

# Nationality and Borders Bill

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FOURTH  
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 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  
BARONESS HAMWEE

*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).*

BARONESS HAMWEE

101A Page 89, line 6, at end insert—

“(2D) The Secretary of State must arrange for the transfer to and entry into the United Kingdom of any person removed to, or required to leave to go to, a State falling within subsection (2B) who subsequently is recognised as a refugee.”

***Member's explanatory statement***

*This probing amendment seeks to ascertain whether an individual who has claimed asylum in the UK and is then removed to a safe third country to have their claim determined would subsequently be able to return to the UK in the circumstance that their asylum claim was successful.*

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

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 HAMWEE

*The above-named Lords give notice of their 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  
BARONESS HAMWEE  
THE LORD BISHOP OF GLOUCESTER

*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 HAMWEE

*The above-named Lords give notice of their intention to oppose the Question that Clause 32 stand part of the Bill.*

**Clause 33**

BARONESS CHAKRABARTI  
BARONESS HAMWEE

*The above-named Lords give notice of their intention to oppose the Question that Clause 33 stand part of the Bill.*

**Clause 34**

BARONESS CHAKRABARTI  
BARONESS HAMWEE

*The above-named Lords give notice of their intention to oppose the Question that Clause 34 stand part of the Bill.*

**Clause 35**

BARONESS CHAKRABARTI  
BARONESS HAMWEE

*The above-named Lords give notice of their 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  
LORD CASHMAN

- 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 HAMWEE

*The above-named Lords give notice of their 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 HAMWEE

*The above-named Lords give notice of their intention to oppose the Question that Clause 37 stand part of the Bill.*

**After Clause 37**

LORD PADDICK  
 LORD HYLTON  
 BARONESS JONES OF MOULSECOOMB  
 LORD DUBS

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
    - (v) such other matters as the Secretary of State considers appropriate.
- (6) For the purpose of subsection (5)—

**After Clause 37 - continued**

- (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  
BARONESS LUDFORD

**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  
LORD DUBS

**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  
 BARONESS LUDFORD

**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  
 BARONESS HELIC

**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  
BARONESS LUDFORD  
THE LORD BISHOP OF DURHAM

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  
THE LORD BISHOP OF DURHAM

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.

**After Clause 37 - continued**

- (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 –
- (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

**After Clause 37 - continued**

“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).”

BARONESS HAMWEE

**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”.

BARONESS KENNEDY OF THE SHAWS  
LORD ALTON OF LIVERPOOL  
BARONESS CHAKRABARTI

**119A** Insert the following new Clause—

**“Emergency visas**

- (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 persons at particular risk are entitled to enter the United Kingdom and be provided with temporary abode.
- (2) For the purposes of this section, “persons at particular risk” include—
  - (a) a human rights defender who is at an imminent risk to his or her life;

**After Clause 37 - continued**

- (b) a person who is targeted because of their protected characteristic and is at an imminent risk to his or her life.”

***Member’s explanatory statement***

*This new Clause would allow persons at particular risk to be able to be provided with safety in the UK, in line with the Government’s commitments from 2019.*

LORD ALTON OF LIVERPOOL  
BARONESS KENNEDY OF THE SHAWS

**119B** Insert the following new Clause—

**“Conditions for grant of asylum: cases of genocide**

- (1) A person seeking asylum in the United Kingdom who belongs to a national, ethnical, racial or religious group which meets the criteria, in the place from which that person originates, set out in Article II of the Convention on the Prevention and Punishment of the Crime of Genocide made in Paris on 9 December 1948, must be presumed to meet the conditions for asylum in the United Kingdom.
- (2) The adjudication of whether the group to which the person seeking asylum belongs meets the description specified in subsection (1) must be determined by a judge of the High Court of England and Wales after consideration of the available facts.
- (3) Applicants for asylum in the United Kingdom from groups designated under this section may submit their applications and have them assessed at British missions overseas.”

BARONESS HOLLINS  
BARONESS HAMWEE  
BARONESS LISTER OF BURTERSETT

**119C** Insert the following new Clause—

**“Codes of practice**

- (1) The Secretary of State must prepare and issue one or more codes of practice for the guidance of immigration officers, medical inspectors and other persons assessing the mental and physical health needs of any asylum seeker in accordance with the United Kingdom’s obligations under Article 12 of the International Covenant on Economic, Social and Cultural Rights 1966.
- (2) The Secretary of State may from time to time revise a code.
- (3) Before the end of each review period the Secretary of State must—
  - (a) review each code for the guidance of persons exercising functions under this section, and
  - (b) lay a report of the review before Parliament.

But this does not affect the Secretary of State’s function under subsection (2).
- (4) A review period is—
  - (a) in relation to the first review, the period of 3 years beginning with the day on which this subsection comes into force, and

**After Clause 37 - continued**

- (b) in relation to subsequent reviews, each period of 5 years beginning with the day on which the report of the previous review was laid before Parliament.
- (5) The Secretary of State may delegate the preparation of the review or revision of the whole or any part of a code so far as he or she considers expedient.
- (6) It is the duty of a person to have regard to any relevant code if acting in relation to a person seeking asylum in one or more of the following ways –
  - (a) in a professional capacity;
  - (b) for remuneration;
  - (c) for a charity or other not-for-profit body.
- (7) If it appears to a court or tribunal conducting any criminal or civil proceedings that –
  - (a) a provision of a code, or
  - (b) a failure to comply with a code,
 is relevant to a question arising in the proceedings, the provision or failure must be taken into account in deciding the question.
- (8) In this section, “code” means a code prepared or revised under this section.”

**Member’s explanatory statement**

*This amendment requires the Secretary of State to lay codes of practice before Parliament providing for guidance to assess the mental and physical health needs of any asylum seeker.*

**119D** Insert the following new Clause –

**“Codes of practice: procedure**

- (1) Before preparing or revising a code under section (*Codes of practice*), the Secretary of State must consult –
  - (a) the Scottish Parliament,
  - (b) Senedd Cymru,
  - (c) the Northern Ireland Assembly, and
  - (d) such other persons as the Secretary of State considers appropriate.
- (2) The Secretary of State may not issue a code unless –
  - (a) a draft of the code has been laid before Parliament, and
  - (b) the 40 day period has elapsed without either House resolving not to approve the draft.
- (3) The Secretary of State must arrange for any code issued to be published in such a way as to bring it to the attention of persons likely to be concerned with its provisions.
- (4) “40 day period”, in relation to the draft of a proposed code, means –
  - (a) if the draft is laid before one House later than the other, the period of 40 days beginning with the later of the two days;
  - (b) in any other case, the period of 40 days beginning with the day on which it is laid before each House.

**After Clause 37 - continued**

- (5) In calculating the period of 40 days, no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.”

**Member’s explanatory statement**

*This amendment requires the Secretary of State to consult before preparing codes of practice under the previous section.*

LORD ROSSER

**119E** Insert the following new Clause—

**“United Kingdom resettlement scheme**

- (1) The Secretary of State must arrange for the resettlement of refugees in the United Kingdom under a general resettlement scheme.
- (2) The Secretary of State must in each year—
- (a) prepare a report on the operation of the resettlement scheme under subsection (1), including the number of refugees settled annually under the scheme;
  - (b) lay a copy of the report before Parliament.”

**Member’s explanatory statement**

*This would provide a general UK Resettlement Scheme (UKRS) on a statutory footing, and require the Secretary of State to report annually to Parliament on the operation of the scheme and the number of refugees resettled under it each year.*

**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”

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.*

**After Clause 39**

LORD COAKER

**124A★** Insert the following new Clause –

**“Guidance on security of reporting for victims of crime**

- (1) The Secretary of State must issue guidance to such public authorities and other persons as the Secretary of State considers appropriate on –
  - (a) the prohibition of automatic sharing of personal data for immigration purposes;
  - (b) specified circumstances in which data may be shared regarding victims of crime for the purposes of offences under section 39.
- (2) The Secretary of State may, from time to time, revise the guidance issued under subsection (1).
- (3) The Secretary of State must arrange for any guidance issued or revised under this section to be published in a way the Secretary of State considers appropriate.”

**Member's explanatory statement**

*This new Clause would require the Secretary of State to make provisions for safe reporting. This is to probe how the duty of law enforcement to investigate offences under Clause 39 will interact with their duty to support victims of trafficking and seek prosecution of human traffickers.*

**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  
LORD COAKER

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.*

BARONESS JOLLY

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.*

BARONESS HAMWEE

128A Page 42, line 13, leave out “first”

**Member's explanatory statement**

*This is to probe what is meant by “first in danger or distress at sea”.*

**After Clause 41**

LORD COAKER  
 BARONESS NEVILLE-ROLFE  
 LORD HODGSON OF ASTLEY ABBOTTS

**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 4**

BARONESS HAMWEE

**129A** Page 92, line 14, after “subsection (4)” insert “or prescribing the maximum amount for the purpose of paragraph (7)(a) or (7)(c)”

***Member’s explanatory statement***

*This is intended to probe whether there will be consultation on the penalty.*

**Clause 42**

BARONESS HAMWEE

**129B** Page 46, line 2, after “may” insert “after consulting such persons as the Secretary of State considers appropriate”

***Member’s explanatory statement***

*This amendment is to probe whether there will be consultation on the regulations under the inserted section 11B.*

**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.*

BARONESS KENNEDY OF THE SHAWS  
LORD WEST OF SPITHEAD  
LORD MACDONALD OF RIVER GLAVEN

- 132A** Page 105, line 32, at end insert—
- “(13) Nothing in this paragraph authorises any action or measure which is inconsistent with the United Kingdom's international legal obligations.”

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.*

BARONESS HAMWEE

137A Page 48, line 19, after “removed” insert “which must not be different to the destination stated under subsection (3)(c) in the notice of intention to remove”

***Member's explanatory statement***

*This amendment, along with Baroness Hamwee's amendment to Clause 45, page 48, line 28, is intended to probe the destination to which a person may be removed.*

**137B** Page 48, line 28, leave out paragraph (a)

***Member's explanatory statement***

*This amendment, along with Baroness Hamwee's amendment to Clause 45, page 48, line 19, is intended to probe the destination to which a person may be removed.*

**137C** Page 48, line 36, leave out "five" and insert "fifteen"

***Member's explanatory statement***

*This amendment is to probe the notice period under this section.*

**137D** Page 48, line 40, after "may" insert "subject to subsection (7)"

***Member's explanatory statement***

*This amendment ensures that a replacement notice must comply with the notice period in subsection (7).*

**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  
LORD PADDICK

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;

**After Clause 47 - continued**

“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
  - (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.*

LORD PADDICK  
BARONESS HAMWEE

141A Insert the following new Clause –

**“Overstayers**

Before any provisions of this Part are brought into force, the Secretary of State must lay before Parliament a report on –

- (a) the number of individuals who in each six-month period in the last five years have entered the United Kingdom from each country with which the United Kingdom operates a visa-free scheme;
- (b) the number who have overstayed the limit under each visa-free scheme;
- (c) what steps are taken to monitor the operation of each visa-free scheme; and
- (d) what steps are taken to identify, trace and remove overstayers.”

**Member’s explanatory statement**

*This amendment requires the Secretary of State to report on individuals who have overstayed, and what steps are being taken to remove them.*

**Clause 48**

BARONESS HAMWEE  
LORD PADDICK

*The above-named Lords give notice of their intention to oppose the Question that Clause 48 stand part of the Bill.*

**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.*

*The above-named Lords give notice of their intention to oppose the Question that Clause 49 stand part of the Bill.*

**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.*

*The above-named Lords give notice of their intention to oppose the Question that Clause 50 stand part of the Bill.*

### Clause 51

BARONESS LISTER OF BURTERSETT  
BARONESS NEUBERGER

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  
BARONESS NEUBERGER

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.*

BARONESS HAMWEE  
LORD PADDICK

*The above-named Lords give notice of their intention to oppose the Question that Clause 51 stand part of the Bill.*

### 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.*

*The above-named Lords give notice of their intention to oppose the Question that Clause 53 stand part of the Bill.*

**Clause 54**

BARONESS HAMWEE  
LORD PADDICK

*The above-named Lords give notice of their intention to oppose the Question that Clause 54 stand part of the Bill.*

**Clause 55**

BARONESS HAMWEE  
LORD PADDICK

*The above-named Lords give notice of their intention to oppose the Question that Clause 55 stand part of the Bill.*

**Clause 56**

BARONESS HAMWEE  
LORD PADDICK

*The above-named Lords give notice of their intention to oppose the Question that Clause 56 stand part of the Bill.*

**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.*

BARONESS NEVILLE-ROLFE  
LORD GREEN OF DEDDINGTON

**151A** Insert the following new Clause—

**“Review of Part 4**

- (1) Within the period of 2 years beginning with the day on which this Act is passed, the Secretary of State must commission a review of the efficacy of this Part which must consider whether the provisions contained in this Part and any regulations made by virtue of it are effective in providing a robust system of age assessment.
- (2) The Secretary of State must publish a report of the review’s findings and lay it before Parliament.”

*Member’s explanatory statement*

*This amendment would require a review of the age assessment provisions of the Bill to ensure that they are effective in meeting their objectives.*

**151B** Insert the following new Clause—

**“Trade agreements containing provisions on visas**

- (1) This section applies where—
  - (a) the Government intends to make a trade agreement, and
  - (b) the proposed agreement includes provision about visas.
- (2) Where this section applies, the Secretary of State must not seek to make the trade agreement unless a draft of the provisions on visas has been laid before and approved by each House of Parliament.”

**Member's explanatory statement**

*This amendment is to ensure that any visa provisions in trade agreements can only come into effect if they are approved by both Houses of Parliament. This is to ensure that visas are a matter for nationality law not trade agreements.*

LORD COAKER  
BARONESS LUDFORD  
BARONESS BUTLER-SLOSS

**151C** Insert the following new Clause—

**“Age assessments: restrictions**

- (1) Age assessments under section 49 or 50 must only be undertaken if there is significant reason to doubt the age of the age-disputed person.
- (2) A person conducting age assessments under section 49 or 50 must be a social worker.
- (3) Age assessments must be undertaken in accordance with the Association of Directors of Children’s Services Age Assessment Guidance or equivalent guidance in the devolved jurisdictions.
- (4) When an age assessment is conducted, a process must be used that allows for an impartial multi-agency approach, drawing on a range of expertise, including from—
  - (a) health professionals,
  - (b) psychologists,
  - (c) teachers,
  - (d) foster parents,
  - (e) youth workers,
  - (f) advocates,
  - (g) guardians, and
  - (h) social workers.
- (5) When making regulations under section 51, the Secretary of State must not specify scientific methods unless the Secretary of State receives written approval from the relevant medical, dental and scientific professional bodies that the method is both ethical and accurate beyond reasonable doubt for assessing a person’s age.
- (6) Any organisation developed to oversee age assessments must be independent of the Home Office.”

**Member's explanatory statement**

*This new Clause would place various restrictions on the use of age assessments, to ensure they are scientifically sound and done according to recognised standards.*

**Clause 57**

LORD COAKER

**151D★** Page 61, line 31, at end insert—

- “(1A) The Secretary of State may not serve a slavery or trafficking information notice on any person who—
- (a) is aged 17 or younger, or

**Clause 57 - continued**

- (b) was aged 17 or younger at the time they were a potential victim of slavery or human trafficking on the basis of which they have made a protection claim or human rights claim.”

**Member’s explanatory statement**

*This would exclude children from the provisions of Clause 57.*

LORD COAKER  
BARONESS HAMWEE  
THE LORD BISHOP OF BRISTOL

*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  
BARONESS PRASHAR  
BARONESS BUTLER-SLOSS  
BARONESS HOLLINS

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;

**Clause 58 - continued**

- (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  
BARONESS HOLLINS

*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).*

LORD ALTON OF LIVERPOOL  
THE LORD BISHOP OF ST ALBANS  
BARONESS PRASHAR

156A Page 63, line 1, at end insert –

“(1ZA) Guidance issued under subsection (1) must, in particular, provide that the determination mentioned in paragraph (c) is to be made on the standard of “suspect but cannot prove”.”

***Member’s explanatory statement***

*This amendment would ensure that amendments made to the Modern Slavery Act 2015 do not raise the threshold for a Reasonable Grounds decision when accessing the National Referral Mechanism in line with Modern Slavery: Statutory Guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and Non-Statutory Guidance for Scotland and Northern Ireland.*

156B Page 63, line 8, at end insert –

“(3A) If regulations under subsection (2) make provision for determining whether a person is a victim of slavery or human trafficking (as mentioned in paragraph (a) of that subsection), they must provide that the determination is to be made on the standard of “suspect but cannot prove”.”

***Member’s explanatory statement***

*This amendment would ensure that amendments made to the Modern Slavery Act 2015 do not raise the threshold for a Reasonable Grounds decision when accessing the National Referral Mechanism in line with Modern Slavery: Statutory Guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and Non-Statutory Guidance for Scotland and Northern Ireland.*

**Clause 60**

LORD COAKER  
BARONESS HAMWEE  
BARONESS MEACHER

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  
BARONESS MEACHER

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.*

BARONESS HAMWEE  
LORD PADDICK

160A Page 64, line 23, leave out from first “the” to end of line 25 and insert “Secretary of State is satisfied that this is in the interests of national security.”

***Member’s explanatory statement***

*This amendment provides that a person may be only be disqualified from protection if it is in the interests of national security.*

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.*

## LORD COAKER

164A★ Page 64, line 30, at end insert—

“(2A) Where a person receives a positive reasonable grounds determination from the competent authority, the competent authority must make a conclusive grounds decision regardless of whether subsection (1) or (2) applies.”

***Member’s explanatory statement***

*This is to probe the duty to make a conclusive grounds decision for a victim regardless of the provisions of Clause 62.*

LORD DUBS  
BARONESS LUDFORD

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  
BARONESS BUTLER-SLOSS

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;
  - (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.

**Clause 62 - continued**

(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 LORD BISHOP OF BRISTOL

*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 COAKER

**169A** 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.”

**Member’s explanatory statement**

*This amendment would define the objective of assistance and support in line with Article 12 of the European Convention on Action Against Trafficking in Human Beings 2005.*

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).

(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.*

LORD MCCOLL OF DULWICH  
LORD ALTON OF LIVERPOOL  
LORD COAKER

170A 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;
  - (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.”

***Member’s explanatory statement***

*This amendment would define the types of assistance and support that should be provided to a victim of modern slavery in England and Wales in line with Article 12 of the European Convention on Action Against Trafficking in Human Beings; and conditions associated with its provision.*

**Clause 64**

LORD MCCOLL OF DULWICH  
LORD COAKER

**170B** 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.”

***Member’s explanatory statement***

*This amendment would require leave to remain to be granted to victims across the UK who are receiving support and assistance after they have been confirmed as a victim of modern slavery.*

LORD DUBS  
BARONESS LUDFORD  
LORD COAKER

**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.*

LORD MCCOLL OF DULWICH  
LORD COAKER

**171A** 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.”

**Member's explanatory statement**

*This amendment would set out the period of time for which leave to remain should be granted to victims of modern slavery.*

LORD COAKER

**171AA★** Page 67, line 7, at end insert –

“(2A) If the person is aged 17 or younger at the point of referral into the National Referral Mechanism, the Secretary of State must give the person leave to remain in the United Kingdom if that is in the person’s best interests as a primary consideration.”

**Member's explanatory statement**

*This amendment seeks to incorporate the entitlement to immigration leave for child victims in line with Article 14(2) of ECAT and the United Nations Convention on the Rights of the Child. It provides that a child victim of slavery or human trafficking must be granted leave to remain under this section where that is in their best interests.*

LORD MORROW  
BARONESS WOLF OF DULWICH

**171B** Page 67, line 9, leave out subsections (4) and (5)

**Member's explanatory statement**

*This amendment would remove the criteria of not granting leave to remain if assistance could be provided in another country or compensation sought in another country.*

LORD DUBS  
BARONESS LUDFORD  
LORD COAKER  
LORD MCCOLL OF DULWICH

**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 UNCR, 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 –

**Clause 65 - continued***“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

(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.*

**Clause 67**

LORD COAKER

**172B★** Page 71, line 13, at end insert –

“(1A) This section may not come into force until the Secretary of State has conducted a review of the impact of subsection (1) and laid a copy of the review before Parliament.

(1B) A review under subsection (1A) must include, but is not limited to –

**Clause 67 - continued**

- (a) identification of any parts of the Trafficking Directive which the Secretary of State considers to be incompatible with provisions made by or under this Act;
- (b) analysis of the costs and benefits of the disapplication of the Trafficking Directive;
- (c) the impact that the disapplication of the Trafficking Directive is likely to have on the identification, protection, support and access to wider remedies of victims of all forms of slavery in the United Kingdom.”

***Member’s explanatory statement***

*This would require the Secretary of State to review the impact of disapplying the EU Trafficking Directive before this section can come into force.*

**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  
BARONESS LISTER OF BURTERSETT  
BARONESS BENNETT OF MANOR CASTLE

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;

**After Clause 67 - continued**

- (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.*

LORD COAKER

**174A★** Insert the following new Clause—

**“Report on modern slavery and human trafficking**

- (1) The Secretary of State must, within six months of the passing of this Act, prepare a report on modern slavery and human trafficking in the United Kingdom.
- (2) A report under subsection (1) must include—
  - (a) the number of children who are victims of slavery and trafficking in the United Kingdom;
  - (b) the number of children with British citizenship who are victims of slavery and trafficking in the United Kingdom;
  - (c) the operation of criminal gangs across county boundaries in the United Kingdom involving the exploitation of child victims of slavery and trafficking.
- (3) The Secretary of State must lay a copy of the report before Parliament.”

***Member’s explanatory statement***

*This would require the Secretary of State to publish a report on modern slavery and trafficking, focussing on county lines and child victims.*

**Clause 69**

LORD PADDICK  
BARONESS HAMWEE

*The above-named Lords give notice of their intention to oppose the Question that Clause 69 stand part of the Bill.*

**Clause 71**

BARONESS RITCHIE OF DOWNPATRICK  
 BARONESS SUTTIE  
 LORD COAKER

- 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.*

LORD PADDICK  
 BARONESS HAMWEE

- 175ZA** Page 75, line 8, at end insert –  
 “(9) Rules made by virtue of this section must not be brought into force until the Secretary of State has reported to both Houses of Parliament on how the proposed rules will operate, including with respect to –  
 (a) checking on the criminal record of an individual, and  
 (b) the means to check the status of an individual who is required to rely on a digital system to record it in the event of a technical malfunction of the system.”

***Member’s explanatory statement***

*This amendment requires the Secretary of State to report to Parliament on how the ETA system will operate in respect of checking an individual’s criminal record and how it will operate in the event of a technical malfunction.*

**Clause 74**

BARONESS HAMWEE  
 LORD PADDICK

- 175ZB** Page 79, line 7, leave out subsection (3)

**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 HAMWEE  
 LORD PADDICK

- 175ZC** Page 80, line 36, leave out “is to” and insert “may”  
**175ZD** Page 81, line 2, leave out “must” and insert “may”

**Clause 77 - continued**

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 HAMWEE  
LORD PADDICK

**175A** Page 81, line 20, leave out from “State” to end of line 24 and insert “must, no later than 31 December 2025, publish draft primary legislation to consolidate the Acts relating to immigration.

(1A) The Secretary of State must consult such persons as are appropriate during the period of six months following publication and shall report the result of the consultation to Parliament.”

***Member’s explanatory statement***

*This amendment removes the Henry VIII power in Clause 78 and replaces it with a duty to consolidate immigration law. It further requires consultation on this draft consolidation.*

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.*

BARONESS HAMWEE  
LORD PADDICK

**176A** Page 82, line 1, leave out subsections (3) to (6)

***Member’s explanatory statement***

*This amendment is consequential on Baroness Hamwee's amendment to Clause 78, page 81, line 20.*

**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”).

**After Clause 78 - continued**

- (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.
- (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.

**After Clause 78 - continued**

- (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 SALTIRE

BARONESS BENNETT OF MANOR CASTLE

LORD GREEN OF DEDDINGTON

LORD ROOKER

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  
LORD HODGSON OF ASTLEY ABBOTTS  
LORD BLUNKETT  
BARONESS LISTER OF BURTERSETT

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  
LORD COAKER

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  
BARONESS RITCHIE OF DOWNPATRICK

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.
- (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.

**After Clause 78 - continued**

- (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

**After Clause 78 - continued**

- (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.
- (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 –

**After Clause 78 - continued**

- (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),

**After Clause 78 - continued**

- (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.*

**192** [Withdrawn]

**After Clause 78 - continued**

BARONESS NEVILLE-ROLFE  
LORD GREEN OF DEDDINGTON  
LORD HODGSON OF ASTLEY ABBOTTS

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 82**

BARONESS RITCHIE OF DOWNPATRICK  
LORD DUBS  
BARONESS HAMWEE

194A Page 83, line 30, at end insert—

“(1A) Sections 57, 58, 60, 61, 62 and 67 extend to England and Wales, and Scotland.”

***Member’s explanatory statement***

*This amendment would exclude Northern Ireland from the operation of the specified Clauses, to test the extent to which those provisions are compatible with Article 2 of the Ireland/Northern Ireland Protocol.*

**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.*

BARONESS HAMWEE

196

Page 85, line 14, at end insert –

- “(6) Paragraph 1 of Schedule 3 and section 28 so far as it relates to that paragraph (removal of asylum seeker to safe country) must not come into force until the following requirements are met –
- (a) the Secretary of State has laid before Parliament a policy statement on the processing of protection and human rights claims outside of the United Kingdom, and
  - (b) that policy statement has been debated and approved by both Houses of Parliament.
- (7) The policy statement referred to in subsection (6)(a) must, at a minimum, provide information on –
- (a) accommodation provided to asylum seekers removed to a third country,
  - (b) arrangements for access to legal advice for asylum seekers removed to a third country,
  - (c) arrangements for the provision of health services for asylum seekers removed to a safe third country,
  - (d) arrangements for the transport to the United Kingdom of people who receive a positive decision on their protection or human rights claim, and
  - (e) independent monitoring arrangements of the treatment and conditions of asylum seekers removed to a third country.”

**Member's explanatory statement**

*This probing amendment would require the Secretary of State to lay before Parliament a policy statement setting out the detail of how the offshoring of asylum claims would work and for that policy statement to be debated and approved by both Houses of Parliament before the power to remove people with outstanding asylum claims can come into force. It also sets out the information that the policy statement on the offshoring of UK asylum claims must, at a minimum, cover.*

# Nationality and Borders Bill

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

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*4 February 2022*

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