

Nationality and Borders Bill

SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

The amendments have been marshalled in accordance with the Order of 24th February 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 15

LORD ROSSER
LORD PADDICK
LORD ETHERTON

31 Leave out Clause 15

After Clause 15

LORD ROSSER
LORD PADDICK

32 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 18

BARONESS NEVILLE-ROLFE
LORD GREEN OF DEDDINGTON

33 Page 22, line 36, at end insert –

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

Clause 25

BARONESS COUSSINS
BARONESS LISTER OF BURTERSETT

34★ Page 30, line 25, at end insert –

“(2A) The deciding authority must treat evidence provided late as provided late for good reason where the applicant is a child, or where it is reasonable to attribute its lateness to the applicant's experience of, but not limited to –

- (a) torture,
- (b) trafficking or modern slavery, or
- (c) sex or gender based violence, abuse or exploitation.”

Clause 28

LORD KIRKHOPE OF HARROGATE
LORD ROSSER
LORD PADDICK
THE LORD BISHOP OF DURHAM

35 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 PADDICK
LORD ETHERTON

36 Leave out Clause 28

Schedule 3

LORD KIRKHOPE OF HARROGATE
LORD ROSSER
LORD PADDICK

37 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).

38 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 PADDICK
LORD ETHERTON

39 Leave out Schedule 3

Clause 31

THE LORD BISHOP OF GLOUCESTER
BARONESS CHAKRABARTI

40 Page 34, line 45, leave out “first”

41 Page 34, line 45, leave out “, on the balance of probabilities” and insert “whether there is a reasonable likelihood that”

42 Page 35, line 1, leave out “whether”

43 Page 35, line 5, leave out paragraph (b) and insert –

“(b) if the asylum seeker were returned to their country of nationality (or in a case where they do not have a nationality, the country of their former habitual residence)–

- (i) they would be persecuted for reason of the characteristic mentioned in paragraph (a), and
- (ii) they would not be protected as mentioned in section 33.”

44 Page 35, line 12, leave out subsections (3) to (5)

Clause 32

THE LORD BISHOP OF GLOUCESTER
BARONESS LISTER OF BURTERSETT

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

Clause 36

LORD ETHERTON

46 Page 37, line 16, leave out subsection (1)

After Clause 37

BARONESS LUDFORD
BARONESS D'SOUZA
LORD PADDICK

47 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 DUBS
THE LORD BISHOP OF DURHAM
LORD KERR OF KINLOCHARD
BARONESS LUDFORD

48 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) when the person in Europe is an unaccompanied minor:
 - (i) a parent, including adoptive parent;
 - (ii) aunt or uncle;
 - (iii) grandparent; or
 - (iv) sibling, including adoptive siblings;
 - (b) spouse, civil partner, unmarried partner of the person in Europe; and
 - (c) such other persons as the Secretary of State may determine, having regard to
 - (i) the importance of maintaining family unity;
 - (ii) any dependency between the family members;
 - (iii) the best interests of a child; and
 - (iv) any compelling circumstances.”

Member’s explanatory statement

This new Clause would require the Government to make provision within the Immigration Rules for unaccompanied children, and certain other people in Europe, to be admitted to the UK for the purposes of seeking asylum where they have a close family member in the UK.

LORD KIRKHOPE OF HARROGATE
 THE LORD BISHOP OF DURHAM
 LORD PADDICK
 BARONESS STROUD

49★ Insert the following new Clause—

“Refugee resettlement schemes

- (1) The Secretary of State must arrange for the resettlement in the United Kingdom of at least 10,000 refugees each year.
- (2) The target under this section includes the numbers of people resettled under—
 - (a) dedicated schemes for the evacuation of people from a geographical locality, such as a specific third State,
 - (b) a general UK resettlement scheme,
 - (c) the mandate resettlement scheme or equivalent replacements, and
 - (d) other routes as appropriate.
- (3) The Secretary of State must be guided by the capacity of local authorities and community sponsorship groups in delivering the target under subsection (1).”

Member’s explanatory statement

This reflects the Prime Minister’s commitment to make the dedicated Afghan resettlement scheme of 5,000 refugees a year additional to the longer standing Government commitment to resettle 5,000 vulnerable refugees per year from elsewhere in the world.

BARONESS KENNEDY OF THE SHAWES
 LORD ALTON OF LIVERPOOL

50 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;
 - (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
LORD FORSYTH OF DRUMLEAN
BARONESS KENNEDY OF THE SHAWS
BARONESS COX

51 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 following an application to the Court from a non-governmental organisation (registered as a charity in the United Kingdom) representing such a person or group of persons belonging to a national, ethnical, racial or religious group.
- (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.
- (4) The Secretary of State may by regulations place a cap on the number of people granted asylum under subsection (1) in any given calendar year.”

LORD PADDICK
LORD COAKER

52 Insert the following new Clause—

“Refugees and people smuggling

- (1) Within three months of this Act being passed, and every three months thereafter, the Secretary of State must lay a statement before Parliament regarding discussions with the governments and authorities of other countries, including those bordering the English Channel and the North Sea, concerning the steps taken to—
 - (a) increase security cooperation between the United Kingdom and one or more third States to prevent criminal activity in assisting or purporting to assist refugees in travelling to the United Kingdom,
 - (b) increase domestic and international rates of prosecution for those engaged in assisting or purporting to assist refugees in travelling to the United Kingdom,
 - (c) prevent or deter a person from—
 - (i) charging refugees for assistance or purported assistance in travelling to or entering the United Kingdom;
 - (ii) endangering the safety of refugees travelling to the United Kingdom.
- (2) The statement must focus on steps other than the provisions of this Act.”

Member's explanatory statement

This amendment requires the Secretary of State to update Parliament on the actions that are being taken to tackle exploitation of refugees by people smugglers.

LORD COAKER
LORD PADDICK
LORD ALTON OF LIVERPOOL

53 Insert the following new Clause—

“Six month target for asylum decisions

Within three months of the passing of this Act, the Secretary of State must publish a strategy for a decision on an asylum claim to be completed within six months of that claim being made.”

54 [*Withdrawn*]

LORD PADDICK
LORD COAKER

54A★ Insert the following new Clause—

“Resettlement: Ukraine

- (1) The Secretary of State must lay before Parliament a statement of changes in the rules (the “immigration rules”) under section 3(2) of the Immigration Act 1971 (general provision for regulation and control) to include provision for admitting and resettling persons seeking asylum from Ukraine.
- (2) The rules must make provision for entry into the United Kingdom, by whatever means, of persons from Ukraine at risk of suffering persecution or serious harm if entry clearance is not granted.
- (3) The Secretary of State must consult local authorities on the design and implementation of a scheme under subsection (1).”

Member's explanatory statement

This new Clause would require the Secretary of State to make changes to the immigration rules to allow the resettlement of asylum seekers from Ukraine. The Secretary of State must consult local authorities on the design and implementation of such a scheme.

Clause 39

LORD COAKER
LORD PADDICK
LORD BLUNKETT

55 Page 40, leave out lines 5 to 9

Member's explanatory statement

This would prevent ‘arrival’ in the UK being an offence, rather than ‘entry’ into the UK.

BARONESS MCINTOSH OF PICKERING

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

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

Clause 39 - continued

LORD COAKER
LORD PADDICK
LORD BLUNKETT

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

Member's explanatory statement

This is a technical amendment to support the amendment to page 40, line 5.

After Clause 39

LORD COAKER
THE LORD BISHOP OF LONDON
LORD PADDICK
BARONESS MEACHER

58A Insert the following new Clause—

“Secure reporting for victims of crime

- (1) The Secretary of State must, in regulations, make provisions for the prohibition of automatic sharing of personal data of a victim or witness of crime for immigration purposes.
- (2) In section 20 of the Immigration Act 1999, after subsection (2B) insert—
 - “(2C) This section does not apply to information held about a person as a result of the person reporting criminal behaviour which they are a victim of or a witness to.”

Member's explanatory statement

This new Clause would prevent immigration data being shared about a victim or witness of crime who reports an offence. This is to ensure victims are able to approach the authorities for assistance without fear of immigration repercussions as a result of that contact or resultant data sharing with immigration enforcement.

Clause 40

LORD ROSSER
LORD PADDICK
BARONESS MCINTOSH OF PICKERING

59 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 MCINTOSH OF PICKERING

60 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.

After Clause 41

LORD COAKER

61 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 6LORD ROSSER
BARONESS JOLLY

62 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 MACDONALD OF RIVER GLAVEN

63 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.”

After Clause 56

LORD GREEN OF DEDDINGTON
BARONESS NEVILLE-ROLFE

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

64A 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 local authority 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 Scotland, Wales and Northern Ireland.
- (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.

After Clause 56 - continued

- (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.
- (7) The standard of proof for an age assessment is reasonable degree of likelihood."

Clause 57

LORD COAKER
BARONESS HAMWEE
THE LORD BISHOP OF BRISTOL

65 Leave out Clause 57

Clause 58

LORD COAKER
BARONESS HAMWEE
THE LORD BISHOP OF BRISTOL

66 Leave out Clause 58

Clause 59

LORD ALTON OF LIVERPOOL

67 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.

68 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 62

LORD COAKER
BARONESS HAMWEE
THE LORD BISHOP OF BRISTOL

69 Leave out Clause 62

Clause 64

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

70 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).

Clause 64 - *continued*

- (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 –
 - (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 (2) 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 –

Clause 64 - continued

“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 71

BARONESS RITCHIE OF DOWNPATRICK
BARONESS SUTTIE
LORD COAKER

71 Page 74, line 16, at end insert –

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

Member’s explanatory statement

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

Clause 76

BARONESS MCINTOSH OF PICKERING

72 Leave out Clause 76

Clause 77

BARONESS WILLIAMS OF TRAFFORD

73 Page 80, line 35, after “Rules” insert “governing proceedings before the Tribunal (see subsection (4))”

Member’s explanatory statement

This is a drafting amendment that clarifies that, like the requirement in Clause 77(2), the requirement for Tribunal Procedure Rules to prescribe conduct of the kind mentioned in clause 77(1) applies only in relation to the Immigration and Asylum Chamber of the First-Tier Tribunal and the Upper Tribunal.

BARONESS MCINTOSH OF PICKERING

74 Leave out Clause 77

After Clause 78

LORD WALLACE OF SALTAIRE

75 Insert the following new Clause—

“Tier 1 (investor) visas: review report

Any replacement, successor or alternative visa scheme to the Tier 1 (investor) visa scheme must not come into operation until the Secretary of State has published and made publicly available the review of Tier 1 (investor) visas granted between June 2008 and April 2015.”

Member’s explanatory statement

This new Clause would require the Government to publish its review into Tier 1 (investor) visas granted between June 2008 and April 2015 before any replacement scheme can be brought into operation.

LORD ALTON OF LIVERPOOL

LORD PATTEN OF BARNES

THE LORD BISHOP OF ST ALBANS

LORD FALCONER OF THOROTON

76 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 on or after 1 July 1997,
 - (c) the person is aged 18 or over on the date of application, and
 - (d) the person is—
 - (i) if applying to enter the United Kingdom, ordinarily resident in Hong Kong, or
 - (ii) if applying for permission to remain, ordinarily resident in the United Kingdom, the Bailiwick of Guernsey, the Bailiwick of Jersey, the Isle of Man or Hong Kong.”

LORD COAKER

BARONESS SMITH OF NEWNHAM

77 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.

After Clause 78 - continued

- (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”.

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

78 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 forthwith citizenship or indefinite leave to remain in the United Kingdom.”

LORD OATES

79 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.

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

80 Insert the following new Clause—

“Duty to publish immigration data

- (1) The Secretary of State must ensure that information is regularly published on immigration, including data on asylum and other immigration.

After Clause 78 - continued

- (2) The Secretary of State must, within six months of the passing of this Act, review the International Passenger Survey conducted by the Office for National Statistics and in particular review whether the data that it collects are –
 - (a) accurate, and
 - (b) relevant for assessing the scale and nature of immigration to the United Kingdom.
- (3) The Office for National Statistics must update the International Passenger Survey in the light of the review.”

BARONESS NEVILLE-ROLFE
LORD GREEN OF DEDDINGTON

81 Insert the following new Clause –

“Duty to publish immigration data: English Channel

The Secretary of State must ensure that information is regularly published on immigration, including weekly figures of the number of those entering the United Kingdom across the English Channel published within seven days of end of the week to which they relate.”

82 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 be negotiated if they are approved by both Houses of Parliament. This is to ensure that visas are a matter for nationality law, not trade agreements.

BARONESS MCINTOSH OF PICKERING
BARONESS LISTER OF BURTERSETT
THE LORD BISHOP OF DURHAM
LORD ALTON OF LIVERPOOL

83 Insert the following new Clause –

“Fees

- (1) Section 68 of the Immigration Act 2014 is amended as follows.
- (2) After subsection (9), insert –
 - “(9A) Notwithstanding subsection (9), in setting the amount of any fee in relation to registration of British citizenship the Secretary of State –

After Clause 78 - continued

- (a) must not set that amount at a level beyond the Secretary of State's estimation of the administrative costs of the function to which the fee relates,
 - (b) must have regard to the need to promote British citizenship as the nationality of all persons connected to the United Kingdom and British overseas territories citizenship as the nationality of all persons connected to the British overseas territories, and
 - (c) may have regard only to –
 - (i) the costs of exercising the function,
 - (ii) fees charged by or on behalf of governments of other countries in respect of comparable functions, or
 - (iii) any international agreement.”
- (3) After subsection (10), insert –
- “(10A) Fees regulations must provide that no fee is to be charged for –
- (a) the registration of any child who is looked after by a local authority, or
 - (b) the registration by statutory entitlement of any person to correct any historical legislative unfairness.”

84

Insert the following new Clause –

“Fees

After section 68 of the Immigration Act 2014 insert –

“68A Fees: supplementary

- (1) In setting the amount of any fee to which section 68 relates, the Secretary of State must –
 - (a) distinguish between nationality and immigration functions,
 - (b) distinguish between functions relating to statutory rights and other functions, and
 - (c) have regard to the principles in subsection (2).
- (2) The principles in this subsection are that –
 - (a) the costs of exercising immigration functions are not a relevant consideration in setting any fee relating to a nationality function;
 - (b) no fee should be set that would render any statutory right nugatory;
 - (c) no fee for the exercise of any function relating to a statutory right should be set above the Secretary of State's estimation of the administrative costs of that function;
 - (d) it is necessary to promote British citizenship as the nationality of all persons connected to the United Kingdom and British overseas territories citizenship as the nationality of all persons connected to the British overseas territories;
 - (e) no fee is to be charged for the registration of any child who is looked after by a local authority;
 - (f) no fee is to be charged for the registration by statutory entitlement of any person to correct any historical legislative unfairness.
- (3) In this section –

After Clause 78 - continued

“registration” means registration as a British citizen or as a British overseas territories citizen;
 “statutory right” means a right that is conferred upon a person by Act of Parliament including a right to be registered as a British citizen or as a British overseas territories citizen.””

BARONESS HOLLINS
 BARONESS HAMWEE

84A 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.
- (2) Guidance under this section must have regard to the following matters in particular—
 - (a) the importance of assessing, preventing or delaying the development of health and care needs of refugees and asylum seekers and the importance of assessing and addressing such needs that already exist;
 - (b) the need to protect people from abuse and neglect.
- (3) The Secretary of State may from time to time revise a code.
- (4) 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 (3).”

Member’s explanatory statement

This new Clause requires the Secretary of State to lay codes of practice before Parliament providing for guidance regarding the health and care needs of any asylum seeker or refugee.

Clause 83

LORD ANDERSON OF IPSWICH
 LORD MACDONALD OF RIVER GLAVEN
 BARONESS MCINTOSH OF PICKERING

85 Page 85, line 1, leave out paragraph (a)

Member’s explanatory statement

This amendment results in subsections (2) to (4) of clause 9 coming into force by regulation.

LORD ROSSER
 LORD PADDICK

86 Page 85, line 2, at end insert—

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

Nationality and Borders Bill

SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

28 February 2022
