Lords Amendments 6, 51, 52, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64 and 65 for Reason 65A*

**Clause 23**

LORDS AMENDMENT 61

61 Leave out Clause 23

COMMONS REASON

*The Commons disagree to Lords Amendments 6, 51, 52, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64 and 65 for Reason 65A*

**Clause 24**

LORDS AMENDMENT 62

62 Leave out Clause 24

COMMONS REASON

*The Commons disagree to Lords Amendments 6, 51, 52, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64 and 65 for Reason 65A*

**Clause 25**

LORDS AMENDMENT 63

- 63** Clause 25, page 31, line 19, leave out from second “of” to end of line 20 and insert “12 months from 7 March 2023”

COMMONS REASON

*The Commons disagree to Lords Amendments 6, 51, 52, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64 and 65 for Reason 65A*

**Clause 26**

LORDS AMENDMENT 64

- 64** Clause 26, page 32, line 16, leave out subsection (2)

COMMONS REASON

*The Commons disagree to Lords Amendments 6, 51, 52, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64 and 65 for Reason 65A*

**Clause 27**

LORDS AMENDMENT 65

- 65** Clause 27, page 33, line 29, leave out subsection (12)

COMMONS REASON

*The Commons disagree to Lords Amendments 6, 51, 52, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64 and 65 for the following Reason –*

- 65A** *Because it is necessary on grounds of public order to disapply protections for potential victims of modern slavery temporarily in response to the current scale of illegal migration.*

**Clause 28**

LORDS AMENDMENT 66

- 66** Clause 28, page 33, line 36, leave out subsections (2) and (3)

COMMONS REASON

*The Commons disagree to Lords Amendments 66 and 67 for Reason 67A.*



## LORDS AMENDMENT 67

67 Clause 28, page 34, line 12, after “imprisonment” add “of at least 12 months”

## COMMONS REASON

*The Commons disagree to Lords Amendments 66 and 67 for the following Reason –*

67A *Because it is right that the Government is able withhold protections from all individuals who pose a threat to public order and because the Nationality and Borders Act 2022, as amended by this Bill, provides sufficient discretion in the disqualification decision process.*

## Clause 38

## LORDS AMENDMENT 73

73 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 50.
- (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.”

COMMONS DISAGREEMENT AND AMENDMENT IN LIEU

*The Commons disagree to Lords Amendment 73 and propose Amendment 74A in lieu*

**Clause 39**

LORDS AMENDMENT 74

- 74** Leave out Clause 39

COMMONS DISAGREEMENT AND AMENDMENT IN LIEU

*The Commons disagree to Lords Amendment 74 and propose the following Amendment to the Bill in lieu of Lords Amendments 73 and 74 –*

- 74A** Clause 39, page 42, line 32, at end insert –
- “(2A) Regulations under subsection (1) may not amend subsection (4) of section 38 to remove any example of serious and irreversible harm which is listed in that subsection when this Act is passed.”

**Clause 52**

LORDS AMENDMENT 90

- 90** Leave out Clause 52

COMMONS DISAGREEMENT AND AMENDMENTS TO THE WORDS SO RESTORED TO THE BILL

*The Commons disagree to Lords Amendment 90 and propose the following Amendments to the words so restored to the Bill –*

- 90A** Page 53, line 40, after “court” insert “or tribunal”
- 90B** Page 54, line 1, after “court” insert “or tribunal”
- 90C** Page 54, line 7, after second “court” insert “or tribunal”

## Clause 55

### LORDS AMENDMENT 93

- 93 Clause 55, page 56, line 21, leave out subsections (2) to (4) and insert –
- “(2) Subsection (5) applies if P makes an application for judicial review of –
- (a) the decision mentioned in subsection (1), or
  - (b) any decision to make arrangements for the person’s removal from the United Kingdom under this Act which is taken on the basis of that decision.”

### COMMONS REASON

*The Commons disagree to Lords Amendment 93 for the following Reason:*

- 93A *Because it is necessary to remove the right of appeal against an age assessment decision and to provide for any challenge by way of judicial review to be non-suspensive of removal in order to prevent and deter unlawful migration.*

### LORDS AMENDMENT 95

- 95 Clause 55, page 56, line 34, leave out paragraphs (a) and (b) and insert “may grant relief only on the basis that the decision –
- (a) was wrong in law, or
  - (b) proceeded on information about the person’s age which was incomplete, misleading or otherwise so seriously misinformed that no reasonable decision-maker would have relied on it.”

### COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

*The Commons disagree to Lords Amendment 95 and propose the following Amendments to the Bill in lieu –*

- 95A Clause 55, page 56, line 34, leave out from “may” to “was” and insert “grant relief only on the basis that the decision”
- 95B Clause 55, page 56, line 36, leave out from “not” to “considers” and insert “grant relief on the basis that the court or tribunal”

### After Clause 58

### LORDS AMENDMENT 102

- 102 After Clause 58, 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 59(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.”

#### COMMONS REASON

*The Commons disagree to Lords Amendment 102 for the following Reason –*

- 102A** *Because the Amendment is unnecessary as the Government has already committed to implement additional safe and legal routes as proposed in the report to be published under clause 59 as soon as practicable and in any event by the end of 2024.*

#### After Clause 60

#### LORDS AMENDMENT 103

- 103** After Clause 60, 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).”

#### COMMONS REASON

*The Commons disagree to Lords Amendment 103 for the following Reason –*

- 103A** *Because the Amendment is unnecessary as section 1 of the Crime and Courts Act 2013 already provides for the National Crime Agency to have functions in relation to combating organised crime; this function encompasses organised immigration crime.*

COMMONS AMENDMENT 104

104 After Clause 60, insert the following new Clause –

**“Ten-year strategy on refugees and human trafficking**

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

COMMONS REASON

*The Commons disagree to Lords Amendments 104 and 107 for Reason 107A*

**Clause 66**

LORDS AMENDMENT 107

107 Clause 66, page 65, line 36, at end insert –

“(ba) section (*Ten-year strategy on refugees and human trafficking*);”

COMMONS REASON

*The Commons disagree to Lords Amendments 104 and 107 for the following Reason –*

107A *Because the Amendments are unnecessary as the Government already works in collaboration with the UN High Commission for Refugees and others in response to refugee crises and in tackling human trafficking.*

# Illegal Migration Bill

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COMMONS REASONS, AMENDMENTS IN LIEU AND AMENDMENTS TO THE WORDS  
SO RESTORED TO THE BILL

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*11 July 2023.*

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