

# Nationality and Borders Bill

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MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

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*The amendments have been marshalled in accordance with the Instruction of 19th January 2022, as follows –*

Clauses 1 to 8	Clause 42
Schedule 1	Schedule 5
Clauses 9 to 22	Clauses 43 and 44
Schedule 2	Schedule 6
Clauses 23 to 28	Clauses 45 and 46
Schedule 3	Schedule 7
Clauses 29 to 41	Clauses 47 to 84
Schedule 4	Title.

[Amendments marked ★ are new or have been altered]

**Amendment  
No.**

**Clause 1**

BARONESS HAMWEE

**1★** Page 2, line 10, leave out “equally” and insert “in the same terms”

***Member’s explanatory statement***

*The JCHR recommended that the Home Office consider how best to ensure that the intention to treat those previously discriminated against equally well as those not previously discriminated against, is made clear in the drafting of Clause 1. This amendment is to probe the drafting of Clause 1.*

**2★** Page 2, line 15, leave out “equally” and insert “in the same terms”

***Member’s explanatory statement***

*The JCHR recommended that the Home Office consider how best to ensure that the intention to treat those previously discriminated against equally well as those not previously discriminated against, is made clear in the drafting of Clause 1. This amendment is to probe the drafting of Clause 1.*

## BARONESS MCINTOSH OF PICKERING

3 Page 2, line 46, at end insert –

“(7) The Secretary of State must not charge a fee for the processing of applications under this section.”

***Member’s explanatory statement***

*This amendment ensures that the Secretary of State must not charge a fee for the processing of applications under section 17A.*

**Clause 2**

## BARONESS MCINTOSH OF PICKERING

4 Page 4, line 3, at end insert –

“(6) The Secretary of State must not charge a fee for the processing of applications under this section.”

***Member’s explanatory statement***

*This amendment ensures that the Secretary of State must not charge a fee for the processing of applications under section 17C.*

5 Page 5, line 16, at end insert –

“(3) The Secretary of State must not charge a fee for the processing of applications under this section.”

***Member’s explanatory statement***

*This amendment ensures that the Secretary of State must not charge a fee for the processing of applications under section 17E.*

6 Page 6, line 40, at end insert –

“(7A) The Secretary of State must not charge a fee for the processing of applications under this section.”

***Member’s explanatory statement***

*This amendment ensures that the Secretary of State must not charge a fee for the processing of applications under section 17F.*

**Clause 3**

## BARONESS MCINTOSH OF PICKERING

7 Page 8, line 18, at end insert –

“(4) The Secretary of State must not charge a fee for the processing of applications under this section.”

***Member’s explanatory statement***

*This amendment ensures that the Secretary of State must not charge a fee for the processing of applications under section 4K.*

BARONESS HAMWEE  
LORD PADDICK

8★ Page 8, line 26, at end insert—

“(3A) Section 41A (registration: requirement to be of good character) of that Act is repealed.”

***Member’s explanatory statement***

*This amendment repeals the good character requirement under the 1981 Act.*

LORD DUBS  
BARONESS LUDFORD

9 Page 8, line 27, leave out subsection (4)

***Member’s explanatory statement***

*This would give effect to the recommendation of the Joint Committee on Human Rights to remove the good character requirement for a person applying for British Overseas Territories citizenship who has previously been discriminated against where this could perpetuate that discrimination.*

**Clause 4**

BARONESS HAMWEE  
LORD PADDICK

10★ Page 8, line 43, leave out subsection (2)

***Member’s explanatory statement***

*This amendment is consequential on Baroness Hamwee’s amendment to Clause 3, page 8, line 26.*

**After Clause 4**

BARONESS LISTER OF BURTERSETT  
BARONESS LUDFORD  
LORD WOOLLEY OF WOODFORD  
BARONESS BENNETT OF MANOR CASTLE

11 Insert the following new Clause—

**“Provision for Chagos Islanders to acquire British nationality**

- (1) Part 2 of the British Nationality Act 1981 (British overseas territories citizenship) is amended as follows.
- (2) After section 17H (as inserted by section 7), insert—

**“17I Acquisition by registration: descendants of those born in British Indian Ocean Territory**

- (1) A person is entitled to be registered as a British overseas territories citizen on an application made under this section if they are a direct descendant of a person (“P”) who was a citizen of the United Kingdom and Colonies by virtue of P’s birth in the British Indian Ocean Territory or, prior to 8 November 1965, in those islands designated as the British Indian Ocean Territory on that date.

**After Clause 4 - continued**

- (2) An application under this section must be made before the date specified in subsection (3).
- (3) The specified date means—
  - (a) in the case of a person aged 18 years or over on the date of coming into force of this section, five years after the date of coming into force of this section, or
  - (b) in the case of a person under the age of 18 years on the date of coming into force of this section, before they reach the age of 23 years.
- (4) A person who is being registered as a British overseas territories citizen under this section is also entitled to be registered as a British citizen.
- (5) No charge or fee may be imposed for registration under this section.””

**Member’s explanatory statement**

*This amendment would allow anyone who is descended from a person born before 1983 on the British Indian Ocean Territory to register as a British overseas territories citizen. They may also register as a British citizen at the same time. Both applications would be free of charge. The application must be submitted within 5 years, or in the case of a minor born before the date of coming into force, before they reach 23 years old.*

**Clause 6**

BARONESS HAMWEE  
LORD PADDICK

12★ Page 9, line 32, leave out subsection (4)

**Member’s explanatory statement**

*This amendment is consequential on Baroness Hamwee’s amendment to Clause 3, page 8, line 26.*

**After Clause 6**

BARONESS LISTER OF BURTERSETT  
THE LORD BISHOP OF DURHAM  
LORD ALTON OF LIVERPOOL  
BARONESS STROUD

13 Insert the following new Clause—

**“Registration as a British citizen or British overseas territories citizen: fees**

- (1) No person may be charged a fee to be registered as a British citizen or British overseas territories citizen that is higher than the cost to the Secretary of State of exercising the function of registration.
- (2) No child may be charged a fee to be registered as a British citizen or British overseas territories citizen if that child is being looked after by a local authority.
- (3) No child may be charged a fee to be registered as a British citizen or British overseas territories citizen that the child or the child’s parent, guardian or carer is unable to afford.

**After Clause 6 - continued**

- (4) The Secretary of State must take steps to raise awareness of rights under the British Nationality Act 1981 to be registered as a British citizen or British overseas territories citizen among people possessing those rights.”

**Member’s explanatory statement**

*This new Clause would ensure rights to citizenship by registration are no longer subject to fees that exceed administrative costs; ensure children are not excluded from their citizenship rights by the size of the fee; and require the Secretary of State to take action to raise awareness of these rights.*

**Clause 7**

LORD RUSSELL OF LIVERPOOL  
BARONESS HAMWEE

- 14 Page 9, line 36, at end insert –

“(1A) In section 1 (acquisition by birth or adoption), in subsection (5) –

(a) in paragraph (a), for “minor” substitute “person”, and

(b) after paragraph (b), for “that minor shall” substitute “that person or minor (as the case may be) shall”.”

**Member’s explanatory statement**

*This amendment seeks to bring British nationality law in line with adoption law in England and Wales. In those nations, an adoption order made by a court may be made where a child has reached the age of 18 but is not yet 19. Yet such an adoption order currently only confers British citizenship automatically where the person adopted is under 18 on the day the order is made.*

BARONESS HAMWEE  
LORD PADDICK

- 15★ Page 9, line 39, leave out “of full age and capacity”

**Member’s explanatory statement**

*This amendment is consequential on Baroness Hamwee’s amendment to Clause 3, page 8, line 26.*

- 16★ Page 9, line 40, leave out “may” and insert “must”

**Member’s explanatory statement**

*This amendment is consequential on Baroness Hamwee’s amendment to Clause 3, page 8, line 26.*

- 17★ Page 10, line 23, leave out subsection (4)

**Member’s explanatory statement**

*This amendment is consequential on Baroness Hamwee’s amendment to Clause 3, page 8, line 26.*

## BARONESS MCINTOSH OF PICKERING

18 Page 10, line 25, at end insert –

“(5) The Secretary of State must not charge a fee for the processing of applications under this section.”

*Member’s explanatory statement*

*This amendment ensures that the Secretary of State must not charge a fee for the processing of applications under section 4L.*

BARONESS HAMWEE  
LORD PADDICK

19★ Page 10, line 28, leave out “of full age and capacity”

*Member’s explanatory statement*

*This amendment is consequential on Baroness Hamwee’s amendment to Clause 3, page 8, line 26.*

20★ Page 10, line 30, leave out “may” and insert “must”

*Member’s explanatory statement*

*This amendment is consequential on Baroness Hamwee’s amendment to Clause 3, page 8, line 26.*

21★ Page 11, line 6, leave out subsection (4)

*Member’s explanatory statement*

*This amendment is consequential on Baroness Hamwee’s amendment to Clause 3, page 8, line 26.*

## BARONESS MCINTOSH OF PICKERING

22 Page 11, line 8, at end insert –

“(5) The Secretary of State must not charge a fee for the processing of applications under this section.”

*Member’s explanatory statement*

*This amendment ensures that the Secretary of State must not charge a fee for the processing of applications under section 17H.*

BARONESS HAMWEE  
LORD PADDICK

23★ Page 11, line 8, at end insert –

**“17I Guidance**

The Secretary of State must, following consultation with appropriate persons, publish guidance regarding the exercise of the Secretary of State's discretion under sections 4L, 17C, 17D, 17H and 44A.”

*Member’s explanatory statement*

*This amendment is consequential on Baroness Hamwee’s amendment to Clause 3, page 8, line 26.*

## BARONESS HAMWEE

24★ Page 11, line 8, at end insert –

“(4) After section 23 (citizens of UK and Colonies who are to become British overseas territories citizens at commencement), insert –

“23A Acquisition by registration: special circumstances

- (1) If an application is made for a person of full age and capacity (“P”) to be registered as a British Overseas citizen, the Secretary of State may cause P to be registered as such a citizen if, in the Secretary of State’s opinion, P would have been, or would have been able to become, a British Overseas citizen but for –
  - (a) historical legislative unfairness,
  - (b) an act or omission of a public authority, or
  - (c) exceptional circumstances relating to P.
- (2) For the purposes of subsection (1)(a), “historical legislative unfairness” includes circumstances where P would have become, or would not have ceased to be, a British subject, a citizen of the United Kingdom and Colonies, or a British Overseas citizen, if an Act of Parliament or subordinate legislation (within the meaning of the Interpretation Act 1978) had, for the purposes of determining a person’s nationality status –
  - (a) treated males and females equally,
  - (b) treated children of unmarried couples in the same way as children of married couples, or
  - (c) treated children of couples where the mother was married to someone other than the natural father in the same way as children of couples where the mother was married to the natural father.
- (3) In subsection (1)(b), “public authority” means any public authority within the meaning of section 6 of the Human Rights Act 1998, other than a court or tribunal.
- (4) In considering whether to grant an application under this section, the Secretary of State may take into account whether the applicant is of good character.””

*Member’s explanatory statement*

*This amendment seeks to extend the remedy in Clause 7 to those who would have been British Overseas citizens but for historical unfairness.*

## Clause 9

## BARONESS MCINTOSH OF PICKERING

25 Page 11, leave out lines 33 to 36

*Member’s explanatory statement*

*This amendment deletes the proposed new sections 40(5A)(a) and (b) in the British Nationality Act 1981.*

26 Page 11, leave out lines 39 and 40

**Member's explanatory statement**

*This amendment deletes the proposed new section 40(5A)(c)(ii) in the British Nationality Act 1981.*

LORD MOYLAN  
BARONESS FOX OF BUCKLEY  
BARONESS MOBARIK  
BARONESS WARSI

27 Leave out Clause 9 and insert the following new Clause –

**“Deprivation of citizenship**

(1) For section 40 of the British Nationality Act 1981 substitute –

**“40 Deprivation of citizenship**

- (1) Subject to the provisions of this section, the Secretary of State may by order deprive any British citizen to whom this subsection applies of his British citizenship if the Secretary of State is satisfied that the registration or certificate of naturalisation by virtue of which he is such a citizen was obtained by means of fraud, false representation or the concealment of any material fact.
- (2) Subsection (1) applies to any British citizen who –
  - (a) became a British citizen after commencement by virtue of –
    - (i) his registration as a British citizen under any provision of this Act; or
    - (ii) a certificate of naturalisation granted to him under section 6; or
  - (b) being immediately before commencement a citizen of the United Kingdom and Colonies by virtue of registration as such a citizen under any provision of the British Nationality Acts 1948 to 1964, became at commencement a British citizen; or
  - (c) at any time before commencement became a British subject (within the meaning of that expression at that time), or a citizen of Eire or of the Republic of Ireland, by virtue of a certificate of naturalisation granted to him or in which his name was included.
- (3) Subject to the provisions of this section, the Secretary of State may by order deprive any British citizen to whom this subsection applies of his British citizenship if the Secretary of State is satisfied that that citizen –
  - (a) has shown himself by act or speech to be disloyal or disaffected towards Her Majesty; or
  - (b) has, during any war in which Her Majesty was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist an enemy in that war; or
  - (c) has, within the period of five years from the relevant date, been sentenced in any country to imprisonment for a term of not less than twelve months.



**Clause 9 - continued**

- (4) Subsection (3) applies to any British citizen who falls within paragraph (a)(ii) or (c) of subsection (2); and in subsection (3) “the relevant date”, in relation to a British citizen to whom subsection (3) applies, means the date of the grant of the certificate of naturalisation by virtue of which he is such a citizen.
- (5) Before making an order under this section the Secretary of State shall give the person against whom the order is proposed to be made notice in writing informing him of the ground or grounds on which it is proposed to be made and of his right to an appeal under section 40A.
- (6) The Secretary of State –
- (a) shall not deprive a person of British citizenship under this section unless he is satisfied that it is not conducive to the public good that that person should continue to be a British citizen; and
  - (b) shall not deprive a person of British citizenship under subsection (3) if it appears to him that that person would thereupon become stateless.
- (7) The preceding provisions of this section shall apply in relation to British Overseas Territories citizens and Overseas Territories citizenship as they apply in relation to British citizens and British citizenship, but as if in subsection (2)(a)(ii) the reference to section 6 were a reference to section 18.”
- (2) Omit section 40B of the British Nationality Act 1981.”

***Member’s explanatory statement***

*This amendment would restrict the power of the Secretary of State to deprive a British citizen of nationality to (a) naturalised and registered citizens who had fraudulently obtained that status and (b) naturalised citizens in specified circumstances if doing so would not render the person stateless.*

LORD ANDERSON OF IPSWICH  
LORD ROSSER  
LORD PADDICK  
BARONESS WARSI

*The above-named Lords give notice of their intention to oppose the Question that Clause 9 stand part of the Bill.*

**After Clause 9**

LORD ANDERSON OF IPSWICH  
BARONESS CHAKRABARTI  
BARONESS BENNETT OF MANOR CASTLE

28

Insert the following new Clause –

**“Duration between Secretary of State’s reviews of deprivation power**

- (1) Section 40B of the British Nationality Act 1981 (review of power under section 40(4A)) is amended as follows.
- (2) In subsection (1)(b), omit “three” and insert “one”.
- (3) In subsection (2), omit “in the circumstances set out in section 40(4A)”.

**After Clause 9 - continued**

- (4) In subsection (8), omit ““subsequent three year period” means a period of three years beginning with the first day after the most recent of –
- (a) the initial one year period, or
  - (b) the most recent subsequent three year period.””

**Member’s explanatory statement**

*This amendment would replace the current triennial review of citizenship deprivation resulting in statelessness with an annual review of all deprivations of citizenship on “conducive to the public good” grounds.*

LORD PADDICK  
BARONESS HAMWEE

29★

Insert the following new Clause –

**“Deprivation of citizenship: procedure**

- (1) The British Nationality Act 1981 is amended as follows.
- (2) In section 40(2) (deprivation of citizenship), leave out “conducive to the public good” and insert “necessary in the interests of national security”.
- (3) In section 40(3) (deprivation of citizenship), leave out “by order” and insert “apply to the court for consent to”.
- (4) In section 40(4) (deprivation of citizenship), after “that” insert –
  - “(a) the person holds British citizenship by birth;
  - (b) the order will affect the best interests of a child in the family of which the person is a member; or
  - (c) ”
- (5) In section 40B (review of power under section 40(4A)) –
  - (a) leave out from first “each” to end of subsection (1) and insert “year”; and
  - (b) leave out subsection (8).”

**Member’s explanatory statement**

*This requires an application to a court to deprive a person of their citizenship. This can only be done where someone obtained their citizenship through fraud; or is necessary for national security when someone has done something seriously prejudicial to the vital interests of the UK. The power cannot be used when a person was a British citizen at birth or could be made stateless, and requires the best interests of any child affected to be taken into account.*

**Clause 10**

LORD DUBS  
BARONESS LUDFORD  
BARONESS BENNETT OF MANOR CASTLE

30

Page 13, line 11, after “birth” insert “without any legal or administrative barriers”

**Member's explanatory statement**

*This would give effect to the recommendation of the Joint Committee on Human Rights to ensure that, in compliance with Article 1 of the 1961 UN Statelessness Convention, British citizenship is only withheld from a stateless child born in the UK where the nationality of a parent is available to the child immediately, without any legal or administrative hurdles.*

31 Page 13, line 15, at end insert –

“(d) in all the circumstances, it would be in the best interests of the child for it to acquire the nationality in question.”

**Member's explanatory statement**

*This would give effect to the recommendation of the Joint Committee on Human Rights to ensure that the best interests of the child are central to decision-making in deciding whether to grant or decline an application for British citizenship by a stateless child who was born in the UK.*

LORD PADDICK

LORD ROSSER

BARONESS BENNETT OF MANOR CASTLE

*The above-named Lords give notice of their intention to oppose the Question that Clause 10 stand part of the Bill.*

**Member's explanatory statement**

*This amendment would remove Clause 10, which restricts entitlement to British citizenship for children born stateless in the UK.*

**After Clause 10**

BARONESS BENNETT OF MANOR CASTLE

BARONESS CHAKRABARTI

32 Insert the following new Clause –

**“Repeal of power to deprive citizenship except for cases of fraud etc.**

In section 40 of the British Nationality Act 1981 (deprivation of citizenship) omit –

(a) subsection (2), and

(b) subsection (4).”

**Member's explanatory statement**

*This would repeal the power of the Secretary of State to deprive British citizenship except in cases where it was obtained by means of fraud, false representation or concealment of material fact.*

BARONESS BENNETT OF MANOR CASTLE

33 Insert the following new Clause –

**“Right to appeal deprivation of citizenship to a Tribunal**

In section 40A(2) of the British Nationality Act 1981 (deprivation of citizenship: appeal) omit paragraph (c).”

**Member's explanatory statement**

*This would repeal the broad "public interest" discretion which allows the Secretary of State to certify that an appeal against deprivation of citizenship must go to the Special Immigration Appeals Commission instead of a Tribunal.*

BARONESS LUDFORD

34 Insert the following new Clause—

**“Acquisition of British citizenship by birth or adoption: comprehensive sickness insurance**

- (1) The European Union (Withdrawal Agreement) Act 2020 is amended as follows.
- (2) After section 15, insert—
 

**“15A Comprehensive sickness insurance**

  - (1) For the purposes of any decision taken by a public authority under this Part after commencement of this section, a person is to be treated as having met a requirement to have held comprehensive sickness insurance, whenever they—
    - (a) had access to the NHS in practice, or
    - (b) held a comprehensive sickness insurance policy.
  - (2) This section applies in particular to any decisions taken under residence scheme immigration rules.”
- (3) The British Nationality Act 1981 is amended as follows.
- (4) After section 1(3A) insert—
 

**“(3B)** A person born in the United Kingdom after commencement who is not a British citizen is entitled, on application, to register as a British citizen if the person’s father or mother would have been settled in the United Kingdom at the time of the person’s birth, if Assumption A had applied.

**(3C)** Assumption A is that, in assessing whether the person’s father or mother met a requirement to have held comprehensive sickness insurance, this is to be regarded as having been satisfied whenever they—

  - (a) had access to the NHS in practice, or
  - (b) held a comprehensive sickness insurance policy.

**(3D)** Registration under subsection (3B) is free of charge.”
- (5) After section 50A insert—
 

**“50B Exceptions**

Notwithstanding any provision of section 50A, for the purposes of an application for naturalisation or registration made under this Act, a person—

  - (a) is not to be treated as having been in the United Kingdom in breach of the immigration laws during a period of time that has been counted as part of a continuous qualifying period in a grant of leave to that person under Appendix EU of the Immigration Rules, and
  - (b) is not to be treated as not being of good character on account of a failure to hold comprehensive sickness insurance during some period of residence in the UK.””

**Member's explanatory statement**

*This new Clause provides that a person seeking to naturalise as a British citizen, seeking to exercise family reunion rights as a naturalised British citizen, or seeking to have their UK-born children recognised as British at birth, need not have had comprehensive sickness insurance prior to naturalising or prior to the birth of their child.*

BARONESS HAMWEE

35★ Insert the following new Clause –

**“European Convention on Nationality**

Her Majesty's Government must within six months of this Act coming into force ratify the European Convention on Nationality 1997.”

**Before Clause 11**

BARONESS HAMWEE  
LORD PADDICK

36★ Insert the following new Clause –

**“Smuggling**

- (1) Not less than six months before this Act comes into force, the Secretary of State must publish a report to Parliament regarding discussions with the governments and authorities of other countries, including those bordering the English Channel and the North Sea, concerning the steps taken or proposed to prevent or deter a person from –
  - (a) charging refugees for assistance or purported assistance in travelling to or entering the United Kingdom;
  - (b) endangering the safety of refugees travelling to the United Kingdom.
- (2) The report must focus on steps other than the provisions of this Act.”

**Member's explanatory statement**

*This amendment requires the Secretary of State to publish a report on the actions that are being taken to tackle people smugglers.*

**Clause 11**

BARONESS MCINTOSH OF PICKERING

37 Page 13, line 33, leave out “a refugee is a Group 1” and insert “a person is a”

**Member's explanatory statement**

*This amendment ensures equality of treatment by removing the distinction between Group 1 and Group 2 refugees.*

38 Page 13, line 36, leave out paragraph (b)

**Member's explanatory statement**

*This amendment is consequential on another amendment to Clause 11 in the name of Baroness McIntosh of Pickering.*

BARONESS HAMWEE

39★ Page 13, line 41, leave out “without delay”

**Clause 11 - continued**

BARONESS LISTER OF BURTERSETT  
 BARONESS NEUBERGER  
 LORD CASHMAN

40 Page 13, line 44, at end insert –

- “(2A) For the purposes of subsection (2)(b), the following will be regarded as having presented themselves “without delay” –
- (a) people who have experienced sexual violence;
  - (b) people who have made a protection or human rights claim on the basis of gender-based violence;
  - (c) people who have made a protection or human rights claim on the basis of sexual orientation, gender identity, gender expression or sex characteristics;
  - (d) people who are a victim of modern slavery or trafficking;
  - (e) people who are a victim of torture;
  - (f) people who are suffering from a mental impairment;
  - (g) people who are suffering from a serious physical disability;
  - (h) people who are suffering from other serious physical health conditions or illnesses;
  - (i) people who were under 18 years of age at the time of their arrival in the United Kingdom.”

***Member’s explanatory statement***

*This probing amendment seeks to ascertain whether and to what extent certain vulnerable groups would be covered by the “without delay” condition.*

LORD ETHERTON

41 Page 14, line 3, at end insert –

- “(3A) In determining whether a refugee has shown good cause within subsection (3), particular regard must be had to any protected characteristic of the refugee, within the meaning of Chapter 1 of Part 2 of the Equality Act 2010, which is innate or immutable.”

***Member’s explanatory statement***

*Refugees who have one or more protected characteristics may face particular difficulties in entering the UK lawfully. Confinement to protected characteristics which are innate or immutable is taken from the speech of Lord Steyn in the appeals in Islam and Shah [1999] 2 AC 629 (and Clause 32(3)(a) of the Bill).*

BARONESS MCINTOSH OF PICKERING

42 Page 14, line 7, leave out “treat Group 1 and Group 2 refugees differently, for example” and insert “exercise reasonable discretion”

**Member's explanatory statement**

*This amendment is consequential on the removal of the distinction between Group 1 and Group 2 refugees by another amendment in the name of Baroness McIntosh of Pickering and ensures that the Secretary of State or an immigration officer may exercise discretion in a reasonable manner.*

BARONESS HAMWEE  
LORD PADDICK

43★ Page 14, line 8, leave out “for example”

**Member's explanatory statement**

*This amendment is to probe the extent of the Secretary of State's powers to treat refugees differently.*

BARONESS HAMWEE  
LORD BLUNKETT

44 Page 14, line 9, leave out paragraph (a)

**Member's explanatory statement**

*This amendment, along with Baroness Hamwee's amendment to page 14, line 22, would amend the list of examples of ways in which refugees, or their family members, can be treated differently depending on whether they are in Group 1 or Group 2 to remove providing different lengths of leave. These amendments would probe the reason for and potential impact of differentiation.*

45 Page 14, line 11, leave out paragraph (b)

**Member's explanatory statement**

*This amendment, along with Baroness Hamwee's amendment to page 14, line 24, would amend the list of examples of ways in which refugees, or their family members, can be treated differently depending on whether they are in Group 1 or Group 2 to remove having differing routes to settlement. These amendments would probe the reason for and potential impact of differentiation.*

BARONESS LISTER OF BURTERSETT  
BARONESS JONES OF MOULSECOOMB  
BARONESS STROUD  
LORD BLUNKETT

46 Page 14, line 13, leave out paragraph (c)

**Member's explanatory statement**

*This probing amendment, along with another amendment to Clause 11, would amend the list of examples of ways in which refugees, or their family members, can be treated differently depending on whether they are in Group 1 or Group 2 by removing reference to the attachment of no recourse to public funds requirements so as to probe when this requirement would be attached.*

BARONESS HAMWEE  
LORD BLUNKETT

47 Page 14, line 16, leave out paragraph (d)

**Member's explanatory statement**

*This amendment, along with Baroness Hamwee's amendment to page 14, line 21, would amend the list of examples of ways in which refugees, or their family members, can be treated differently depending on whether they are in Group 1 or Group 2 to remove having differing family reunion entitlements. These amendments would probe the detail of how this would be enacted.*

BARONESS HAMWEE  
LORD PADDICK

48★ Page 14, line 18, leave out subsections (6) to (8)

**Member's explanatory statement**

*This amendment is to probe the differential treatment of family members.*

BARONESS MCINTOSH OF PICKERING

49 Page 14, line 18, leave out "also treat the family members of Group 1 and Group 2 refugees differently" and insert "exercise reasonable discretion in relation to a family member of a refugee"

**Member's explanatory statement**

*This amendment is consequential on the removal of the distinction between Group 1 and Group 2 refugees by another amendment in the name of Baroness McIntosh of Pickering and ensures that the Secretary of State or an immigration officer may exercise discretion in a reasonable manner.*

BARONESS HAMWEE

50★ Page 14, line 19, leave out "for example"

**Member's explanatory statement**

*This amendment is to probe the extent of the Secretary of State's powers to treat the family members of refugees differently.*

BARONESS HAMWEE  
LORD BLUNKETT

51 Page 14, line 21, leave out paragraph (a)

**Member's explanatory statement**

*This amendment, along with Baroness Hamwee's amendment to page 14, line 16, would amend the list of examples of ways in which refugees, or their family members, can be treated differently depending on whether they are in Group 1 or Group 2 to remove having differing family reunion entitlements. These amendments would probe the detail of how this would be enacted.*

52 Page 14, line 22, leave out paragraph (b)

**Member's explanatory statement**

*This amendment, along with Baroness Hamwee's amendment to page 14, line 9, would amend the list of examples of ways in which refugees, or their family members, can be treated differently depending on whether they are in Group 1 or Group 2 to remove providing different lengths of leave. These amendments would probe the reason for and potential impact of differentiation.*



## BARONESS HAMWEE

53★ Page 14, line 24, leave out paragraph (c)

***Member's explanatory statement***

*This amendment, together with Baroness Hamwee's amendment to page 14, line 11, would amend the list of example ways in which refugees, or their family members, can be treated differently depending on whether they're in Group 1 or Group 2 to remove having differing routes to settlement. These amendments would probe the reason and potential impact of differentiation.*

BARONESS LISTER OF BURTERSETT  
BARONESS JONES OF MOULSECOOMB  
BARONESS STROUD  
LORD BLUNKETT

54 Page 14, line 26, leave out paragraph (d)

***Member's explanatory statement***

*This probing amendment, along with another amendment to Clause 11, would amend the list of examples of ways in which refugees, or their family members, can be treated differently depending on whether they are in Group 1 or Group 2 by removing reference to the attachment of no recourse to public funds requirements so as to probe when this requirement would be attached.*

## BARONESS HAMWEE

55 Page 14, line 32, at end insert –

“(8A) Notwithstanding section 3(2) of the Immigration Act 1971, any statement of immigration rules made under the power in subsection (8) must be approved by a resolution of each House of Parliament before coming into force.”

***Member's explanatory statement***

*This amendment is intended to highlight the lack of parliamentary scrutiny that would be available for immigration rules implementing the differentiated treatment of refugees. The amendment would require any such rules to be approved by both Houses of Parliament before they could come into force.*

LORD PADDICK  
LORD ROSSER  
THE LORD BISHOP OF DURHAM  
LORD BLUNKETT

*The above-named Lords give notice of their intention to oppose the Question that Clause 11 stand part of the Bill.*

***Member's explanatory statement***

*This amendment would remove Clause 11, which provides for the differential treatment of refugees depending on their method of arrival in the UK*

## Clause 12

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

56 Page 15, line 39, at end insert –

“(4A) In section 16 of the Nationality, Immigration and Asylum Act 2002 (Establishment of centres), after subsection 2 insert –

“(2A) Accommodation provided under this section must –

- (a) have a capacity of no more than 100 residents, and
- (b) provide any non-related residents at the centre with an individual room in which to sleep, such that residents are not required to share sleeping quarters with people to whom they are not related.”

***Member’s explanatory statement***

*This amendment would amend the 2002 Act to ensure that accommodation centres are not too large and that residents are not required to share sleeping quarters with anyone they are not related to.*

57 Page 15, line 39, at end insert –

“(4A) In section 16 of the Nationality, Immigration and Asylum Act 2002 (Establishment of centres), at end insert –

“(4) For the purposes of this Part, references to “persons” does not include –

- (a) children;
  - (b) women;
  - (c) individuals with a disability;
  - (d) individuals who have been referred to the National Referral Mechanism;
  - (e) individuals who have a received a positive conclusive grounds decision following a referral to the National Referral Mechanism;
  - (f) survivors of torture;
  - (g) individuals who identify as LGBTQ+; and
  - (h) family members of any individuals referenced in this subsection.
- (5) For the purposes of this section, “family members” includes –
- (a) dependent children;
  - (b) partners/spouses;
  - (c) in relation to children –
    - (i) their siblings;
    - (ii) any other individual who is the relevant child’s guardian.”

***Member’s explanatory statement***

*This amendment is to restrict the use of accommodation centres for accommodating people seeking asylum so that the stated groups and their family members cannot be accommodated in them.*

BARONESS HAMWEE  
LORD PADDICK

- 58★ Page 16, line 12, leave out from “centre,” to end of line 13 and insert “in subsection (2)(b), before “circumstances” insert “exceptional””

***Member’s explanatory statement***

*This amendment would ensure that a person can only be held in an accommodation centre for nine months in exceptional circumstances.*

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

- 59 Page 16, leave out line 13 and insert “(1), for “six months” substitute “90 days”.”

***Member’s explanatory statement***

*Clause 11(9) currently amends the Nationality, Immigration and Asylum Act 2002 to allow the Secretary of State to increase the maximum length of time someone can be accommodated in an accommodation centre from the existing limit of six months. This amendment would remove that power and instead reduce the maximum stay to ninety days. This is in line with the maximum time the Home Office have said people should be accommodated in Napier Barracks.*

- 60 Page 16, line 15, at end insert –  
“(11) Omit section 36 of that Act (Education: general).”

***Member’s explanatory statement***

*Section 36 of the Nationality, Immigration and Asylum Act 2002 prevents most children accommodated in accommodation centres from attending state schools. This amendment would remove that restriction.*

LORD ETHERTON

- 61 Page 16, line 15, at end insert –  
“(11) Any accommodation provided to a refugee pursuant to this section must be provided in the United Kingdom, must be consistent with the European Convention on Human Rights and must be such as is appropriate for the safety and welfare of that refugee having particular regard to any protected characteristic asserted by the refugee, within the meaning of Chapter 1 of Part 2 of the Equality Act 2010, which is innate or immutable.”

***Member’s explanatory statement***

*This amendment spells out the standard of accommodation to be provided to a refugee.*

BARONESS HAMWEE

- 62 Page 16, line 15, at end insert –  
“(11) In section 30 of that Act (conditions of residence), for subsection (3) substitute –  
“(3) A condition imposed by virtue of this section may not –

**Clause 12 - continued**

- (a) require a person to be present within the centre during specified hours;
- (b) require a person to be present within a particular section of the centre during specified hours.””

***Member’s explanatory statement***

*Section 30 of the Nationality, Immigration and Asylum Act 2002 provides a power to make regulations about conditions that can be imposed on a resident of an asylum accommodation centre. This amendment replaces subsection (3) and would mean that conditions could not include a curfew or require a person to be within a particular part of the centre during specified hours.*

63 Page 16, line 15, at end insert –

“(11) In section 38 of that Act (local authority), after subsection (2) insert –

“(2A) The Secretary of State may not make arrangements under section 16 for the provision of premises within the boundary of a local authority unless consent has been given by that local authority.””

***Member’s explanatory statement***

*This would amend section 38 of the Nationality, Immigration and Asylum Act 2002 to prevent the Home Secretary from opening an accommodation centre within a particular local authority within the prior consent of that local authority.*

**After Clause 12**

LORD PADDICK  
BARONESS CHAKRABARTI  
BARONESS MEACHER  
BARONESS JONES OF MOULSECOOMB

64 Insert the following new Clause –

**“Asylum seekers’ right to work**

The Secretary of State must make regulations providing that adults applying for asylum in the United Kingdom may apply to the Secretary of State for permission to take up employment if a decision at first instance has not been taken on the applicant’s asylum application within 3 months of the date on which it was recorded.”

***Member’s explanatory statement***

*This new clause would require the Secretary of State to make regulations enabling asylum seekers to work once they have been waiting for a decision on their claim for 3 months or more.*

BARONESS STROUD  
 BARONESS LISTER OF BURTERSETT  
 BARONESS PRASHAR  
 BARONESS LUDFORD

65 Insert the following new Clause—

**“Changes to the Immigration Act 1971**

- (1) The Immigration Act 1971 is amended as follows.
- (2) After section 3(2) (general provisions for regulation and control) insert—
  - “(2A) Regulations under subsection (2) must provide that persons, and adult dependants of persons who are applying for asylum in the United Kingdom are granted permission by the Secretary of State to take up employment if—
    - (a) a decision at first instance has not been taken on the applicant’s asylum application within six months of the date on which the application was made, or
    - (b) a person makes an application or a further application which raises asylum grounds, and a decision on that new application, or a decision on whether to treat such further asylum grounds as a new application, has not been taken within six months of the date on which the further application was made.
  - (2B) For the purposes of subsection (2A), regulations must ensure that permission granted allowing people applying for asylum in the United Kingdom, and their adult dependants, to take up employment, is granted on terms no less favourable than the terms granted to a person with recognised refugee status.
  - (2C) This permission is to be valid until the claim is determined and all appeal rights have been exhausted, and individuals granted permission to work will be issued with physical proof of the right to work.”

BARONESS LISTER OF BURTERSETT  
 BARONESS HAMWEE  
 BARONESS JONES OF MOULSECOOMB

66 Insert the following new Clause—

**“Prescribed period under section 94(3) of the Immigration and Asylum Act 1999**

- (1) The Asylum Support Regulations 2000 (S.I. 2000/704) are amended as follows.
- (2) In regulation 2(2) (interpretation) for “28” substitute “56”.
- (3) Subject to subsection (4), this section does not prevent the Secretary of State from exercising the powers conferred by the Immigration and Asylum Act 1999 to prescribe by regulations a different period for the purposes of section 94(3) (day on which a claim for asylum is determined) of that Act.
- (4) The Secretary of State may not prescribe a period less than 56 days where regulation 2(2A) of the Asylum Support Regulations 2000 (S.I. 2000/704) applies.”

***Member’s explanatory statement***

*When an individual is granted refugee status, their eligibility for Home Office financial support and accommodation currently ends after a further 28 days. This amendment would extend that period to 56 days or allow the Secretary of State to set a longer period.*

**Clause 13**

BARONESS HAMWEE  
LORD PADDICK

67★ Page 17, line 1, leave out subsection (7)

***Member's explanatory statement***

*Clause 13(1) requires an asylum claim to be made at a designated place. However, the UK territorial sea is excluded from being a place where a Home Office Immigration Officer is authorised to accept an asylum claim. This amendment would remove that provision.*

**Clause 14**

LORD ETHERTON  
LORD OATES

68 Page 17, line 41, at end insert –

“(c) fails to protect its nationals, including in particular those who have a protected characteristic within the meaning of Chapter 1 of Part 2 of the Equality Act 2010 which is innate or immutable, from persecution by third parties who are not agents of the member State.”

***Member's explanatory statement***

*This amendment provides that there are exceptional circumstances where, even though there is no overt persecution by the State or state agents, the conduct of others towards a person which the State has failed to prevent can amount to persecution within the Refugee Convention.*

LORD PADDICK

*Lord Paddick gives notice of his intention to oppose the Question that Clause 14 stand part of the Bill.*

**Clause 15**

LORD DUBS  
BARONESS LUDFORD

69 Page 18, leave out lines 26 to 38 and insert –

- “(a) there is not a real risk that the claimant will experience in that State –
- (i) persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, or
  - (ii) violations of their fundamental human rights;
- (b) there is not a real risk that the claimant will be sent from that State to another State –
- (i) otherwise than in accordance with the Refugee Convention, or
  - (ii) in contravention of their rights under the Human Rights Convention, or
  - (iii) where there is a real risk of their fundamental human rights being violated;

**Clause 15 - continued**

- (c) that State provides, in law and practice, and the claimant is entitled to avail themselves of—
- (i) appropriate reception arrangements for asylum seekers;
  - (ii) access to fair and efficient State asylum procedures;
  - (iii) the legal right to remain during the State asylum procedure;
  - (iv) where an asylum seeker is found to be in need of international protection, a grant of refugee status or other protective status that provides as a minimum all the rights and obligations set out at Articles 2-34 of the Refugee Convention.”

***Member’s explanatory statement***

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights that the definition of “safe third State” must ensure that the State in question provides effective protection against human rights abuses and access to an effective asylum system that fully complies with the Refugee Convention.*

70 Page 18, leave out lines 42 to 45

***Member’s explanatory statement***

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights that asylum seekers should not be removed to a safe third State other than the one with which they are considered to have a connection.*

71 Page 19, leave out lines 1 and 2 and insert—

- “(7) An asylum claim may not be declared inadmissible, and an asylum claim that has been declared inadmissible must nevertheless be considered under the immigration rules—
- (a) if no formal, legally binding and public return arrangements are in place between the United Kingdom and the State to which the claimant has a connection,
  - (b) if it is unlikely to be possible to remove the claimant to a safe third State within a reasonable period of the declaration of inadmissibility,”

***Member’s explanatory statement***

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights that claims should not be assessed as inadmissible unless a return arrangement has already been put in place with the relevant safe third State.*

BARONESS HAMWEE  
LORD PADDICK

72★ Page 19, line 5, at end insert—

- “(aa) if a family member of the claimant has been granted refugee status or humanitarian protection,”

**Member's explanatory statement**

*This amendment allows an asylum claim to be considered if a claimant's family member has been granted refugee status or humanitarian protection.*

73★ Page 19, line 7, at end insert—

- “(7A) For the purposes of section (7) a family member is—
- (a) a parent, including an adoptive parent,
  - (b) a spouse, civil partner or unmarried partner,
  - (c) a child, including an adopted child, under the age of 18 or under the age of 25 but who was under 18 or unmarried at the time of leaving their country of residence to seek asylum,
  - (d) a sibling, including an adoptive sibling, under the age of 18 or under the age of 25 but who was under 18 or unmarried at the time of leaving their country of residence to seek asylum, or
  - (e) such other persons as may be entitled to sponsor a family reunion application within the immigration rules made under the Immigration Act 1971.”

**Member's explanatory statement**

*This amendment defines “family member” for the purposes of Baroness Hamwee's amendment to page 19, line 5.*

74★ Page 19, leave out line 30 to line 2 on page 20

**Member's explanatory statement**

*This amendment removes some of the conditions whereby a person is deemed to have “a connection” to a safe state.*

LORD DUBS  
BARONESS LUDFORD

75 Page 19, leave out lines 34 to 42

**Member's explanatory statement**

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights that asylum claims should not be declared inadmissible on the basis of the Home Office's view that it would have been reasonable to expect the claimant to have claimed elsewhere.*

LORD ROSSER  
LORD ETHERTON  
LORD PADDICK

*The above-named Lords give notice of their intention to oppose the Question that Clause 15 stand part of the Bill.*



### After Clause 16

LORD GREEN OF DEDDINGTON  
BARONESS NEVILLE-ROLFE

76 Insert the following new Clause—

**“Inadmissibility to the asylum system for those entering the United Kingdom without permission**

- (1) Any asylum application, or human rights claim, by someone who—
  - (a) has been found to have entered the United Kingdom clandestinely, or
  - (b) has been intercepted while attempting to come, without prior permission, to the United Kingdom in a boat or vehicle,
 must be treated as inadmissible to the UK asylum system.
- (2) No time limit may be set in immigration rules after which an asylum claim suspected of being, or deemed to be, inadmissible must be admitted to the asylum system for substantive consideration.
- (3) Asylum claims suspected of being, or declared by the Secretary of State to be, inadmissible under subsection (1) cannot be considered under immigration rules until the individual is removed from the United Kingdom or departs voluntarily.
- (4) The provision of this section overrides all prior national and international law and should not be interpreted in the light of it, including the 1950 European Convention on Human Rights, the 1951 Refugee Convention and its 1967 Protocol, and the Human Rights Act 1998.”

***Member’s explanatory statement***

*This amendment would expand the definition of “inadmissible” to ensure that any claimant who comes to the UK clandestinely or who has been intercepted while attempting to come in a boat or vehicle without prior permission would be treated as inadmissible to the asylum system.*

### Clause 17

LORD ROSSER

77 Page 21, line 15, at end insert—

- “(1A) The Secretary of State may not serve an evidence notice on a person who—
- (a) has made a protection claim or a human rights claim on the basis of their sexual orientation or gender identity;
  - (b) was under 18 years of age at the time of their arrival in the United Kingdom;
  - (c) has made a protection or human rights claim involving sexual or gender-based violence;
  - (d) is a victim of modern slavery or trafficking; or
- on other categories of person on whom the Secretary of State considers it would be inappropriate to serve an evidence notice.”

***Member’s explanatory statement***

*This amendment probes the serving of an evidence notice on vulnerable groups.*

BARONESS HAMWEE  
LORD PADDICK

- 78★ Page 21, line 16, leave out “, before the specified date,”
- 79★ Page 21, line 20, leave out from “claim” to end of line
- 80★ Page 21, line 27, leave out paragraph (b)
- 81★ Page 21, line 32, leave out subsection (6)

LORD ETHERTON  
LORD PADDICK

- 82 Page 21, line 32, at end insert –
- “(7) The specified date must be such as will reasonably give adequate time for the collection, preparation and provision of evidence in support of the claim, and must take into account any protected characteristic asserted by the recipient of the evidence notice, within the meaning of Chapter 1 of Part 2 of the Equality Act 2010, which is innate or immutable.”

***Member’s explanatory statement***

*This amendment gives guidance as to the time to be allowed for evidence gathering by the recipient of an evidence notice. The need to take into account the difficulties encountered by some refugees, such as members of the LGBTQ community, was highlighted by the decision of the Grand Chamber of the ECJ in A, B, C on 2 December 2014 [2015] 1 WLR 2141.*

**Clause 18**

LORD DUBS  
BARONESS LUDFORD  
BARONESS JONES OF MOULSECOOMB

- 83 Page 22, line 26, leave out subsection (4)

***Member’s explanatory statement***

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights to remove the direction for decision makers to treat the provision of evidence on or after the date specified in an evidence notice as damaging to credibility.*

LORD ETHERTON

- 84 Page 22, line 30, at end insert –
- “(6AA) In determining whether there are good reasons why the evidence was provided late, account must be taken of any protected characteristic asserted by the claimant, within the meaning of Chapter 1 of Part 2 of the Equality Act 2010, which is innate or immutable.”

***Member’s explanatory statement***

*This amendment requires that account be taken of the difficulties encountered by some claimants with protected characteristics.*

## BARONESS NEVILLE-ROLFE

85★ Page 22, line 36, at end insert –

“(6C) This section also applies to failure by the claimant to produce identifying documents when entering the United Kingdom or when intercepted in the territorial waters of the United Kingdom.”

## Clause 19

## LORD ETHERTON

86 Page 23, line 38, at end insert –

“(3A) The PRN cut-off date must be such as will reasonably give adequate time for the collection, preparation and provision of the matters in subsection (3)(a) and must take into account any protected characteristic asserted by the PRN recipient, within the meaning of Chapter 1 of Part 2 of the Equality Act 2010, which is innate or immutable.”

*Member’s explanatory statement*

*This amendment requires that account be taken of the difficulties which may be encountered by recipients of a PRN who assert a protected characteristic.*

## Clause 20

## LORD PADDICK

87 Page 24, line 39, leave out subsection (4)

*Member’s explanatory statement*

*This amendment is to probe why an individual will still be subject to the consequences of Priority Removal Notices when they are no longer liable to removal.*

## Clause 21

## LORD DUBS

## BARONESS LUDFORD

## BARONESS JONES OF MOULSECOOMB

88 Page 25, line 29, leave out subsection (4)

*Member’s explanatory statement*

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights to remove the direction for decision makers to treat the provision of evidence on or after the date specified in a priority removal notice as damaging to credibility.*

## LORD ROSSER

89 Page 25, line 32, at end insert –

“(4A) For the purposes of subsection (4) “good reasons” include, but are not limited to –

- (a) evidence of post-traumatic stress,
- (b) potential endangerment to the PRN recipient caused by collecting evidence for anything mentioned in subsection (1)(a) before the PRN cut-off date.

**Clause 21 - continued**

- (4B) The Secretary of State must publish guidance including a non-exhaustive list of “good reasons” within the meaning of subsection (4) within 30 days of the passing of this Act.”

***Member’s explanatory statement***

*This amendment probes examples of potential interpretations of “good reasons” for late compliance, and requires the Home Secretary to publish a non-exhaustive list of potential “good reasons” to aid asylum decisions.*

LORD ETHERTON

90 Page 25, line 32, at end insert –

- “(4A) In determining whether there are good reasons for the late provision of the material, there must be taken into account any protected characteristic asserted by the PRN recipient, within the meaning of Chapter 1 of Part 2 of the Equality Act 2010, which is innate or immutable.”

***Member’s explanatory statement***

*This amendment requires that account be taken of the difficulties encountered by some recipients of a PRN who assert a protected characteristic.*

**Clause 22**

LORD ETHERTON

91 Page 26, line 40, after “satisfied” insert “on reasonable grounds”

***Member’s explanatory statement***

*The Secretary of State can only give a certification if satisfied on reasonable grounds that there were no good reasons.*

92 Page 26, line 43, at end insert –

- “(2A) In considering whether there are good reasons within subsection (2), the Secretary of State must take into account any protected characteristic asserted by P, within the meaning of Chapter 1 of Part 2 of the Equality Act 2010, which is innate or immutable.”

***Member’s explanatory statement***

*This amendment provides that, in deciding whether there were good reasons for P making the claim on or after the PRN cut-off date, the Secretary of State must take into account difficulties arising from an innate or immutable protected characteristic asserted by P.*

BARONESS HAMWEE

LORD PADDICK

*The above-named Lords give notice of their intention to oppose the Question that Clause 22 stand part of the Bill.*

**Clause 23**

LORD PADDICK  
BARONESS HAMWEE

*The above-named Lords give notice of their intention to oppose the Question that Clause 23 stand part of the Bill.*

**Clause 24**

LORD DUBS  
BARONESS LUDFORD

93 Page 28, line 40, after “notice” insert “or a slavery or trafficking information notice”

***Member’s explanatory statement***

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights to amend the Bill to provide those receiving a slavery or human trafficking information notice with an equivalent amount of civil legal services support as for those receiving a priority removal notice.*

94 Page 28, line 41, after “notice” insert “or a slavery or trafficking information notice”

***Member’s explanatory statement***

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights to amend the Bill to provide those receiving a slavery or human trafficking information notice with an equivalent amount of civil legal services support as for those receiving a priority removal notice.*

**Clause 25**

BARONESS COUSSINS  
BARONESS LISTER OF BURTERSETT

95 Page 30, line 25, at end insert –

“(2A) The deciding authority must accept that there are good reasons why the evidence was provided late where –

- (a) the claimant’s claim is based on sexual orientation, gender identity, gender expression or sex characteristics;
- (b) the claimant was under 18 years of age at the time of their arrival in the United Kingdom;
- (c) the claimant’s claim is based on gender-based violence;
- (d) the claimant has experienced sexual violence;
- (e) the claimant is a victim of modern slavery or trafficking;
- (f) the claimant is suffering from a mental health condition or mental impairment;
- (g) the claimant has been a victim of torture;
- (h) the claimant is suffering from a serious physical disability;
- (i) the claimant is suffering from other serious physical health conditions or illnesses.”

**Clause 25 - continued**

LORD ETHERTON

96 Page 30, line 43, at end insert –

“(6A) In considering whether there are good reasons within subsection (2), the Secretary of State must take into account any protected characteristic asserted by the claimant, within the meaning of Chapter 1 of Part 2 of the Equality Act 2010, which is innate or immutable.”

***Member’s explanatory statement***

*This amendment provides that, in deciding whether there were good reasons for the late provision of evidence, the Secretary of State must take into account difficulties arising from an innate or immutable protected characteristic asserted by the claimant.*

LORD DUBS

BARONESS LUDFORD

BARONESS JONES OF MOULSECOOMB

*The above-named Lords give notice of their intention to oppose the Question that Clause 25 stand part of the Bill.*

***Member’s explanatory statement***

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights to remove the direction for decision makers to treat the provision of evidence on or after the date specified in an evidence notice or priority removal notice as damaging to the weight to be given to that evidence.*

**Clause 26**

LORD DUBS

BARONESS LUDFORD

97 Page 31, line 38, leave out from “State” to end of line 39 and insert “is satisfied that –

- (a) any relevant appeal brought in relation to the decision would be likely to be disposed of expeditiously; and
- (b) any relevant appeal brought in relation to the decision could be resolved within the time limits set out in subsection (3) without giving rise to unfairness or injustice.”

***Member’s explanatory statement***

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights to limit the cases that are brought within the accelerated detained appeals process, to prevent unfairness or injustice arising.*

LORD ETHERTON

98 Page 31, line 39, at end insert –

“(2A) The Secretary of State may not give any such certification if the appellant claims to have a protected characteristic, within the meaning of Chapter 1 of Part 2 of the Equality Act 2010, which is innate or immutable, and that the characteristic is relevant to the appeal.”

**Member's explanatory statement**

*The effect of the amendment is that the Secretary of State cannot certify an appeal as an accelerated detained appeal if the appellant asserts that they have an innate or immutable protected characteristic as such cases involve complexities that make them unsuitable for the accelerated detained appeal procedure.*

LORD DUBS  
BARONESS LUDFORD

- 99 Page 32, line 11, leave out from “Tribunal” to “order” in line 12 and insert “must, if it is concerned that fairness or justice in an individual case cannot be provided within the accelerated detained appeal process,”

**Member's explanatory statement**

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights that Clause 26 should be amended to ensure that cases are removed from the accelerated detained appeals process where the interests of justice and fairness require it.*

**Clause 27**

LORD PADDICK

*Lord Paddick gives notice of his intention to oppose the Question that Clause 27 stand part of the Bill.*

**Clause 28**

LORD KIRKHOPE OF HARROGATE  
THE LORD BISHOP OF DURHAM  
LORD ARBUTHNOT OF EDROM  
BARONESS STROUD

- 100 Page 33, line 20, leave out paragraph (a)

**Member's explanatory statement**

*This amendment is linked to the amendment to leave out paragraphs 1 and 2 of Schedule 3.*

LORD ROSSER  
LORD BLUNKETT  
LORD ETHERTON  
LORD DUBS

*The above-named Lords give notice of their intention to oppose the Question that Clause 28 stand part of the Bill.*

**Schedule 3**

LORD KIRKHOPE OF HARROGATE  
THE LORD BISHOP OF DURHAM  
LORD SHINKWIN  
LORD ARBUTHNOT OF EDROM

- 101 Page 88, line 11, leave out paragraphs 1 and 2

**Member's explanatory statement**

*This amendment leaves out paragraphs 1 and 2 of Schedule 3 to the Bill, which would amend section 77 of the Nationality, Immigration and Asylum Act 2002 (no removal while claim for asylum pending).*

**102** Page 89, line 17, leave out paragraph 4

**Member's explanatory statement**

*This amendment is consequential to the amendment to leave out paragraphs 1 and 2 of Schedule 3.*

LORD ROSSER  
LORD ETHERTON  
BARONESS HAMWEE

*The above-named Lords give notice of their intention to oppose the Question that Schedule 3 be the 3rd Schedule to the Bill.*

**Clause 29**

BARONESS CHAKRABARTI

*Baroness Chakrabarti gives notice of her intention to oppose the Question that Clause 29 stand part of the Bill.*

**Clause 31**

LORD DUBS  
BARONESS LUDFORD

**103** Page 34, line 45, leave out subsections (2) and (3)

**Member's explanatory statement**

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights that the standard of proof for an asylum seeker to establish a well-founded fear of persecution under the Refugee Convention should remain a composite standard of "reasonable likelihood".*

**104** Page 35, line 20, leave out from "persecuted" to end of line 21 and insert "for reasons of race, religion, nationality, membership of a particular social group or political opinion, and"

**Member's explanatory statement**

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights that the standard of proof for an asylum seeker to establish a well-founded fear of persecution under the Refugee Convention should remain a composite standard of "reasonable likelihood".*

BARONESS CHAKRABARTI  
BARONESS MCINTOSH OF PICKERING

*The above-named Lords give notice of their intention to oppose the Question that Clause 31 stand part of the Bill.*



**Clause 32**

BARONESS LISTER OF BURTERSETT  
 BARONESS COUSSINS  
 THE LORD BISHOP OF GLOUCESTER  
 LORD PADDICK

105 Page 35, line 47, leave out “only if it meets” and insert “if it meets one or”

***Member’s explanatory statement***

*This amendment would bring the definition of “particular social group” in line with international standards and UK case law by removing the requirement of two conditions.*

BARONESS CHAKRABARTI

*Baroness Chakrabarti gives notice of her intention to oppose the Question that Clause 32 stand part of the Bill.*

**Clause 33**

BARONESS CHAKRABARTI

*Baroness Chakrabarti gives notice of her intention to oppose the Question that Clause 33 stand part of the Bill.*

**Clause 34**

BARONESS CHAKRABARTI

*Baroness Chakrabarti gives notice of her intention to oppose the Question that Clause 34 stand part of the Bill.*

**Clause 35**

BARONESS CHAKRABARTI

*Baroness Chakrabarti gives notice of her intention to oppose the Question that Clause 35 stand part of the Bill.*

**Clause 36**

LORD DUBS  
 BARONESS LUDFORD

106 Page 37, line 18, leave out from “Kingdom” to “country” in line 20 and insert “for a substantial period and were given or could reasonably have expected to have been given protection under the Refugee Convention in that other”

***Member’s explanatory statement***

*This amendment would give effect to the Joint Committee on Human Rights’ recommendation that clause 36 be amended to ensure that it does not contradict the protection Article 31 provides to asylum seekers who have passed through other countries on their way to the UK.*

LORD ETHERTON

107 Page 37, line 18, at end insert “they have passed through the intermediate country on the refugee’s way to the United Kingdom by way of short-term stopover or”

**Member's explanatory statement**

*This is the interpretation given to Article 31 of the Refugee Convention by the decision of the Divisional Court of the Queen's Bench Division in Adimi [2001] QB 667. This amendment seeks to ensure that, as part of an international Treaty, Article 31 has the same meaning applicable in all Member States.*

108 Page 37, line 34, at end insert –

“(2A) In determining the issues of reasonable expectation under subsection (1) and what was reasonably practicable under subsections (2)(a) and (b)(ii), particular regard must be had to any protected characteristic asserted by the refugee, within the meaning of Chapter 1 of Part 2 of the Equality Act 2010, which is innate or immutable.”

**Member's explanatory statement**

*This amendment requires there to be taken into account particular practical difficulties that may be encountered by a refugee who has one or more protected characteristics which are innate or immutable.*

LORD DUBS  
BARONESS LUDFORD

109 Page 37, line 37, leave out subsection (4)

**Member's explanatory statement**

*This amendment would give effect to the Joint Committee on Human Rights' recommendation that clause 36 be amended to ensure that it does not contradict the protection Article 31 provides to asylum seekers who are passing through the UK on their way to their destination.*

110 Page 37, line 41, leave out subsection (5)

**Member's explanatory statement**

*This amendment would ensure that the criminal defence in domestic law that is designed to reflect Article 31 of the Refugee Convention would remain consistent with Lord Dubs' other two amendments to Clause 36.*

BARONESS CHAKRABARTI

*Baroness Chakrabarti gives notice of her intention to oppose the Question that Clause 36 stand part of the Bill.*

**Clause 37**

LORD DUBS  
BARONESS LUDFORD

111 Page 38, line 16, leave out subsections (3) to (13)

**Member's explanatory statement**

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights that the threshold in respect of what constitutes a “particularly serious crime” for the purposes of Article 33(2) of the Refugee Convention should not be lowered.*

## BARONESS CHAKRABARTI

*Baroness Chakrabarti gives notice of her intention to oppose the Question that Clause 37 stand part of the Bill.*

**After Clause 37**

LORD PADDICK

LORD HYLTON

BARONESS JONES OF MOULSECOOMB

**112** Insert the following new Clause—

**“Refugee family reunion**

- (1) The Secretary of State must, within 6 months of the date of the passing of this Act, 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) Before a statement of changes is laid under subsection (1), the Secretary of State must consult with persons he or she deems appropriate.
- (3) 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 granted refugee status or humanitarian protection.
- (4) In this section, “refugee status” and “humanitarian protection” have the same meaning as in the immigration rules.
- (5) In this section, “family members” include—
  - (a) a person's parent, including adoptive parent;
  - (b) a person's spouse, civil partner or unmarried partner;
  - (c) a person's child, including adopted child, 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;
  - (d) a person's 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 refugee status or humanitarian protection and another person,
    - (iv) any risk to the physical, emotional or psychological wellbeing of a person who was granted refugee status or humanitarian protection, including from the circumstances in which the person is living in the United Kingdom, or

**After Clause 37 - continued**

- (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 must 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.*

LORD COAKER

LORD HYLTON

BARONESS JONES OF MOULSECOOMB

113

Insert the following new Clause –

**“Family reunion and resettlement: unaccompanied minors**

- (1) The Secretary of State must, within a period of six months beginning with the day on which this Act is passed, amend the Immigration Rules in order to ensure that an unaccompanied minor seeking asylum in the EEA who has a family member present in the United Kingdom is entitled to claim asylum in the United Kingdom.
- (2) For the purposes of this section, “family member” includes –
  - (a) a parent or guardian of the applicant;
  - (b) an aunt, uncle or grandparent of the applicant;
  - (c) a sibling of the applicant;
  - (d) the spouse of the applicant; or
  - (e) an unmarried partner with whom the applicant is in a stable relationship.”

***Member’s explanatory statement***

*This new clause would allow unaccompanied children to have access to family reunion with close relatives in the UK.*

LORD COAKER

LORD HYLTON

114

Insert the following new Clause –

**“International co-operation on family reunion arrivals and safe returns**

- (1) The Secretary of State must, within a period of six months beginning with the day on which this Act is passed, produce a report setting out a negotiating mandate for international agreements on protocols for identifying the state responsible for determining an asylum application.
- (2) The negotiating mandate must include that the state responsible for determining an asylum application shall be identified according to a hierarchy of criteria, including but not limited to –

**After Clause 37 - continued**

- (a) family unity, including regard for the safeguarding of unaccompanied minors,
  - (b) possession of residence documents or visas,
  - (c) means of entry or stay, and
  - (d) visa-waived entry.
- (3) A negotiating mandate under this section must have particular regard to the right to family life, and the rights of the child under the United Nations Convention on the Rights of the Child.
- (4) The Secretary of State must lay the report before each House of Parliament.”

***Member’s explanatory statement***

*This new Clause would require the Government to produce a negotiating mandate to seek reciprocal arrangements, with other states, on safe returns and safe legal routes.*

LORD DUBS  
BARONESS CHAKRABARTI  
BARONESS JONES OF MOULSECOOMB

115 Insert the following new Clause—

**“Unaccompanied refugee children: relocation and support**

- (1) The Secretary of State must, within six months of the day on which this Act is passed, make arrangements to relocate to the United Kingdom and support a specified number of unaccompanied refugee children from countries in Europe.
- (2) The number of children to be resettled under subsection (1) must be determined by the Government in consultation with local authorities.
- (3) The relocation of children under subsection (1) is in addition to the resettlement of children under any other resettlement scheme.”

***Member’s explanatory statement***

*This new Clause introduces a safe route for unaccompanied children from countries in Europe to come to the UK.*

LORD KIRKHOPE OF HARROGATE  
LORD SHINKWIN  
BARONESS STROUD

116 Insert the following new Clause—

**“Refugee resettlement**

- (1) The Secretary of State must arrange for the resettlement in the United Kingdom of at least 10,000 refugees each year.
- (2) This section comes into force one month after the day on which this Act is passed.”

***Member’s explanatory statement***

*This clause will require the UK to resettle at least 10,000 refugees to the UK each year.*

## LORD DUBS

117 Insert the following new Clause—

**“Immigration Rules: entry to seek asylum and join family**

- (1) The rules laid down by the Secretary of State in accordance with section 1(4) and section 3(2) of the Immigration Act 1971 for regulating the entry into and stay in the United Kingdom of persons not having the right of abode must include provision for admitting persons coming for the purpose of seeking asylum.
- (2) These rules must make provision, for the purpose of seeking asylum, for persons in Europe who have a family member in the United Kingdom who is ordinarily and lawfully resident in the United Kingdom.
- (3) For the purposes of this section, a “family member” means a grandchild, child, parent, grandparent, sibling, uncle or aunt.”

*Member’s explanatory statement*

*This new Clause would require the Government to make provision within the Immigration Rules for people in Europe to be admitted to the UK for the purposes of seeking asylum where they have a family member in the UK.*

## BARONESS HAMWEE

118 Insert the following new Clause—

**“Humanitarian visa**

- (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 in subsection (5) if satisfied that P cannot reasonably be expected to comply with them.
- (5) The requirements are—

**After Clause 37 - continued**

- (a) any requirement prescribed (whether by immigration rules or otherwise) under section 50 of the Immigration, Asylum and Nationality Act 2006; 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 the Legal Aid, Sentencing and Punishment of Offenders Act 2012, after paragraph 30(1)(b) of Part 1 of Schedule 1 insert –
- “; or
- (c) are conferred by or under sections (*Humanitarian visa*) and (*Right of appeal against humanitarian visa refusal*) of the Nationality and Borders Act 2022.”
- (10) In this section and in section (*Right of appeal against humanitarian visa refusal*) –
- “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 paragraph (1);
- “entry clearance” has the same meaning as in section 33(1) of the Immigration Act 1971;
- “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”);
- “persecution” is to be construed in accordance with its meaning in the Refugee Convention; and
- “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).”

**After Clause 37 - continued**

**119** Insert the following new Clause –

**“Right of appeal against humanitarian visa refusal**

- (1) If an application by a person (“P”) for entry clearance under section (*Humanitarian visa*) is refused by the appropriate decision-maker, P may appeal to the First-tier Tribunal against the refusal.
- (2) The following provisions of, or made under, the Nationality, Immigration and Asylum Act 2002 have effect in relation to an appeal under these Regulations to the First-tier Tribunal as if it were an appeal against a decision of the Secretary of State under section 82(1) of that Act (right of appeal to the Tribunal) –
  - (a) section 84 (grounds of appeal), as though the sole permitted ground of appeal were that the appropriate decision-maker was wrong to conclude that P was not a relevant person;
  - (b) section 85(1) to (4) (matters to be considered);
  - (c) section 86 (determination of appeal);
  - (d) section 105 and any regulations made under that section; and
  - (e) section 106 and any rules made pursuant to that section.
- (3) In an appeal under this section, the First-tier Tribunal –
  - (a) must allow the appeal if it is satisfied that P is a relevant person; and
  - (b) must otherwise dismiss the appeal.
- (4) In an appeal under this section, in deciding whether there are serious and compelling reasons why P’s protection claim should be considered in the United Kingdom, the First-tier Tribunal must apply section (*Humanitarian visa*)(3) as though for the words “appropriate decision-maker” there were substituted the words “First-tier Tribunal.”

**Clause 39**

LORD DUBS  
BARONESS LUDFORD

**120** Page 40, leave out lines 5 to 9

***Member’s explanatory statement***

*This would give effect to the recommendation of the Joint Committee on Human Rights to prevent “arrival” in the United Kingdom without a valid entry clearance, rather than “entry” into the United Kingdom without a valid entry clearance, becoming an offence.*

BARONESS MCINTOSH OF PICKERING

**121** Page 40, line 7, leave out “arrives in” and insert “enters”

BARONESS MCINTOSH OF PICKERING  
BARONESS HAMWEE

**122** Page 40, line 14, leave out “arrives in” and insert “enters”



**Clause 39 - continued**

LORD DUBS  
BARONESS LUDFORD

123 Page 41, line 16, leave out subsection (4)

***Member's explanatory statement***

*This would give effect to the recommendation of the Joint Committee on Human Rights to prevent the offence of facilitating a breach of immigration law being extended to include facilitating "arrival" in the United Kingdom without a valid entry clearance in addition to facilitating "entry" into the United Kingdom without a valid entry clearance.*

124 Page 41, line 25, at end insert –

“(7A) In section 31(3) of the Immigration and Asylum Act 1999 (defences based on Article 31(1) of the Refugee Convention), after paragraph (aa) insert –

“(ab) section 24 of the Immigration Act 1971 (illegal entry and similar offences)”.

***Member's explanatory statement***

*This would give effect to the recommendation of the Joint Committee on Human Rights to extend the statutory defence based on Article 31 of the Refugee Convention to offences of illegal entry under section 24 of the Immigration Act 1971.*

**Clause 40**

LORD ROSSER  
LORD DUBS  
BARONESS MCINTOSH OF PICKERING  
BARONESS JONES OF MOULSECOOMB

125 Page 41, line 40, leave out subsection (3)

***Member's explanatory statement***

*This would give effect to the recommendation of the Joint Committee on Human Rights to maintain the current position that the offence of helping an asylum seeker to enter the United Kingdom can only be committed if it is carried out "for gain".*

BARONESS JOLLY

126 Page 42, line 2, at end insert –

“(A1) The master of a ship does not commit a facilitation offence if the act of facilitation was an act done in response to –

- (a) receiving a distress signal at sea as listed in Annex IV of the International Regulations for the Prevention of Collisions at Sea (COLREGS);
- (b) a requisition by the vessel in distress or another vessel or search and rescue organisation;
- (c) the consequences of a collision at sea.”

**Member's explanatory statement**

*The purpose of this amendment is to ensure that the master of a vessel is not charged with a facilitation offence if he or she responds to a distress signal as required by the SOLAS Convention, long standing customary international law and the Merchant Shipping (Distress Messages) Regulations 1998.*

127 Page 42, line 3, after “person” insert “other than the master of a ship”

**Member's explanatory statement**

*This amendment is consequential to Baroness Jolly's amendment to clause 40, page 42, line 2.*

BARONESS MCINTOSH OF PICKERING

128★ Page 42, line 7, at end insert –

“or if the person performing the act of facilitation reasonably believed that if Her Majesty’s Coastguard or the overseas authority had been aware that the assisted individual had been in danger or distress at sea they would have co-ordinated the act.”

**Member's explanatory statement**

*This amendment ensures that a person facilitating the rescue of a person in danger or distress who does not have express orders from HM Coastguard can do so with impunity.*

**After Clause 41**

LORD COAKER  
BARONESS NEVILLE-ROLFE

129 Insert the following new Clause –

**“Advertising assistance for unlawful immigration to the United Kingdom**

- (1) It is an offence to advertise by any means, including using social media, services designed to facilitate the commission of an offence under section 25 of the Immigration Act 1971.
- (2) A person guilty of an offence under this section is liable –
  - (a) on conviction on indictment, to imprisonment for a term not exceeding five years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.”

**Member's explanatory statement**

*This amendment would provide it is an offence to advertise illegal routes to the UK. This is to probe methods used to prevent and prosecute people smuggling.*

## Schedule 6

LORD DUBS  
BARONESS LUDFORD

- 130 Page 101, line 21, at end insert –  
“(4) Authority for the purposes of subsection (3) may be given in relation to a foreign ship only if the Convention permits the exercise of Part A1 powers in relation to the ship.”

***Member’s explanatory statement***

*This would give effect to the recommendation of the Joint Committee on Human Rights to follow the drafting in the equivalent paragraphs of sections 28M, 28N and 28O of the Immigration Act 1971, and ensure that enforcement action complies with international maritime law, similar to other enforcement action under Schedule 4A to the Immigration Act.*

- 131 Page 103, line 48, leave out from “ship” to end of line 4 on page 104 and insert –  
“(a) includes every description of vessel (including a hovercraft) used in navigation, but  
(b) does not include any vessel that is not seaworthy or where there could otherwise be a risk to the safety of life and well-being of those onboard.”

***Member’s explanatory statement***

*This would give effect to the recommendation of the Joint Committee on Human Rights to ensure that enforcement action such as pushbacks could not be taken against unseaworthy vessels such as dinghies.*

LORD ROSSER  
LORD DUBS  
BARONESS CHAKRABARTI

- 132 Page 104, line 13, at end insert –  
“(1A) The powers set out in this Part of this Schedule must not be used in a manner or in circumstances that could endanger life at sea.”

***Member’s explanatory statement***

*This would give effect to the recommendation of the Joint Committee on Human Rights to ensure the maritime enforcement powers cannot be used in a manner that would endanger lives at sea.*

LORD DUBS  
BARONESS LUDFORD

- 133 Page 108, line 23, at end insert –  
“(2) Force must not be used in a manner or in circumstances that could endanger life at sea.”

***Member’s explanatory statement***

*This would give effect to the recommendation of the Joint Committee on Human Rights to ensure that force in maritime enforcement powers cannot be used in a manner that would endanger lives at sea.*

LORD PADDICK  
BARONESS CHAKRABARTI

134 Page 108, leave out lines 27 to 32

***Member's explanatory statement***

*This amendment would remove the provision granting immigration and enforcement officers immunity from civil or criminal liability for anything done in the performance of their functions.*

LORD DUBS  
BARONESS LUDFORD

135 Page 108, leave out lines 28 to 32 and insert –

“J1 The Home Office, rather than an individual officer, is liable in civil proceedings for anything done in the purported performance of functions under this Part of this Schedule.”

***Member's explanatory statement***

*This would give effect to the recommendation of the Joint Committee on Human Rights to ensure that the Home Office is liable, rather than immigration officers and enforcement officers being personally liable, for civil wrongs that may occur whilst undertaking pushbacks or other maritime enforcement operations.*

136 Page 108, line 28, leave out “criminal or”

***Member's explanatory statement***

*This would give effect to the recommendation of the Joint Committee on Human Rights to remove the immunity from criminal proceedings for “relevant officers” for criminal offences committed whilst undertaking pushbacks or other maritime enforcement operations.*

**Clause 45**

LORD DUBS  
BARONESS LUDFORD

137 Page 47, line 34, at end insert –

“(6B) Nothing in this section, or in sections 10A to 10E, permits a person to be removed from the United Kingdom if that removal would violate their common law right to access justice.”

***Member's explanatory statement***

*This would give effect to the recommendation of the Joint Committee on Human Rights to make clear that the regime for providing notice to persons liable to removal remains subject to the common law right to access justice, which in the asylum context is mirrored by Article 13 ECHR.*

**Clause 47**

LORD DUBS  
BARONESS LUDFORD

*The above-named Lords give notice of their intention to oppose the Question that Clause 47 stand part of the Bill.*

**Member's explanatory statement**

*This would give effect to the recommendation of the Joint Committee on Human Rights to prevent it being compulsory for decision makers and tribunals to take into account whether a person has failed to cooperate with any immigration process when making decisions on immigration bail.*

**After Clause 47**

LORD PADDICK

138 Insert the following new Clause—

**“Immigration rules since December 2020: report on effects**

- (1) Before bringing any provisions of this Part into force by regulations, the Secretary of State must commission and lay before Parliament an independent report on the effects of its immigration rules on the UK economy and public services since December 2020.
- (2) The areas to be covered by the report must include but are not limited to—
  - (a) food supply;
  - (b) fuel supply;
  - (c) hospitality and tourism;
  - (d) the NHS;
  - (e) social care; and
  - (f) construction.”

**Member's explanatory statement**

*This new Clause would require the Government to commission and publish an independent report on the effects of its Immigration Rules on the UK economy and public services since December 2020.*

LORD DUBS

BARONESS LUDFORD

139 Insert the following new Clause—

**“Requirement for the Secretary of State to waive the full capacity requirement**

In section 44A of the British Nationality Act 1981, for “may” substitute “must”.

**Member's explanatory statement**

*This would give effect to the recommendation of the Joint Committee on Human Rights to require the Secretary of State to waive the requirement for a person to have full capacity if it is in that person's best interests to do so.*

THE LORD BISHOP OF LONDON  
LORD ROSSER  
BARONESS MEACHER

140 Insert the following new Clause—

**“Victims of domestic abuse: data-sharing for immigration purposes**

- (1) The Secretary of State must make arrangements to ensure that personal data of a victim of a domestic abuse in the United Kingdom that is processed for the purpose of that person requesting or receiving support or assistance related to domestic abuse is not used for any immigration control purpose.
- (2) The Secretary of State must make arrangements to ensure that the personal data of a witness to domestic abuse in the United Kingdom that is processed for the purpose of that person giving information or evidence to assist the investigation or prosecution of that abuse, or to assist the victim of that abuse in any legal proceedings, is not used for any immigration control purpose.
- (3) Paragraph 4 of Schedule 2 to the Data Protection Act 2018 does not apply to personal data to which subsection (1) or (2) applies.
- (4) For the purposes of this section, the Secretary of State must issue guidance to—
  - (a) persons from whom support or assistance may be requested or received by a victim of domestic abuse in the United Kingdom;
  - (b) persons exercising any function of the Secretary of State in relation to immigration, asylum or nationality; and
  - (c) persons exercising any function conferred by or by virtue of the Immigration Acts on an immigration officer.
- (5) For the purposes of this section—
 

“immigration control purpose” means any purpose of the functions to which subsection (4)(b) or (c) refers;

“support or assistance” includes the provision of accommodation, banking services, education, employment, financial or social assistance, healthcare and policing services and any function of a court or prosecuting authority;

“victim” includes any dependent of a person, at whom the domestic abuse is directed, where that dependent is affected by that abuse.”

***Member’s explanatory statement***

*This new Clause would require the Secretary of State to make arrangements to ensure that the personal data of migrant survivors of domestic abuse that is given or used for the purpose of their seeking or receiving support and assistance is not used for immigration control purposes.*

LORD PADDICK

141★ Insert the following new Clause—

**“Operational efficiency**

- (1) Within six months of this Act coming into force the Secretary of State must commission a management review, to be undertaken by management experts outside the Home Office, of—
  - (a) the efficiency of the processing by UK Visas and Immigration of applications, and

**After Clause 47 - continued**

- (b) the efficiency of the removal by Immigration Control of persons whose leave to remain has expired.
- (2) For the purposes of this section—
  - (a) “efficiency” includes fairness, and
  - (b) the review must include information regarding the numbers of appeals and their success rate.”

***Member’s explanatory statement***

*This amendment requires the Secretary of State to commission an independent management review of the efficiency of UK Visas and Immigration in processing applications and the efficiency of the removal process for those whose leave to remain has expired.*

**Clause 49**

BARONESS HAMWEE  
LORD PADDICK

- 142★** Page 55, line 41, leave out “must” and insert “may”

***Member’s explanatory statement***

*This amendment would allow local authorities to decide whether to refer, conduct and inform the Secretary of State of an age assessment in line with their statutory duties to children under the Children’s Act 1989.*

- 143★** Page 56, line 4, leave out subsection (4)

***Member’s explanatory statement***

*This amendment would allow local authorities to decide what, if any, evidence to provide the Secretary of State in line with their statutory duties to children under the Children’s Act 1989.*

- 144★** Page 56, line 16, leave out “the balance of probabilities” and insert “reasonable degree of likelihood”

***Member’s explanatory statement***

*This amendment will ensure the standard of proof is in line with case law and reflects the evidentiary challenges faced when assessing age and the need to give the benefit of the doubt where appropriate.*

**Clause 50**

BARONESS HAMWEE  
LORD PADDICK

- 145★** Page 57, line 6, leave out “the balance of probabilities” and insert “reasonable degree of likelihood”

**Member's explanatory statement**

*This amendment will ensure the standard of proof is in line with case law and reflects the evidentiary challenges faced when assessing age and the need to give the benefit of the doubt where appropriate.*

**Clause 51**

BARONESS LISTER OF BURTERSETT

146 Page 57, line 19, at end insert –

“(3A) A method may not be specified in regulations under subsection (1) unless it is considered accurate, appropriate and ethical by the relevant medical, dental and scientific professional bodies.”

**Member's explanatory statement**

*This amendment will ensure scientific methods of age assessments are only introduced if they are considered accurate, appropriate and ethical by the relevant professional bodies.*

LORD DUBS

BARONESS LUDFORD

BARONESS LISTER OF BURTERSETT

147 Page 57, line 31, leave out subsections (6) and (7)

**Member's explanatory statement**

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights that refusal to consent to scientific procedures to assess age should not be taken into account when assessing the credibility of an age-disputed person who may be a child.*

BARONESS LISTER OF BURTERSETT

148 Page 57, line 42, leave out subsection (9)

**Member's explanatory statement**

*This amendment would remove the provision in Clause 51(9) which allows the use of scientific methods which were not specified in regulations under subsection (1), which means no scientific advice has been sought as to whether that method is accurate or appropriate for assessing a person's age.*

**Clause 52**

BARONESS HAMWEE

LORD PADDICK

149★ Page 58, line 25, leave out paragraph (f)

**Member's explanatory statement**

*This amendment would remove the provision in section 52(1)(f) to allow the Government to make regulations about how age assessments should be conducted which would include damage to the person's credibility due to lack of co-operation with the assessment.*

*The above-named Lords give notice of their intention to oppose the Question that Clause 52 stand part of the Bill.*



**Clause 53**

BARONESS HAMWEE  
LORD PADDICK

- 150★ Page 58, line 44, leave out “balance of probabilities” and insert “basis of the reasonable degree of likelihood”

***Member’s explanatory statement***

*This amendment provides for the standard of proof the First Tier Tribunal must apply when deciding an appeal relating to age assessment.*

**After Clause 56**

LORD GREEN OF DEDDINGTON  
BARONESS NEVILLE-ROLFE

- 151 Insert the following new Clause—

**“Age assessments for age-disputed persons: initial assessments of undetermined age**

- (1) An age-disputed person must be treated as an adult where their physical appearance and demeanour strongly suggest that they are over the age of 18.
- (2) Where the age-disputed person’s physical appearance and demeanour do not meet that threshold, and doubt remains as to their claim to be a child, the person must be treated as being of undetermined age until a further age assessment is carried out.
- (3) Those of undetermined age must not be placed alongside minors in schools or accommodation.”

***Member’s explanatory statement***

*This amendment would place in primary legislation a rule for tighter initial age assessments for asylum seekers and would ensure that, where doubts about the person’s age are raised by initial assessors, applicants will not be placed alongside children in schools or accommodation.*

**Clause 57**

LORD COAKER  
BARONESS HAMWEE

*The above-named Lords give notice of their intention to oppose the Question that Clause 57 stand part of the Bill.*

**Clause 58**

LORD COAKER

- 152 Page 62, line 16, at end insert—

“(aa) the person was 18 or over at the time of the incident or incidents in respect of which the slavery or trafficking information notice was issued,”

**Member's explanatory statement**

*This amendment seeks to ensure those exploited as children are not penalised for late disclosures.*

LORD DUBS  
BARONESS LUDFORD

- 153 Page 62, line 21, leave out “must take account, as” and insert “may take account, as potentially”

**Member's explanatory statement**

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights to amend Clause 58 to make the requirement for late provision of information to have a negative impact on credibility less mandatory and would bring the language into line with existing caselaw on how such language should be interpreted given the need for a global assessment of credibility.*

LORD COAKER

- 154 Page 62, line 23, at end insert –
- “(2A) For the purposes of subsection (2) “good reasons” include, but are not limited to –
- (a) the impact of trauma, including behaviour consistent with post-traumatic stress disorder;
  - (b) distrust of authorities, including fear of punishment or a lack of confidence in the confidentiality of information sharing;
  - (c) fear of reprisals against the person, or people they are related to or have close personal relationships with, if they make an allegation of slavery;
  - (d) experiencing pressures and fears related to bonded debt;
  - (e) where the claimant was under the age of 18 years at their time of arrival in the United Kingdom or at the time of their exploitation;
  - (f) where the claimant has diminished capacity;
  - (g) fear of repercussions from people who exercise control over the person;
  - (h) a lack of understanding of modern slavery including being unable or unwilling to identify themselves as a “victim”; or
  - (i) an ongoing or previous relationship with the trafficker.”

**Member's explanatory statement**

*This amendment probes what will be defined as a “good reason” for late disclosure.*

LORD DUBS  
BARONESS LUDFORD

- 155 Page 62, line 28, at end insert –
- “(5) This section does not apply to –
- (a) child victims, or potential victims, of slavery or human trafficking, or
  - (b) victims, or potential victims, of sexual exploitation.”

**Member's explanatory statement**

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights to amend Clause 58 to specify that the requirement for late provision of information to have a negative impact on credibility does not apply to child victims of slavery or human trafficking or victims of sexual exploitation.*

LORD COAKER  
LORD DUBS  
BARONESS HAMWEE

*The above-named Lords give notice of their intention to oppose the Question that Clause 58 stand part of the Bill.*

**Clause 59**

BARONESS MCINTOSH OF PICKERING

156 Page 63, line 1, leave out subsection (4)

**Member's explanatory statement**

*This amendment deletes Clause 59 subsection (4).*

**Clause 60**

LORD COAKER  
BARONESS HAMWEE

157 Page 63, line 41, leave out "30" and insert "45"

**Member's explanatory statement**

*This amendment would ensure that victims of modern slavery continue to receive a recovery period of at least 45 days, bringing this provision in line with current statutory guidance.*

**Clause 61**

LORD COAKER

158 Page 64, line 4, at end insert –

“(aa) the person was aged 18 or over at the time of the circumstances which gave rise to the first RG decision;”

**Member's explanatory statement**

*This amendment seeks to preclude those exploited as children from being denied additional recovery periods if they are re-trafficked.*

LORD DUBS  
BARONESS LUDFORD

159 Page 64, line 11, leave out first "may" and insert "must"

**Member's explanatory statement**

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights to clarify that a person should not be removed if a conclusive grounds decision is pending and it would be inappropriate to remove that person.*

## LORD COAKER

*Lord Coaker gives notice of his intention to oppose the Question that Clause 61 stand part of the Bill.*

**Clause 62**

## BARONESS MCINTOSH OF PICKERING

160 Page 64, line 23, after “if” insert “in exceptional circumstances”

***Member’s explanatory statement***

*This amendment modifies Clause 62 by ensuring that a competent authority may apply Clause 62(2) when “exceptional circumstances” affect a person who may be a threat to public order.*

## LORD COAKER

161 Page 64, line 23, at end insert “was aged 18 or over at the time of the circumstances which gave rise to the positive reasonable grounds decision and”

***Member’s explanatory statement***

*This would exclude children from the disqualification from protection measures under this clause.*

## LORD DUBS

## BARONESS LUDFORD

162 Page 64, line 24, after “a” insert “serious and ongoing”

***Member’s explanatory statement***

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights to ensure that this exemption goes no wider than that permitted under Article 13 ECAT in relation to a person who poses an ongoing threat to public order.*

## BARONESS MCINTOSH OF PICKERING

163 Page 64, line 25, leave out paragraph (b)

## LORD DUBS

## BARONESS LUDFORD

164 Page 64, line 25, at end insert –

“(1A) No determination may be made under subsection (1) in respect of a child.”

***Member’s explanatory statement***

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights to ensure that clause 62 does not apply so as to deprive child victims of slavery or human trafficking of protection.*

165 Page 64, line 40, leave out paragraph (d)

**Member's explanatory statement**

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights to remove the public order condition that would require the competent authority to make a determination in relation to terrorist activity; such risks could be covered by clause 62(3)(i).*

166 Page 65, line 1, leave out paragraph (f)

**Member's explanatory statement**

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights to remove clause 62(3)(f), which provides that any person who had been sentenced to more than one year in prison was a "threat to public order".*

167 Page 65, line 9, leave out "the person otherwise" and insert "the Secretary of State has certified that the person"

**Member's explanatory statement**

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights to remove the requirement for the competent authority to develop expertise in making determinations as to who is a threat to national security and instead requires such determinations to be made and certified by the Secretary of State.*

168 Page 65, line 40, at end insert –

“(5A) For the purposes of subsection (1)(a), a person is not a threat to public order for any reason related to conduct that that person was compelled to do as a victim of slavery or human trafficking.”

**Member's explanatory statement**

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights to amend clause 62 so that it does not apply where any criminality was caused by the victim being compelled to do so by virtue of their being a victim of slavery or human trafficking.*

LORD RANDALL OF UXBRIDGE  
LORD COAKER  
BARONESS HAMWEE

169 Leave out Clause 62 and insert the following new Clause –

**“Identified potential victims etc: disqualification from protection**

- (1) This section applies to the construction and application of Article 13 of the Trafficking Convention.
- (2) The competent authority may determine that it is not bound to observe the minimum recovery period under section 60(2) of this Act in respect of a person in relation to whom a positive reasonable grounds decision has been made, if the authority is satisfied that –
  - (a) it is prevented from doing so as a result of an immediate, genuine, present and serious threat to public order; or
  - (b) the person is claiming to be a victim of modern slavery improperly.
- (3) Any determination under subsection (2) must only be made –
  - (a) in exceptional circumstances;

**Clause 62 - continued**

- (b) where necessary and proportionate to the threat posed; and
  - (c) following an assessment of all the circumstances of the case.
- (4) A determination under subsection (2) must not be made where it would breach—
- (a) a person’s Human Rights Convention rights;
  - (b) the United Kingdom’s obligations under the Trafficking Convention; or
  - (c) the United Kingdom’s obligations under the Refugee Convention.
- (5) For the purposes of a determination under subsection (2)(b), victim status is being claimed improperly if the person knowingly and dishonestly makes a false statement without good reason, and intends by making the false statement to make a gain for themselves.
- (6) A good reason for making a false statement includes, but is not limited to, circumstances where—
- (a) the false statement is attributable to the person being or having been a victim of modern slavery; or
  - (b) any means of trafficking were used to compel the person into making a false statement.
- (7) This section does not apply where the person is under 18.
- (8) Nothing in this section affects the application of section 60(3) of this Act.”

***Member’s explanatory statement***

*This amendment maintains the spirit of clause 62 but ensures that the power is exercised in line with the UK’s obligations under Article 13 of the Trafficking Convention. This amendment also protects child victims of modern slavery from disqualification from protection.*

LORD PADDICK  
LORD COAKER

*The above-named Lords give notice of their intention to oppose the Question that Clause 62 stand part of the Bill.*

***Member’s explanatory statement***

*This amendment would remove Clause 62, which excludes potential modern slavery victims from protection in certain circumstances.*

**Clause 63**

LORD MCCOLL OF DULWICH  
LORD ALTON OF LIVERPOOL  
LORD PADDICK  
LORD COAKER

170

Page 66, line 27, at end insert—

- “(5A) If a person is receiving assistance and support under subsection (1) or (4), the Secretary of State must continue to secure tailored assistance and support for that person at the end of the recovery period if they are in need of that assistance and support in accordance with subsection (5B).

**Clause 63 - continued**

- (5B) A person who receives a positive conclusive grounds decision must be considered in need of assistance and support under subsection (5A) for at least 12 months beginning on the day the recovery period ends.”

**Member’s explanatory statement**

*This amendment would ensure provision of support and assistance to modern slavery victims in England and Wales with a positive conclusive grounds decision for at least 12 months.*

**Clause 64**

LORD DUBS  
BARONESS LUDFORD

- 171 Page 67, line 1, leave out from “assisting” to “harm” in line 2 and insert “with their personal situation, including but not limited to assisting the person in their recovery from any physical, psychological or social”

**Member’s explanatory statement**

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights to ensure clause 64 adequately covers the obligations in Article 14 ECAT.*

- 172 Page 67, line 33, at end insert –  
“(8A) The best interests of the child must be a primary consideration when making decisions under this section in respect of a child.”

**Member’s explanatory statement**

*This amendment would give effect to the recommendation of the Joint Committee on Human Rights such that, in order to comply with the UK’s obligations, under ECAT and the UNCRC, toward child victims of slavery and human trafficking in the UK, this would ensure that the best interests of the child are a primary consideration when making decisions on granting leave to remain for child victims of slavery or human trafficking.*

**Clause 65**

LORD PADDICK  
BARONESS JONES OF MOULSECOOMB

- 172A Leave out Clause 65 and insert the following new Clause –  
**“Civil legal aid under section 9 of LASPO: add-on services in relation to the national referral mechanism**
- (1) In Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services qualifying for legal aid), after paragraph 32A insert –  
*“Pre-national referral mechanism advice*
- 32B(1) Civil legal services provided to an individual in relation to referral into the national referral mechanism and connected immigration advice.
- General exclusions
- (2) Sub-paragraph (1) is subject to the exclusions in Part 2 of this Schedule.
- Specific exclusions

**Clause 65 - continued**

- (3) The civil legal services described in sub-paragraph (1) do not include –
- (a) advocacy, or
  - (b) attendance at an interview conducted by the competent authority under the national referral mechanism for the purposes of a reasonable grounds decision or a conclusive grounds decision.”
- (2) In regulation 5(1) of the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013 (S.I. 2013/480) (exceptions from requirement to make a determination in respect of an individual’s financial resources), after paragraph (l) insert –
- “(m) civil legal services described in paragraph 32B of Part 1 of Schedule 1 to the Act (civil legal services provided to an individual in relation to referral into the national referral mechanism).””

***Member’s explanatory statement***

*This amendment facilitates access to legal advice at as early a stage as possible in trafficking cases, by removing the requirement for it to be attached to an existing immigration or asylum matter.*

**Clause 66**

LORD PADDICK

*Lord Paddick gives notice of his intention to oppose the Question that Clause 66 stand part of the Bill.*

***Member’s explanatory statement***

*This is contingent on Lord Paddick’s amendment to replace Clause 65 (“Civil legal aid under section 9 of LASPO: add-on services in relation to the national referral mechanism”); Clause 66 would no longer be required if that amendment is agreed to.*

**After Clause 67**

LORD COAKER

173 Insert the following new Clause –

**“Victim navigators**

- (1) The Secretary of State must, within six months of the date of the passing of this Act, make provision for each police force in England and Wales to have one or more independent victim navigators to liaise between the relevant police force and potential victims of slavery or human trafficking and to assist in the procurement of specialist advice for both the police force and the potential victim.
- (2) Regulations under this section are subject to affirmative resolution procedure.”

***Member’s explanatory statement***

*This new clause seeks to introduce provisions for Independent Victim Navigators to be in operation on a national level, acting as a liaison between the police and potential victim of slavery or human trafficking in accessing the appropriate support.*



BARONESS HAMWEE  
THE LORD BISHOP OF BRISTOL

174 Insert the following new Clause –

**“Migrant domestic workers**

- (1) The Secretary of State must amend the Immigration Rules to make provision for the matters the subject of subsection (2).
- (2) All holders of domestic worker or diplomatic domestic worker visas, including those working for staff of diplomatic missions, must be entitled –
  - (a) to change their employer (but not work sector) without restriction, but must register such change with the Home Office;
  - (b) to renew their domestic worker or diplomatic domestic worker visa for a period of not less than 12 months, provided they are in employment at the date of application and able to support themselves without recourse to public funds, and to make successive applications;
  - (c) to apply for leave to enter and remain for their spouse or partner and any child under the age of 18 for a period equivalent to the unexpired period of their visa and of any subsequent visa;
  - (d) to be granted indefinite leave to remain after five continuous years of residence in the United Kingdom if at the date of application their employer proposes to continue their employment.”

***Member’s explanatory statement***

*This amendment would serve to reinstate the rights and protections that domestic workers originally had under the terms of the original Overseas Domestic Worker visa, in place from 1998 to 2012.*

**Clause 71**

BARONESS RITCHIE OF DOWNPATRICK  
BARONESS SUTTIE

175 Page 74, line 16, at end insert –

- “(c) the individual is travelling to Northern Ireland on a local journey from the Republic of Ireland.”

***Member’s explanatory statement***

*Under this amendment, persons who are neither British nor Irish would nevertheless be able to make local journeys from the Republic of Ireland to Northern Ireland without the need for an Electronic Travel Authorisation.*

**Clause 76**

BARONESS MCINTOSH OF PICKERING  
LORD PADDICK

*The above-named Lords give notice of their intention to oppose the Question that Clause 76 stand part of the Bill.*

**Clause 77**

BARONESS MCINTOSH OF PICKERING  
LORD PADDICK

*The above-named Lords give notice of their intention to oppose the Question that Clause 77 stand part of the Bill.*

**Clause 78**

BARONESS MCINTOSH OF PICKERING

176 Page 81, line 24, at end insert –

“(1A) The Secretary of State must consult with such persons as the Secretary of State considers appropriate before making regulations under this section.”

***Member’s explanatory statement***

*This amendment requires the Secretary of State to consult before making regulations under this section.*

**After Clause 78**

LORD COAKER  
BARONESS BENNETT OF MANOR CASTLE

177 Insert the following new Clause –

**“Afghan Citizens Resettlement Scheme**

- (1) The Secretary of State must, in regulations subject to affirmative resolution procedure, provide for a resettlement scheme for Afghan citizens known as the Afghan Citizens Resettlement Scheme (“ACRS”).
- (2) There must be provisions within the ACRS to allow those who are fleeing persecution and have family members in the United Kingdom to apply for the Scheme.
- (3) For the purposes of this section, “family member” includes –
  - (a) the spouse of the applicant;
  - (b) an unmarried partner with whom the applicant is in a stable relationship;
  - (c) any children of the applicant;
  - (d) a parent or guardian of the applicant;
  - (e) an aunt, uncle or grandparent of the applicant; or
  - (f) a sibling of the applicant.
- (4) Regulations under this section must be made and the ACRS must come into force within 30 days from the date of the passing of this Act.”

***Member’s explanatory statement***

*This new Clause will place the Afghan Citizens Resettlement Scheme on a statutory footing and ensure that it includes provisions for a family reunion route within it.*

LORD DANNATT  
LORD COAKER  
BARONESS SMITH OF NEWNHAM  
BARONESS BENNETT OF MANOR CASTLE

178 Insert the following new Clause—

**“Indefinite leave to remain payments by Commonwealth, Hong Kong and Gurkha members of armed forces**

- (1) The Immigration Act 2014 is amended as follows.
- (2) In section 68(10), after “regulations” insert “must make exceptions in respect of any person with citizenship of a Commonwealth country (other than the United Kingdom) who has served at least four years in the armed forces of the United Kingdom, or any person who has served at least four years in the Royal Navy Hong Kong Squadron, the Hong Kong Military Service Corps or the Brigade of Gurkhas, such exceptions to include capping the fee for any such person applying for indefinite leave to remain at no more than the actual administrative cost of processing that application, and”.

*Member’s explanatory statement*

*This new Clause will ensure that Commonwealth, Hong Kong and Gurkha veterans applying for Indefinite Leave to Remain following four years of service will only pay the unit cost of an application.*

LORD ALTON OF LIVERPOOL  
LORD PATTEN OF BARNES  
THE LORD BISHOP OF ST ALBANS  
LORD FALCONER OF THOROTON

179 Insert the following new Clause—

**“British National (Overseas) visas: eligibility**

- (1) Within two months of this Act being passed, the Secretary of State must amend the immigration rules to ensure that all persons meeting all the conditions set out in subsection (2) are eligible to apply for the British National (Overseas) visa.
- (2) The conditions in this subsection are that—
  - (a) the person has at least one parent who is a British national (overseas);
  - (b) the person was born in or after 1997; and
  - (c) the person is currently resident in Hong Kong or the United Kingdom.”

LORD OATES  
BARONESS BENNETT OF MANOR CASTLE

180 Insert the following new Clause—

**“UK immigration status: certification**

- (1) The Secretary of State must issue physical proof confirming immigration status to anyone who has been granted such status under the immigration laws of the United Kingdom and who requests such proof.
- (2) No fee may be charged for issuing physical proof under this section.
- (3) The certificate mentioned in subsection (1) must confirm that the relevant person has the relevant status.

**After Clause 78 - continued**

- (4) The certificate mentioned in subsection (1) is valid for right to work checks, right to rent checks and all other checks that may be undertaken by agents within and without the United Kingdom to confirm the relevant person's UK immigration status including permission to travel to and enter the United Kingdom."

**Member's explanatory statement**

*This new Clause would require the Government to issue a physical certificate to all people with a UK immigration status, allowing all those with such status to provide documentary proof.*

LORD GERMAN

181 Insert the following new Clause—

**“Immigration health surcharge: exemption for international volunteers**

- (1) Part 3 of the Immigration Act 2014 is amended as follows.  
 (2) After section 38 (Immigration health charge), insert—

**“38A Immigration health surcharge: exemption for international volunteers**

- (1) A charge under section 38 may not be imposed on persons who have leave to enter, or to remain in, the United Kingdom through a visa to work voluntarily for a period of no more than 12 months, or for such period as may be prescribed by regulations, for a registered UK charity advancing the charity's primary purpose.  
 (2) A statutory instrument containing regulations under this section must 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 new Clause would ensure that international volunteers, including those working in health and social care, will be exempt from paying the immigration health surcharge.*

BARONESS CHAKRABARTI  
 LORD PANNICK  
 LORD JUDGE  
 LORD DUBS

182 Insert the following new Clause—

**“Compatibility with Refugee Convention**

Nothing in this Act is intended to undermine the obligations of the United Kingdom under the 1951 Convention and 1967 Protocol Relating to the Status of Refugees.”

**Member's explanatory statement**

*This new Clause reflects the Government's stated intention that the Bill complies with the Refugee Convention and ensures that any ambiguity around interpretation of provisions is resolved in compliance with the Convention and its Protocol.*

LORD WALLACE OF SALTAIRE  
BARONESS BENNETT OF MANOR CASTLE

183 Insert the following new Clause—

**“Tier 1 (investor) visas: suspension**

- (1) Within two months of the passing of this Act, the Secretary of State must bring into force regulations suspending the Tier 1 (investor) visa route.
- (2) Regulations under subsection (1) must temporarily close the Tier 1 (investor) visa route to new applicants until—
  - (a) the Secretary of State’s review on Tier 1 (investor) visas granted between June 2008 and April 2015 is published and made publicly available; or
  - (b) the Tier 1 (investor) visa route is closed permanently to new applicants.”

*Member’s explanatory statement*

*This new Clause would require the Government to suspend the Tier 1 (investor) visa route until its review into those visas granted between June 2008 and April 2015 is published.*

LORD MOYLAN

184 Insert the following new Clause—

**“Consultation on citizenship**

Within six months of the passing of this Act, the Secretary of State must issue for public consultation a review of its implications for the nature of British citizenship and national cohesion.”

*Member’s explanatory statement*

*This amendment requires the Government to consult publicly on the impact of the Act on citizenship and national cohesion.*

LORD CRAIG OF RADLEY  
LORD ALTON OF LIVERPOOL  
BARONESS SMITH OF NEWNHAM

185 Insert the following new Clause—

**“Veterans of Her Majesty’s Armed Forces: Hong Kong**

Within three months of the passing of this Act, the Secretary of State must report on whether veterans who were recruited and served in Her Majesty’s Armed Forces in Hong Kong should be granted citizenship or indefinite leave to remain in the United Kingdom.”

BARONESS CHAKRABARTI

186 Insert the following new Clause—

**“Birthright commitment under the Belfast (Good Friday) Agreement 1998**

- (1) The Secretary of State must, within six months of the passing of this Act, produce a report setting out how the Secretary of State will give effect to the recognition set out in the Belfast (Good Friday) Agreement 1998 of the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may choose.

**After Clause 78 - continued**

- (2) The Secretary of State must lay the report before Parliament.”

**Member’s explanatory statement**

*This new Clause requires the Secretary of State to report on progress to give effect to the nationality provision of the Belfast Agreement 1998.*

BARONESS CHAKRABARTI  
BARONESS JONES OF MOULSECOOMB

187

Insert the following new Clause—

**“Time limit on immigration detention**

- (1) This section applies to any person (“P”) who is liable to detention under a relevant detention power.
- (2) P may not be detained under a relevant detention power for a period of more than 28 days from the relevant time.
- (3) If P remains detained under a relevant detention power at the expiry of the period of 28 days then—
  - (a) P must be released forthwith, and
  - (b) P may not be detained under a relevant detention power thereafter, unless the Secretary of State or an immigration officer, as the case may be, is satisfied that there has been a material change of circumstances since P’s release and that the criteria in section (*Initial detention: criteria and duration*)(1) are met.
- (4) In this section, “relevant detention power” means a power to detain under—
  - (a) paragraph 16(2) 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 of persons liable to examination or removal); or
  - (d) section 36(1) of the UK Borders Act 2007 (detention pending deportation).
- (5) In this section, “relevant time” means the time at which P is first detained under a relevant detention power.
- (6) This section does not apply to a person in respect of whom the Secretary of State has certified that the decision to detain is or was taken in the interests of national security.”

**Member’s explanatory statement**

*This new Clause would prevent people who are liable to detention under a relevant power from being detained for longer than 28 days.*

## BARONESS CHAKRABARTI

188 Insert the following new Clause—

**“Initial detention: criteria and duration**

- (1) A person (“P”) to whom section (*Time limit on immigration detention*) applies may not be detained under a relevant detention power other than for the purposes of examination, unless the Secretary of State or an immigration officer, as the case may be, is satisfied that—
  - (a) P can be shortly removed from the United Kingdom,
  - (b) detention is strictly necessary to effect P’s deportation or removal from the United Kingdom, and
  - (c) the detention of P is in all the circumstances proportionate.
- (2) P may not be detained under a relevant detention power for a period of more than 96 hours from the relevant time, unless—
  - (a) P has been refused bail at an initial bail hearing in accordance with subsection (5)(b) of section (*Bail hearings*), or
  - (b) the Secretary of State has arranged a reference to the Tribunal for consideration of whether to grant immigration bail to P in accordance with subsection (2)(c) of section (*Bail hearings*) and that hearing has not yet taken place.
- (3) Nothing in subsection (1) or (2) authorises the Secretary of State to detain P under a relevant detention power if such detention would, apart from this section, be unlawful.
- (4) In this section—
 

“Tribunal” means the First-tier Tribunal;

“relevant detention power” and “relevant time” have the meanings given in section (*Time limit on immigration detention*).”

***Member’s explanatory statement***

*This new Clause sets out the circumstances in which a person to whom Clause (*Time limit on immigration detention*) applies may be held in initial detention, and the maximum duration of such detention.*

189 Insert the following new Clause—

**“Bail hearings**

- (1) This section applies to any person (“P”) to whom section (*Time limit on immigration detention*) applies and who is detained under a relevant detention power.
- (2) Before the expiry of a period of 96 hours from the relevant time, the Secretary of State must—
  - (a) release P,
  - (b) grant immigration bail to P under paragraph 1 of Schedule 10 to the Immigration Act 2016, or
  - (c) arrange a reference to the Tribunal for consideration of whether to grant immigration bail to P.

**After Clause 78 - continued**

- (3) Subject to subsection (4), when the Secretary of State arranges a reference to the Tribunal under subsection (2)(c), the Tribunal must hold an oral hearing (“an initial bail hearing”) which must commence within 24 hours of the time at which the reference is made.
- (4) If the period of 24 hours in subsection (3) ends on a Saturday, Sunday or bank holiday, the Tribunal must hold an initial bail hearing on the next working day.
- (5) At the initial bail hearing, the Tribunal must –
  - (a) grant immigration bail to P under paragraph 1 of Schedule 10 to the Immigration Act 2016, or
  - (b) refuse to grant immigration bail to P.
- (6) Subject to subsection (7), the Tribunal must grant immigration bail to P at a bail hearing unless it is satisfied that the Secretary of State has established that the criteria in subsection (1) of section (*Initial detention: criteria and duration*) are met and that, in addition –
  - (a) directions have been given for P’s removal from the United Kingdom and such removal is to take place within 14 days,
  - (b) a travel document is available for the purposes of P’s removal or deportation, and
  - (c) there are no outstanding legal barriers to removal.
- (7) Subsection (6) does not apply if the Tribunal is satisfied that the Secretary of State has established that the criteria in subsection (1) of section (*Initial detention: criteria and duration*) are met and that there are very exceptional circumstances which justify maintaining detention.
- (8) In subsection (6), “a bail hearing” includes –
  - (a) an initial bail hearing under subsection (2), and
  - (b) the hearing of an application for immigration bail under paragraph 1(3) of Schedule 10 to the Immigration Act 2016.
- (9) In this section, “Tribunal” means the First-tier Tribunal.
- (10) The Secretary of State must provide to P or to P’s legal representative, not more than 24 hours after the relevant time, copies of all documents in the Secretary of State’s possession which are relevant to the decision to detain.
- (11) At the initial bail hearing, the Tribunal must not consider any documents relied upon by the Secretary of State which were not provided to P or to P’s legal representative in accordance with subsection (10), unless –
  - (a) P consents to the documents being considered, or
  - (b) in the opinion of the Tribunal there is a good reason why the documents were not provided to P or to P’s legal representative in accordance with subsection (10).
- (12) In Schedule 10 to the Immigration Act 2016, after paragraph 12(4) insert –
  - (5) Sub-paragraph (2) does not apply if the refusal of bail by the First-tier Tribunal took place at an initial bail hearing within the meaning of section (*Bail hearings*) of the Nationality and Borders Act 2022.”



**Member's explanatory statement**

*In respect of people to whom Clause (Initial detention: criteria and duration) applies, this new Clause would require the Secretary of State either to release them, grant immigration bail or arrange a reference to the Tribunal within 96 hours.*

190

Insert the following new Clause—

**“Prohibition on private places of detention**

- (1) No one may be detained under a relevant detention power in a privately-run place of detention.
- (2) The Secretary of State's powers to direct places of detention and to authorise persons under—
  - (a) paragraph 18 of Schedule 2 to the Immigration Act 1971 and under that paragraph as applied by paragraph 2(4) of Schedule 3 to that Act,
  - (b) article 4(1), (1A) and (1B) of the Channel Tunnel (International Arrangements) Order 1993 (S.I. 1993/1813),
  - (c) article 4(1) of the Channel Tunnel (Miscellaneous Provisions) Order 1994 (S.I. 1994/1405),
  - (d) section 10(7) of the Immigration and Asylum Act 1999,
  - (e) article 11(1) and (2) of the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003 (S.I. 2003/2818), and
  - (f) section 36(4) of the UK Borders Act 2007,are accordingly constrained.
- (3) In this section, “relevant detention power” means a power to detain under—
  - (a) paragraph 16(2) 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 of persons liable to examination or removal), or
  - (d) section 36(1) of the UK Borders Act 2007 (detention pending deportation).
- (4) In this section, “a privately-run place of detention” means a place of detention run under contract, or otherwise for profit, or in a manner not directly managed by the Secretary of State.
- (5) In Schedule 2 to the Immigration Act 1971, in paragraph 18(1) after “in such” insert “non-privately run”.

**Member's explanatory statement**

*This new Clause prohibits immigration detention in privately-run institutions.*

LORD PADDICK  
BARONESS HAMWEE

191★ Insert the following new Clause –

**“Persons in the UK without leave: duty to report**

- (1) Before Parts 2 to 6 of this Act come into force the Secretary of State must publish a report regarding the number of persons in the United Kingdom without leave for each of the previous five full years.
- (2) The report must in particular provide information about –
  - (a) the number of persons who have been granted a visa and have overstayed the expiry of the visa;
  - (b) the type of visa in question;
  - (c) the number of such persons who have been removed.”

*Member’s explanatory statement*

*This amendment requires the Secretary of State to report on the number of people in the UK without leave and how many have been removed.*

BARONESS KENNEDY OF THE SHAWS

192★ Insert the following new Clause –

**“UK’s international legal obligations**

Nothing in this Act authorises any action or measure which is inconsistent with the United Kingdom’s international legal obligations.”

BARONESS NEVILLE-ROLFE

193★ Insert the following new Clause –

**“Duty to publish immigration data**

The Secretary of State must ensure that information is regularly published on immigration, including –

- (a) data on asylum and other immigration, and
- (b) weekly figures of the number of those entering the United Kingdom across the English Channel.”

**Clause 80**

BARONESS MCINTOSH OF PICKERING

194 Page 82, line 19, leave out “appropriate” and insert “necessary”

*Member’s explanatory statement*

*This amendment ensures that the Secretary of State should only make amendments which are necessary.*

**Clause 83**

LORD ROSSER  
LORD BLUNKETT

**195** Page 85, line 14, at end insert –

“(6) The Secretary of State may not make regulations to bring section 15 into force until such a time as the United Kingdom has agreed formal returns agreements with one or more third states.”

***Member’s explanatory statement***

*This would prevent Clause 15, which includes inadmissibility rules in the bill, being commenced until the UK has working returns agreements which would allow the rules to function. This is to prevent unworkable rules being introduced and causing further delays in the asylum system.*

# Nationality and Borders Bill

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MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

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*25 January 2022*

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