

Safety of Rwanda (Asylum and Immigration) Bill

COMMONS DISAGREEMENT, REASONS, INSISTENCE ON DISAGREEMENT AND AMENDMENT IN LIEU

[The page and line references are to HL Bill 41, the Bill as first printed for the Lords]

Clause 1

LORDS AMENDMENT 1

- 1** Clause 1, page 1, line 5, at end insert “while maintaining full compliance with domestic and international law.”

COMMONS REASON

The Commons disagree to Lords Amendment 1 for the following Reason –

- 1A** *Because the Commons consider that the provisions of the Bill are compliant with domestic and international obligations, and that it is therefore not necessary to provide expressly that this is the case when setting out the purpose of the Bill.*

LORDS NON-INSISTENCE AND AMENDMENT IN LIEU

The Lords do not insist on their Amendment 1, to which the Commons have disagreed for their Reason 1A, and do propose Amendment 1B in lieu –

- 1B** Clause 1, page 1, line 5, at end insert “while having due regard for domestic and international law.”

COMMONS REASON

The Commons disagree to Lords Amendment 1B for the following Reason –

- 1C** *Because the Commons consider that the provisions of the Bill are compliant with domestic and international obligations, and that it is therefore not necessary to refer expressly to having due regard for domestic and international law when setting out the purpose of the Bill.*

LORDS AMENDMENT 2

- 2** Clause 1, page 1, line 12, leave out “is a safe country” and insert “will be a safe country when, and so long as, the arrangements provided for in the Rwanda Treaty have been fully implemented and are being adhered to in practice.”

COMMONS REASON

The Commons disagree to Lords Amendment 2 for Reason 3A

LORDS AMENDMENT 3

- 3** Clause 1, page 2, line 31, at end insert –
- “(7) The Rwanda Treaty will have been fully implemented for the purposes of this Act when the Secretary of State has obtained and laid before Parliament a statement from the independent Monitoring Committee formed under Article 15 that the objectives referred to in Article 2 of the Treaty have been secured by the creation of the mechanisms listed in that Article.
- (8) The Secretary of State must consult the Monitoring Committee every three months during the period that the Treaty remains in force, and must make a statement to Parliament at the earliest opportunity in the event that the advice of the Monitoring Committee is that the provisions of the Treaty are not being adhered to in practice.
- (9) If the advice of the Monitoring Committee is as referred to in subsection (8), the Rwanda Treaty shall cease to be treated as fully implemented for the purposes of this Act unless and until the Secretary of State has obtained from the Monitoring Committee, and laid before Parliament, subsequent advice that the provisions of the Treaty are being adhered to in practice.”

COMMONS REASON

The Commons disagree to Lords Amendments 2 and 3 for the following Reason –

- 3A** *Because the Commons consider that it is not necessary to refer expressly to the arrangements in the Rwanda Treaty being, and continuing to be, implemented and adhered to; the Bill is clear that it comes into force on the day on which the Rwanda Treaty enters into force and it is not appropriate for the Bill to legislate for Rwanda adhering to its obligations under the Treaty as Rwanda’s ongoing adherence to its Treaty obligations will be subject to the monitoring provisions set out in the Treaty.*

LORDS NON-INSISTENCE AND AMENDMENTS IN LIEU

The Lords do not insist on their Amendments 2 and 3, to which the Commons have disagreed for their Reason 3A, and do propose Amendment 3B in lieu of Amendment 2 and Amendment 3C in lieu of Amendment 3 –

- 3B** Clause 1, page 1, line 12, leave out “is a safe country” and insert “will be a safe country when the arrangements provided for in the Rwanda Treaty have been fully implemented and for so long as they continue to be so.”

3C Clause 1, page 2, line 31, at end insert –

- “(7) The Rwanda Treaty will have been fully implemented for the purposes of this Act when the Secretary of State has obtained and laid before Parliament a statement from the independent Monitoring Committee formed under Article 15 that the Objectives referred to in Article 2 of the Treaty have been secured by the creation of the mechanisms listed in that Article.
- (8) The Rwanda Treaty will cease to be treated as fully implemented if Parliament decides, on the advice of the Monitoring Committee, that the provisions of the treaty are no longer being adhered to in practice.”

COMMONS REASON

The Commons disagree to Lords Amendments 3B and 3C for the following Reason –

3D *Because the Commons consider that it is not necessary to refer expressly to the arrangements in the Rwanda Treaty being, and continuing to be, implemented and adhered to; the Bill is clear that it comes into force on the day on which the Rwanda Treaty enters into force and it is not appropriate for the Bill to legislate for Rwanda adhering to its obligations under the Treaty as Rwanda’s ongoing adherence to its Treaty obligations will be subject to the monitoring provisions set out in the Treaty.*

Clause 4

LORDS AMENDMENT 6

6 Leave out Clause 4 and insert the following new Clause –

“Decisions in individual claims

- (1) Section 2 does not prevent –
- (a) the Secretary of State or an immigration officer from deciding (under any applicable provision of, or made under, the Immigration Acts) whether the Republic of Rwanda is a safe country for the person in question or for a group of persons to which that person belongs,
 - (b) a court or tribunal considering a review of, or an appeal against, a relevant decision to the extent that the review or appeal is brought on the grounds that the Republic of Rwanda is not a safe country for the person in question or for a group of persons to which that person belongs, or
 - (c) a decision-maker considering whether there is a real risk that the Republic of Rwanda will remove or send the person in question to another State in contravention of any of its international obligations.
- (2) The court or tribunal may grant an interim remedy that prevents or delays, or that has the effect of preventing or delaying, the removal of the person to the Republic of Rwanda.
- (3) Section 54 of the Illegal Migration Act 2023 is disapplied for the purposes of this Act.
- (4) In this section –

“interim remedy” means any interim remedy or relief however described (including, in particular, an interim injunction or interdict);

“relevant decision” means a decision taken by the Secretary of State or an immigration officer (under any applicable provision of, or made under, the Immigration Acts) that the Republic of Rwanda is a safe country for the person in question.”

COMMONS REASON

The Commons disagree to Lords Amendment 6 for the following Reason –

- 6A** *Because the Commons consider that it is not appropriate to leave out clause 4 of the Bill and insert the new clause in the Amendment, as the Bill allows decision-makers to consider claims that Rwanda is unsafe for an individual due to their particular circumstances.*

LORDS NON-INSISTENCE AND AMENDMENT IN LIEU

The Lords do not insist on their Amendment 6, to which the Commons have disagreed for their Reason 6A, and do propose Amendment 6B in lieu –

- 6B** Leave out Clause 4 and insert the following new Clause –

“Decisions in individual claims

- (1) Section 2 does not prevent –
 - (a) the Secretary of State or an immigration officer from deciding (under any applicable provision of, or made under, the Immigration Acts) whether the Republic of Rwanda is a safe country for the person in question or for a group of persons to which the person belongs,
 - (b) a court or tribunal considering a review of, or an appeal against, a relevant decision to the extent that the review or appeal is brought on the grounds that the Republic of Rwanda is not a safe country for the person in question or for a group of persons to which that person belongs, or
 - (c) a decision-maker considering whether there is a real risk that the Republic of Rwanda will remove or send the person in question to another State in contravention of any of its international obligations.
- (2) The court or tribunal may grant an interim remedy that prevents or delays, or that has the effect of preventing or delaying, the removal of the person to the Republic of Rwanda, providing such prevention or delay is for no longer than strictly necessary for the fair and expeditious determination of the case.
- (3) Section 54 of the Illegal Migration Act 2023 is disapplied for the purposes of this Act.
- (4) In this section –

“interim remedy” means any interim remedy or relief however described (including, in particular, an interim injunction or interdict);

“relevant decision” means a decision taking by the Secretary of State or an Immigration officer (under any applicable provision of, or made under,

The Immigration Acts) that the Republic of Rwanda is a safe country for the person in question.”

COMMONS REASON

The Commons disagree to Lords Amendment 6B for the following Reason –

- 6C** *Because the Commons consider that it is not appropriate to leave out clause 4 of the Bill and insert the new clause in the Amendment, as the Bill allows decision-makers to consider claims that Rwanda is unsafe for an individual due to their particular circumstances.*

After Clause 4

LORDS AMENDMENT 7

- 7** After Clause 4, insert the following new Clause –

“Section 57 of the Illegal Migration Act 2023

Section 57 of the Illegal Migration Act 2023 (decisions relating to a person’s age) does not apply in relation to removals to the Republic of Rwanda.”

COMMONS REASON

The Commons disagree to Lords Amendment 7 for the following Reason –

- 7A** *Because the Commons consider that it is not appropriate to disapply the age assessment provisions of existing legislation.*

LORDS NON-INSISTENCE AND AMENDMENT IN LIEU

The Lords do not insist on their Amendment 7, to which the Commons have disagreed for their Reason 7A, and do propose Amendment 7B in lieu –

- 7B** After Clause 4, insert the following new Clause –

“Age assessment of unaccompanied children

In section 57 of the Illegal Migration Act 2023 (Decisions relating to a person’s age), insert after subsection (6) –

- “(6A) If a person is to be removed to the Republic of Rwanda, subsection (6) does not apply and in this section “relevant authority” means a local authority, within the meaning of Part 4 (age assessments) of the Nationality and Borders Act 2022, which has conducted an age assessment of the person under section 50(3)(b) of that Act.””

COMMONS REASON

The Commons disagree to Lords Amendment 7B for the following Reason –

- 7C** *Because the Commons consider that it is not appropriate to amend the age assessment provisions of existing legislation.*

After Clause 5

LORDS AMENDMENT 9

9 After Clause 5, insert the following new Clause –

“Removal of victims of modern slavery and human trafficking

- (1) A person with a positive reasonable grounds decision from the National Referral Mechanism stating that they may be a victim of modern slavery and human trafficking must not be removed from the United Kingdom on the basis of the Rwanda Treaty until a conclusive grounds decision has been made.
- (2) A person with a positive conclusive grounds decision from the National Referral Mechanism that they are a victim of modern slavery and human trafficking must not be removed from the United Kingdom on the basis of the Rwanda Treaty without a decision-maker considering whether such removal would negatively affect the physical health, mental health or safety of that person, including in particular the risk of re-trafficking.
- (3) If the decision-maker makes a finding that any of the factors in subsection (2) apply to that person they must not be removed from the United Kingdom under the Rwanda Treaty without their consent.”

COMMONS REASON

The Commons disagree to Lords Amendment 9 for the following Reason –

9A *Because the Commons consider that it is not necessary to include the modern slavery provisions mentioned in the Amendment as provisions for modern slavery and human trafficking victims are set out in existing legislation.*

LORDS INSISTENCE

The Lords do insist on their Amendment 9 for Reason 9B –

9B *Because the Lords wish the Commons to consider the matter again.*

COMMONS INSISTENCE ON DISAGREEMENT AND AMENDMENT IN LIEU

The Commons insists on its disagreement with the Lords in their Amendment 9 but proposes the following Amendment to the Bill in lieu of that Amendment –

9C Page 5, line 23, at end insert –

“Report about victims of modern slavery or human trafficking

- (1) The Secretary of State must –
 - (a) prepare and publish an annual report about the operation of this Act as it relates to the modern slavery and human trafficking provisions in Article 13 of the Rwanda Treaty, and
 - (b) lay a copy of each report before Parliament.
- (2) The first report must –

- (a) relate to the period of 12 months beginning with the day on which this Act comes into force, and
 - (b) be laid before Parliament and published as soon as reasonably practicable after the end of that period.
- (3) Subsequent reports must –
- (a) relate to the period of 12 months beginning with the day after the last day of the period to which the previous report related, and
 - (b) be laid before Parliament and published as soon as reasonably practicable after the end of the period to which the report relates.”

LORDS AMENDMENT 10

10 After Clause 5, insert the following new Clause –

“Exemption for agents, allies and employees of the UK Overseas

- (1) Notwithstanding the Nationality and Borders Act 2022, the Illegal Migration Act 2023, any earlier Immigration Acts and the other provisions of this Act, the following categories of person may not be removed to the Republic of Rwanda –
- (a) agents or allies who have supported His Majesty’s armed forces overseas in an exposed or meaningful manner that now affects their claim for protection;
 - (b) persons who have been employed by or indirectly contracted to provide services to the UK Government in an exposed or meaningful manner that now affects their claim for protection;
 - (c) the partners and dependent family members of persons referred to in (a) or (b) above;
 - (d) persons who were the partners or family members of persons referred to in (a) or (b) above in a manner that now affects their claim for protection.
- (2) The exemption in (1) above includes but is not limited to persons eligible for entry to the UK under the Afghan Relocations and Assistance Policy (“ARAP”) and Afghan Citizens Resettlement Scheme (“ACRS”).”

COMMONS REASON

The Commons disagree to Lords Amendment 10 for the following Reason –

10A *Because the Commons consider that it is not necessary as the only way individuals should come to the UK is through safe and legal routes.*

LORDS NON-INSISTENCE AND AMENDMENT IN LIEU

The Lords do not insist on their Amendment 10, to which the Commons have disagreed for their Reason 10A, and do propose Amendment 10B in lieu –

10B After Clause 5, insert the following new Clause –

“Exemption for agents, allies and employees of the UK Overseas

- (1) Notwithstanding the Nationality and Borders Act 2022, the Illegal Migration Act 2023, any earlier Immigration Acts and the other provisions of this Act, the following categories of person may not be removed to the Republic of Rwanda –
 - (a) agents or allies who have supported His Majesty’s armed forces overseas in an exposed or meaningful manner that now affects their claim for protection;
 - (b) persons who have been employed by or indirectly contracted to provide services to the UK Government in an exposed or meaningful manner that now affects their claim for protection;
 - (c) the partners and dependent family members of persons referred to in (a) or (b) above;
 - (d) persons who were the partners or family members of persons referred to in (a) or (b) above in a manner that now affects their claim for protection.
- (2) The exemption in (1) above includes but is not limited to persons eligible for entry to the UK under the Afghan Relocations and Assistance Policy (“ARAP”) and Afghan Citizens Resettlement Scheme (“ACRS”).
- (3) A person seeking to rely upon the exemption in (1) above must give the Secretary of State notice as soon as reasonably practicable to allow prompt verification of available records as to allies, agents, employees, contractors and family members.”

COMMONS REASON

The Commons disagree to Lords Amendment 10B for the following Reason –

10C *Because the Commons consider that it is not necessary as the only way individuals should come to the UK is through safe and legal routes.*

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