

Safety of Rwanda (Asylum and Immigration) Bill

AMENDMENTS

TO BE MOVED

IN COMMITTEE OF THE WHOLE HOUSE

Clause 1

BARONESS CHAKRABARTI
BARONESS HALE OF RICHMOND
THE LORD ARCHBISHOP OF CANTERBURY

Clause 1, page 1, line 2, after “The” insert “first”

Member's explanatory statement

This amendment, and others in the name of Baroness Chakrabarti to Clause 1, add the purpose of compliance with the rule of law to that of deterrence. The amendments require positive UNHCR advice on the safety of Rwanda to be laid before Parliament before claims for asylum in the UK may be processed in Rwanda.

BARONESS CHAKRABARTI
BARONESS HALE OF RICHMOND
THE LORD ARCHBISHOP OF CANTERBURY

Clause 1, page 1, line 5, at end insert—

- “(1A) The second purpose is to ensure compliance with the domestic and international rule of law by providing that no person will be removed to the Republic of Rwanda by or under such provision, unless the conditions under subsection (1B) and (1C) have been met and are likely to continue to be met for the foreseeable future.
- (1B) The first condition is that, having consulted with relevant international experts, the United Nations High Commissioner for Refugees (UNHCR) has advised the Secretary of State that the Republic of Rwanda is a safe country for the processing of asylum and other humanitarian protection claims before successful claimants are returned to the United Kingdom by request of the Secretary of State under Article 11(1) of the Rwanda Treaty.
- (1C) The second condition is that the Secretary of State has laid the advice of UNHCR before both Houses of Parliament.”

Member's explanatory statement

This amendment, and others in the name of Baroness Chakrabarti to Clause 1, add the purpose of compliance with the rule of law to that of deterrence. The amendments require positive UNHCR

advice on the safety of Rwanda to be laid before Parliament before claims for asylum in the UK may be processed in Rwanda.

VISCOUNT HAILSHAM

Clause 1, page 1, line 11, leave out “Parliament” and insert “the government of the United Kingdom”

BARONESS CHAKRABARTI
BARONESS HALE OF RICHMOND
THE LORD ARCHBISHOP OF CANTERBURY

Clause 1, page 1, line 12, leave out “is” and insert “may become”

Member's explanatory statement

This amendment, and others in the name of Baroness Chakrabarti to Clause 1, add the purpose of compliance with the rule of law to that of deterrence. The amendments require positive UNHCR advice on the safety of Rwanda to be laid before Parliament before claims for asylum in the UK may be processed in Rwanda.

LORD HOPE OF CRAIGHEAD

Clause 1, page 1, line 12, leave out “is a safe country”, and insert “will be a safe country when, and only so long as, the arrangements provided for in the Rwanda Treaty have been fully implemented and are being adhered to in practice.”

Member's explanatory statement

This amendment, read with new subsections 1(7) and 1(8), seeks to give effect to the proposition that Parliament cannot judge Rwanda to be a safe country until the Rwanda Treaty has been, and continues to be, fully implemented.

VISCOUNT HAILSHAM

Clause 1, page 1, line 12, at end insert “thus replacing a previous finding of fact by the Supreme Court of the United Kingdom that Rwanda was not a safe country.”

Member's explanatory statement

This amendment seeks to make it plain that the Bill replaces a judicial finding of fact.

LORD BLUNKETT

Clause 1, page 2, line 3, at end insert —

- “(g) those granted refugee status are automatically presumed to have the option of returning to the United Kingdom, and that on the individual being granted refugee status, they are facilitated in relocating to the United Kingdom.”

VISCOUNT HAILSHAM

Clause 1, page 2, line 4, leave out subsection (4)

VISCOUNT HAILSHAM

Clause 1, page 2, line 20, leave out subsection (6)

Member's explanatory statement

This amendment is consequential on another amendment in Viscount Hailsham's name to leave out subsection (4) in clause 1.

LORD HOPE OF CRAIGHEAD

Clause 1, page 2, line 31, at end insert –

- “(7) The Rwanda Treaty cannot be considered to have been fully implemented for the purposes of this Act until the Secretary of State has obtained a declaration by the Joint Committee formed under Article 16 of the Rwanda Treaty, after consultation with the Monitoring Committee formed under Article 15 and on its advice, that the Objectives referred to in Article 2 of the Treaty have been secured by the creation of the mechanisms listed in that Article.
- (8) The Secretary of State must consult the Monitoring Committee every three months during the period that the Treaty remains in force, and must make a statement to Parliament at the earliest opportunity in the event that the advice of the Monitoring Committee is that the provisions of the Treaty are not being adhered to in practice.”

Member's explanatory statement

This amendment seeks to provide a means by which it can be determined for the purposes of this Act that the Rwanda Treaty has been, and continues to be, fully implemented.

Clause 2

LORD HOPE OF CRAIGHEAD

Clause 2, page 2, line 34, at end insert “when, and only so long as, the arrangements provided for in the Rwanda Treaty have been fully implemented and are being adhered to in practice.”

Member's explanatory statement

This amendment, read with new subsections 1(7) and 1(8), seeks to give effect to the proposition that Parliament cannot judge Rwanda to be a safe country until the Rwanda Treaty has been, and continues to be, fully implemented.

LORD HOPE OF CRAIGHEAD

Clause 2, page 2, line 41, after “not” insert “, after the arrangements provided for in the Rwanda Treaty have been fully implemented and only so long as they are being adhered to in practice,”

Member's explanatory statement

This amendment, read with new subsections 1(7) and 1(8), seeks to give effect to the proposition that Parliament cannot judge Rwanda to be a safe country until the Rwanda Treaty has been, and continues to be, fully implemented.

LORD COAKER

Clause 2, page 3, line 4, leave out paragraph (a)

Member's explanatory statement

This amendment would permit courts and tribunals to deal with systematic risk of refoulement.

BARONESS CHAKRABARTI
BARONESS HALE OF RICHMOND
THE LORD ARCHBISHOP OF CANTERBURY

Leave out Clause 2 and insert the following new Clause –

“Safety of the Republic of Rwanda

Once laid pursuant to subsection 1(1C), the relevant advice of UNHCR will create a rebuttable presumption as to the safety of the Republic of Rwanda.”

Member's explanatory statement

This amendment provides that positive UNHCR advice would create a rebuttable presumption that Rwanda is a safe country.

LORD ETHERTON
LORD ANDERSON OF IPSWICH

The above-named Lords give notice of their intention to oppose the Question that Clause 2 stand part of the Bill.

Clause 3

BARONESS CHAKRABARTI
BARONESS HALE OF RICHMOND
THE LORD ARCHBISHOP OF CANTERBURY

Leave out Clause 3 and insert the following new Clause —

“Limited disapplication of section 6 of the Human Rights Act 1998

Section 6 of the Human Rights Act 1998 (acts of public authorities) will not require the Secretary of State to consider the accuracy of any relevant UNHCR advice before laying it before Parliament.”

Member's explanatory statement

This amendment limits the Bill's disapplication of the Human Rights Act to immunising the Secretary of State from challenge of his decision to lay positive UNHCR advice.

LORD GERMAN
VISCOUNT HAILSHAM

The above-named Lords give notice of their intention to oppose the Question that Clause 3 stand part of the Bill.

Clause 4

BARONESS CHAKRABARTI
BARONESS HALE OF RICHMOND
THE LORD ARCHBISHOP OF CANTERBURY

Clause 4, page 4, line 12, leave out from “question” to end of line 14

Member's explanatory statement

This amendment, and other amendments to clause 4 in the name of Baroness Chakrabarti, restore the jurisdiction of domestic courts by rendering the future safety of Rwanda (evidenced by UNHCR advice) a rebuttable presumption and restoring the ability for UK courts and tribunals to grant interim relief.

BARONESS CHAKRABARTI
BARONESS HALE OF RICHMOND
THE LORD ARCHBISHOP OF CANTERBURY

Clause 4, page 4, line 19, leave out from “question” to end of line 22

Member's explanatory statement

This amendment, and other amendments to clause 4 in the name of Baroness Chakrabarti, restore the jurisdiction of domestic courts by rendering the future safety of Rwanda (evidenced by UNHCR advice) a rebuttable presumption and restoring the ability for UK courts and tribunals to grant interim relief.

LORD COAKER

Clause 4, page 4, line 23, leave out subsection (2)

Member's explanatory statement

This amendment ensures that decision-makers are still able to consider the risk of refoulement when making individual decisions on removals.

BARONESS CHAKRABARTI
BARONESS HALE OF RICHMOND
THE LORD ARCHBISHOP OF CANTERBURY

Clause 4, page 4, line 23, leave out subsections (2) and (3)

Member's explanatory statement

This amendment and others in the name of Baroness Chakrabarti to clause 4 restore the jurisdiction of domestic courts by rendering the future safety of Rwanda (evidenced by UNHCR advice) a rebuttable presumption and restoring the ability for UK courts and tribunals to grant interim relief.

BARONESS CHAKRABARTI
BARONESS HALE OF RICHMOND
THE LORD ARCHBISHOP OF CANTERBURY

Clause 4, page 4, line 34, leave out from “Rwanda” to end of line 37

Member's explanatory statement

This amendment and other amendments to clause 4 in the name of Baroness Chakrabarti, restore the jurisdiction of domestic courts by rendering the future safety of Rwanda (evidenced by UNHCR advice) a rebuttable presumption and restoring the ability for UK courts and tribunals to grant interim relief.

BARONESS CHAKRABARTI
BARONESS HALE OF RICHMOND
THE LORD ARCHBISHOP OF CANTERBURY

Clause 4, page 4, line 42, leave out subsection (6)

Member's explanatory statement

This amendment, and other amendments to clause 4 in the name of Baroness Chakrabarti, restore the jurisdiction of domestic courts by rendering the future safety of Rwanda (evidenced by UNHCR advice) a rebuttable presumption and restoring the ability for UK courts and tribunals to grant interim relief.

Clause 5

LORD GERMAN

Clause 5, page 5, line 13, leave out subsection (2)

Member's explanatory statement

This amendment would omit the provision that only a Minister of the Crown can decide whether the United Kingdom will comply with interim measures of the European Court of Human Rights.

LORD GERMAN

Clause 5, page 5, line 15, leave out subsection (3)

Member's explanatory statement

This amendment would remove the requirement that a court or tribunal must not have regard to the interim measure when considering any application or appeal which relates to a decision to remove the person to the Republic of Rwanda.

BARONESS CHAKRABARTI
BARONESS HALE OF RICHMOND
THE LORD ARCHBISHOP OF CANTERBURY

Clause 5, page 5, line 15, leave out “not”

Member's explanatory statement

This amendment and other amendments to clause 5 in the name of Baroness Chakrabarti ensure that proper regard is given to interim measures of the European Court of Human Rights in accordance with international law.

LORD COAKER

Clause 5, page 5, line 23, at end insert “following consultation with the Attorney General.”

Member's explanatory statement

This amendment ensures a Minister of the Crown making a decision on compliance with an interim injunction consults with the Attorney General.

VISCOUNT HAILSHAM

Clause 5, page 5, line 23, at end insert –

“(5) This section only applies to interim proceedings at which a Minister of the Crown was not present or represented at the European Court of Human Rights and did not have the opportunity to make substantive submissions.”

Member's explanatory statement

This amendment would restrict this section to apply to ex parte proceedings only.

After Clause 5

LORD COAKER

After Clause 5, insert the following new Clause—

“Monitoring Committee

- (1) A Monitoring Committee overseeing removals to Rwanda must be established and maintained in accordance with Article 15 of the Rwanda Treaty.
- (2) The Monitoring Committee must report to Parliament every 90 days from when it is first established to confirm that the obligations set out in the Rwanda Treaty are being complied with.
- (3) If a report made under subsection (2) either—
 - (a) is not received within a 90-day period, or
 - (b) does not confirm that the relevant obligations are being complied with, the provisions of this Act relating to the removal of persons to Rwanda do not apply.
- (4) Reports made under subsection (2) may be taken into consideration in proceedings of any court or tribunal.
- (5) Section 2(1) of this Act does not apply if—
 - (a) the Monitoring Committee established under subsection (1) has formally concluded that the Republic of Rwanda is in breach of its obligations under that Treaty,
 - (b) the Secretary of State has advised against travel to the Republic of Rwanda, or
 - (c) if a court or tribunal has found the Republic of Rwanda to be unsafe in accordance with subsection (6) below.
- (6) On an application for judicial review, if a UK Senior Court determines that credible evidence exists that the Republic of Rwanda is no longer safe on the basis of non-compliance with its obligations under the Rwanda Treaty, nothing in this Act shall prevent a court or tribunal from further considering an application for judicial review brought by an individual so affected.”

Member's explanatory statement

This new Clause places the Monitoring Committee for the Rwanda Treaty on a statutory basis, creates a reporting requirement, and places conditions on when the classification of Rwanda as “safe” can be suspended in accordance with material conditions and/or non-compliance with obligations under the Rwanda Treaty.

LORD COAKER

After Clause 5, insert the following new Clause –

“Suspension of Act if Monitoring Committee not in operation

- (1) This Act ceases to have effect on the day after the Secretary of State has laid before Parliament a statement that the Monitoring Committee under Article 15 of the Rwanda Treaty has (for whatever reason) ceased to function.
- (2) The suspension of this Act under subsection (1) is terminated (and this Act accordingly resumes effect) on the day after the Secretary of State has laid before Parliament a statement that the Monitoring Committee under Article 15 of the Rwanda Treaty has started to function normally after a period when it had ceased to function.”

Member's explanatory statement

This new Clause makes the operation of the Act resulting from this Bill dependent on the continued operation of the Monitoring Committee to be established under Article 15 of the Rwanda Treaty.

LORD COAKER

After Clause 5, insert the following new Clause –

“Reporting requirement

Within 60 days of this Act receiving Royal Assent the Secretary of State must provide a written report to Parliament setting out –

- (a) the number of individuals relocated under the Rwanda Treaty,
- (b) the current location and immigration status of any individuals relocated under the Rwanda Treaty.”

Member's explanatory statement

This new Clause requires the Secretary to report to Parliament on the operation of the Rwanda Treaty.

Clause 9

BARONESS CHAKRABARTI
VISCOUNT HAILSHAM

Clause 9, page 6, line 38, leave out subsection (1) and insert –

- “(1) This Act comes into force on such day as the Secretary of State may by regulations appoint.
- (1A) A statutory instrument containing regulations under this section may not be made unless –
 - (a) the Joint Committee on Human Rights has reported its belief that the Republic of Rwanda is a safe country, and

- (b) 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 replaces commencement of the Act, currently triggered by the entry into force of the Rwanda Treaty (an executive act), with a parliamentary trigger requiring both a JCHR Report and resolution of each House of Parliament.

VISCOUNT HAILSHAM
BARONESS CHAKRABARTI

As an amendment to the amendment in the name of Baroness Chakrabarti to Clause 9, page 6, line 38

After subsection (1A), at end insert –

- “(1B) The Secretary of State may by regulations made in accordance with subsection (1A), provide for the Act to be in force for an initial period not exceeding two years (the initial implementation period).
- (1C) At the expiration of the initial implementation period, the Secretary of State may by regulations made in accordance with subsection (1A), provide for a further period during which the Act will be in force, provided that such an extension is for a period not exceeding 2 years.
- (1D) At the expiration of the first extension and in respect of any subsequent extension, the Secretary of State, may by regulation, made in accordance with subsection (1A) provide for the Act to be in force for a further period, any such extension must not be for a period exceeding two years.
- (1E) Provided that in the event that the Joint Committee on Human Rights is not in existence, the report referred to in subsection (1A) will be provided by a Joint Committee of both Houses of Parliament appointed for that purpose.”

LORD COAKER

Clause 9, page 6, line 38, leave out from “force” to end of line 39 and insert “on the day after the Secretary of State has laid before Parliament a statement that the Monitoring Committee under Article 15 of the Rwanda Treaty has been fully established (see section *(Suspension of Act if Monitoring Committee not in operation)*).”

Member's explanatory statement

This amendment makes the commencement of the Act contingent on the establishment of the Monitoring Committee under Article 15 of the Rwanda Treaty.

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