

# Nationality and Borders Bill

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AMENDMENTS  
TO BE MOVED  
ON REPORT

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**Clause 7**

LORD RUSSELL OF LIVERPOOL  
BARONESS HAMWEE  
LORD TRIESMAN

Page 9, line 36, at end insert –

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

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

***Member’s explanatory statement***

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

**Clause 11**

BARONESS MCINTOSH OF PICKERING

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

***Member’s explanatory statement***

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

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

***Member’s explanatory statement***

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

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

***Member’s explanatory statement***

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

**After Clause 15**

LORD ROSSER

Insert the following new Clause –

**“Safe third State: commencement**

- (1) The Secretary of State may exercise the power in section 83(1) so as to bring section 15 into force only if the condition in subsection (2) is met.
- (2) The condition in this subsection is that the United Kingdom has agreed formal returns agreements with one or more third States.
- (3) A “formal returns agreement” means an agreement which provides for the safe return of a person making an asylum claim (a “claimant”) to a State which is party to the agreement, where the claimant has a connection to that State.”

**Clause 32**

THE LORD BISHOP OF GLOUCESTER  
BARONESS LISTER OF BURTERSETT

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

**Clause 39**

BARONESS MCINTOSH OF PICKERING

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

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

**Clause 40**

BARONESS MCINTOSH OF PICKERING

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 was 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.*

**Clause 64**

LORD MCCOLL OF DULWICH

Leave out Clause 64 and insert—

**“Conclusive grounds: support and leave to remain for victims of slavery or human trafficking**

After section 50A of the Modern Slavery Act 2015 insert—

**“50B Confirmed victims etc: assistance, support and leave to remain**

- (1) This section applies if a positive conclusive grounds decision is made in respect of a person.
- (2) This subsection applies if the person has received support under section 50A and in that case—
  - (a) 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 (2)(b);
  - (b) a person who receives a positive conclusive grounds decision must be considered in need of assistance and support under subsection (2)(a) for at least 12 months beginning on the day the recovery period ends;
  - (c) a reference in this subsection to assistance and support has the same meaning as in section 50A(6).
- (3) If the person is not a British citizen—
  - (a) the Secretary of State must give the person leave to remain in the United Kingdom if subsection (2) or (4) or (5) applies;
  - (b) leave to remain provided under this subsection must be provided from the day on which the positive conclusive grounds decision is communicated to a person for either—
    - (i) the amount of time support and assistance will be provided under either subsection (2) or one of the measures listed in subsection (4), or
    - (ii) at least 12 months if the person meets one or more of the criteria in subsection (5).
- (4) This subsection applies if the person receives support and assistance 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,
  - (b) section 9(3)(c) of the Human Trafficking and Exploitation (Scotland) Act 2015, 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).
- (5) This subsection applies if the person meets one or more of the following criteria—
  - (a) leave is necessary due to the person’s circumstances, including but not restricted to—

**Clause 64 - continued**

- (i) the needs of that person for safety and protection from harm including protection from re-trafficking,
  - (ii) the needs of that person for medical and psychological treatment;
  - (b) the person is co-operating with a public authority in connection with an investigation or criminal proceedings;
  - (c) the person is seeking compensation.
- (6) Where the person is receiving assistance from a support worker the recommendations of the support worker must be considered in assessing that person's circumstances under subsection (5)(a).
- (7) The Secretary of State must provide for persons granted leave to remain in accordance with this section to have recourse to public funds for the duration of the period of leave.
- (8) The Secretary of State must allow a grant of leave to remain under subsection (3) to be extended subject to the requirements of subsection (10).
- (9) In determining whether to extend a grant of leave to remain under subsection (8), and the period of time for which such extended leave should be provided, the person's individual circumstances must be considered, and whether that person—
- (a) is receiving on-going support and assistance under the measures set out in either subsection (3) or subsection (4), or
  - (b) meets one or more of the criteria in subsection (5).
- (10) If the Secretary of State is satisfied that the person is a threat to public order—
- (a) the Secretary of State is not required to give the person leave under this section, and
  - (b) if such leave has already been given to the person, it may be revoked.
- (11) The best interests of the child must be a primary consideration when making decisions under this section in respect of a child.
- (12) In this section—
- “positive conclusive grounds decision” means a decision made by a competent authority that a person is a victim of slavery or human trafficking;
  - “threat to public order” has the same meaning as in subsections (3) to (7) of section 62 of the Nationality and Borders Act 2022 (identified potential victims etc: disqualification from protection).
- (13) This section is to be treated for the purposes of section 3 of the Immigration Act 1971 as if it were provision made by that Act.”

***Member's explanatory statement***

*This replacement clause would provide new statutory support for victims in England and Wales after a conclusive grounds decision for at least 12 months. It would also provide temporary leave to remain for all victims receiving support after a positive conclusive grounds decision and for victims meeting the requirements of Article 14 of the Trafficking Convention. It specifies decisions for children should be made on the basis of their best interests.*

**Clause 76**

BARONESS MCINTOSH OF PICKERING

Leave out Clause 76

**Clause 77**

BARONESS MCINTOSH OF PICKERING

Leave out Clause 77

**After Clause 78**

LORD COAKER

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 and their dependents applying for indefinite leave to remain at no more than the actual administrative cost of processing that application, and”.

**Clause 83**

LORD ROSSER

Page 85, line 2, at end insert –

“(aa) section (Safe third State: commencement) (safe third State: commencement);”

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*23 February 2022*

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