

# Nationality and Borders Bill

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## AMENDMENTS

### TO BE MOVED

#### IN COMMITTEE OF THE WHOLE HOUSE

*[Supplementary to the Marshalled List]*

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#### Clause 15

BARONESS HAMWEE

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

- “(a) there are in law and in practice –
- (i) appropriate reception arrangements for asylum seekers;
  - (ii) sufficient protection against serious harm and violations of fundamental rights;
  - (iii) protection against refoulement and removal in violation of Article 3 of the European Convention on Human Rights;
  - (iv) access to fair and efficient State asylum procedures, or to a previously afforded refugee status or other protective status that is inclusive of the rights and obligations set out at Articles 2 to 34 of the 1951 Convention;
  - (v) the legal right to remain during the State asylum procedure;
  - (vi) a refugee status granted to those who are recognised as refugees that is inclusive of the rights and obligations set out at Articles 2 to 34 of the 1951 Convention for those found to be in need of international protection; and
- (b) it is safe for the particular claimant, taking into account their individual circumstances.”

***Member’s explanatory statement***

*This amendment modifies the definition of a “safe third State” to limit it to States that are safe, in law and practice, for the particular claimant.*

Page 19, line 2, leave out “may” and insert “must”

***Member’s explanatory statement***

*This amendment would clarify that, under specific circumstances, an asylum claim that would otherwise be considered inadmissible must be considered under the immigration rules.*

Page 19, leave out lines 3 to 7 and insert –

- “(a) in the absence of a formal, legally binding and public readmission agreement between the United Kingdom and the State to which the person has a connection,
- (b) as soon as the proposed State of readmission refuses to accept the person’s return or if the person’s readmission has not been agreed within three months of the registration of their asylum claim, whichever is sooner,
- (c) if, taking into account the claimant’s personal circumstances, including their family ties to the United Kingdom and the best interests of any children affected by the decision, it is more appropriate that the claim be considered in the United Kingdom, or
- (d) in such other cases as may be provided for in the immigration rules.”

***Member’s explanatory statement***

*This amendment broadens the circumstances in which the Secretary of State must consider an asylum application, despite a declaration of inadmissibility, to ensure that the fundamental right to seek and enjoy asylum is protected and asylum-seekers are not held in limbo.*

Page 19, leave out lines 12 to 15

***Member’s explanatory statement***

*This would eliminate the reference to the “principles of” the Refugee Convention, which are not defined in the Bill, and reduce the risk of asylum-seekers being sent to countries that are not signatories to the Convention and do not respect the rights of refugees under international law.*

Page 19, leave out lines 18 to 29 and insert –

- “(a) has been granted refugee status or another protective status in the safe third State that is inclusive of the rights and obligations set out at Articles 2 to 34 of the 1951 Convention, and
- (b) remains able to access that protection.”

***Member’s explanatory statement***

*This amendment would strengthen the safeguards in place before a “connection” can be relied on for the purposes of inadmissibility, so as to ensure that the right to seek and enjoy asylum is protected, by eliminating inadmissibility being based on having received, or applied for, or had an opportunity to apply for, protection against removal, rather than the full rights to achieve humane, dignified and durable solutions to forced displacement.*

Page 19, line 33, at end insert “in a fair and efficient State asylum procedure”

***Member’s explanatory statement***

*This amendment reiterates the requirement that a State have a fair and efficient asylum procedure in order for a claim to be found inadmissible on the basis of a connection to it.*

Page 19, leave out lines 40 to 42

**Member's explanatory statement**

*This amendment changes the definition of a "connection" to a safe third State so as to prevent a person's claim being found inadmissible on the basis of a connection to a State to which they have never been.*

Page 19, line 44, leave out from "claim" to end of line 2 on page 20 and insert "for refugee status or other protective status that is inclusive of the rights and obligations set out at Articles 2 to 34 of the 1951 Convention."

**Member's explanatory statement**

*This amendment changes the definition of a "relevant claim" to a safe third State to ensure that inadmissibility is based on access to a protective status consistent with the Refugee Convention.*

**Clause 63**

## LORD MCCOLL OF DULWICH

Page 66, line 10, leave out from "their" to end of line 12 and insert "physical, psychological and social recovery or to prevent their re-trafficking in accordance with Article 12 of the Trafficking Convention."

Page 66, line 36, at end insert –

**"50B Meaning of assistance and support**

- (1) For the purpose of guidance issued under section 49(1)(b), regulations made under section 50, and section 50A, "assistance and support" includes but is not restricted to the provision of –
  - (a) appropriate and safe accommodation;
  - (b) material assistance, including financial assistance;
  - (c) medical advice and treatment (including psychological assessment and treatment);
  - (d) counselling;
  - (e) a support worker;
  - (f) appropriate information on any matter of relevance or potential relevance to the particular circumstances of the person;
  - (g) translation and interpretation services;
  - (h) assistance in obtaining specialist legal advice or representation (including with regard to access to compensation);
  - (i) assistance with repatriation, including a full risk assessment.
- (2) Assistance and support provided to a person under this section –
  - (a) must not be conditional on that person's acting as a witness in any criminal proceedings;
  - (b) may be provided only with the consent of that person;
  - (c) must be provided in a manner which takes due account of the needs of that person as regards safety and protection from harm;
  - (d) must be provided to meet the needs of that person having particular regard to any special needs or vulnerabilities of that person caused by gender, pregnancy, physical or mental illness, disability or being the victim of violence or abuse;

**Clause 63 - continued**

- (e) must be provided in accordance with an assistance and support plan which specifies that person's needs for support and how those needs will be met for the full duration of the period to which that person is entitled to support under this Act.
- (3) Nothing in this section affects the entitlement of any person to assistance and support under any other statutory provision.”

**Clause 64**

LORD MCCOLL OF DULWICH

Page 66, line 41, at end insert –

- “(1A) The Secretary of State must grant the person limited leave to remain in the United Kingdom where the person is being provided with support and assistance under section 50A(5B) of the Modern Slavery Act 2015 or where subsection (1B) applies.
- (1B) This subsection applies if the person receives assistance and support under one of the following –
- (a) section 18(9) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.)),
  - (b) section 9(3)(c) of the Human Trafficking and Exploitation (Scotland) Act 2015 (asp 12), or
  - (c) regulation 3(4)(c) of the Human Trafficking and Exploitation (Scotland) Act 2015 (Support for Victims) Regulations 2018 (S.S.I 2018/90).
- (1C) If subsections (1A) or (1B) do not apply, subsection (2) applies.”

Page 67, line 7, at end insert –

- “(2A) The Secretary of State must grant the person limited leave to remain in the United Kingdom for the period –
- (a) beginning on the day on which the positive conclusive grounds decision is communicated to the person, and
  - (b) for the duration of –
    - (i) at least 12 months where leave is granted under subsection (2), or
    - (ii) the amount of time support and assistance will be provided under either subsection (1B) or section 50A(5B) of the Modern Slavery Act 2015.”

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*27 January 2022*

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