

Nationality and Borders Bill

AMENDMENTS
TO BE MOVED
ON REPORT

[Supplementary to the Second Marshalled List]

Amendment
No.

Clause 62

LORD RANDALL OF UXBRIDGE

68A★ 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) A competent authority may determine that it is not bound to observe the minimum recovery period under section 60 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 it is prevented from doing so—
 - (a) as a result of an immediate, genuine, present and serious threat to public order, or
 - (b) because the person is claiming to be a victim of modern slavery improperly.
- (3) Any determination made 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 made under subsection (2) must not be made where it would breach—
 - (a) a person’s rights under the European Convention on Human 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, circumstance where—

Clause 62 - continued

- (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 years at the time of the circumstances which gave rise to the positive reasonable grounds decision.
- (8) Nothing in this section affects the application of section 60(2).”

Member’s explanatory statement

This new Clause is an alternative to clause 62. It ensures that the power currently provided for in Clause 62 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.

After Clause 67

THE LORD BISHOP OF BRISTOL
BARONESS LISTER OF BURTERSETT

70A★ Insert the following new Clause –

“Migrant domestic workers

- (1) The Secretary of State must amend the rules under section 3(2) of the Immigration Act 1971 to make provision for the matters mentioned in subsection (2).
- (2) All holders of domestic worker or diplomatic domestic worker visas, including those working for staff of diplomatic missions, must be entitled to –
 - (a) change their employer (but not work sector) without restriction, but they must register such a change with the Home Office;
 - (b) 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) 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) 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.”

After Clause 78

BARONESS D'SOUZA

84B★ Insert the following new Clause –

“Afghan Relocations and Assistance Policy

- (1) Within 30 days of this Act being passed, the Secretary of State must amend part 7 of the Immigration Rules on the Afghan Relocations and Assistance Policy (“ARAP”) in accordance with subsections (2) to (11).

After Clause 78 - continued

- (2) The Secretary of State must amend paragraph 276BB3 to specify that a person falls within that paragraph if –
 - (a) at any time on or after 1 October 2001, the person –
 - (i) was directly employed in Afghanistan by a UK government department, or
 - (ii) provided goods or services in Afghanistan under contract to a UK government department (whether as, or on behalf of, a party to the contract); and
 - (b) because of that employment or provision of goods or services, the person's life or safety is at real risk.
- (3) The Secretary of State must revoke paragraph 276BB4.
- (4) The Secretary of State must amend paragraph 276BB5 to specify that a person falls within that paragraph if the person meets conditions 1 and 2 and one or both of conditions 3 and 4, as set out in subsections (5) to (8).
- (5) Condition 1 is that at any time on or after 1 October 2001, the person worked in Afghanistan alongside, in partnership with or closely supporting and assisting a UK government department or for a British-based organisation or institution founded by, funded by or otherwise connected to the UK government.
- (6) Condition 2 is that the person, in the course of that work, made a substantive and positive contribution towards the achievement of –
 - (a) the UK government's military objectives with respect to Afghanistan,
 - (b) the UK government's national security objectives with respect to Afghanistan (and for these purposes, the UK government's national security objectives include counter-terrorism, stabilisation, counter-narcotics and anti-corruption objectives), or
 - (c) the UK government's human security objectives with respect to Afghanistan (and for these purposes, the UK government's human security objectives include interventions to reduce violence, ensure basic security and promote human rights and the rule of law).
- (7) Condition 3 is that because of that work the person is or was at high risk of death or serious injury.
- (8) Condition 4 is that the person holds information the disclosure of which would give rise to or aggravate a specific threat to the UK government or its interests.
- (9) The Secretary of State must amend paragraph 276BB2 to reflect subsections (2) to (8) of this section.
- (10) The Secretary of State must insert into the Immigration Rules a route for additional family members of locally employed staff to apply in exceptional circumstances for relocation, and ensure this route is provided on terms that are no less favourable than those contained in the Home Office's Additional guidance on the eligibility of additional family members under the Afghan locally employed staff relocation schemes, published on 4 June 2021.

After Clause 78 - continued

- (11) The Secretary of State must specify in the Immigration Rules that any decision to exclude a person who would otherwise be eligible for the ARAP scheme must be made in accordance with the exclusion criteria set out in Article 1F of the 1951 Refugee Convention, and provide independent and transparent due process guarantees in relation to any exclusion decision, including impartial decision makers, disclosure of relevant information and evidence and rights of appeal.”

Member’s explanatory statement

This new Clause would expand eligibility for ARAP by amending the Immigration Rules. It would insert into the Rules a relocation route for additional family members, which can be no less favourable than the current Home Office guidance, and limit the basis on which persons, who would otherwise be eligible for relocation under ARAP, can be excluded from the scheme.

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