

IMMIGRATION BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

What these notes do

- 1 These Explanatory Notes relate to the Lords Amendments to the Immigration Bill as brought from the House of Lords on 12 April 2016.
- 2 These Explanatory Notes have been prepared by the Home Office in order to assist the reader of the Bill and the Lords amendments, and to help inform debate on the Lords amendments. They do not form part of the Bill and have not been endorsed by Parliament.
- 3 These Explanatory Notes, like the Lords amendments themselves, refer to Bill 79, the Bill as first printed for the Lords.
- 4 These Explanatory Notes need to be read in conjunction with the Lords amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the Lords amendments.
- 5 Lords Amendments 1 to 58, 61 to 83, 85 to 86 and 88 to 254 were tabled in the name of the Minister.
- 6 Lords Amendment 59 was tabled by Lord Alton of Liverpool, Lord Rosser, Baroness Hamwee and Lord Paddick and was opposed by the Government.
- 7 Lords Amendment 60 was tabled by Lord Hylton, Lord Rosser and Baroness Hamwee and was opposed by the Government.
- 8 Lords Amendment 84 was tabled by Lord Ramsbotham, Lord Rosser, Baroness Hamwee and Lord Roberts of Llandudno and was opposed by the Government.
- 9 Lords Amendment 85 was tabled in the name of the Minister and subsequently amended by an amendment tabled by Baroness Lister of Burtsett which was opposed by the Government.
- 10 Lords Amendment 87 was tabled by Lord Dubs, Lord Alton of Liverpool, Lord Roberts of Llandudno and the Lord Bishop of Chelmsford and was opposed by the Government.
- 11 In the following Commentary, an asterisk(*) appears in the heading of any paragraph that deals with a non-Government amendment.

Commentary on Lords amendments

Lords Amendments to Clause 1 and New Schedule before Schedule 1: Director of Labour Market Enforcement

Lords Amendments 1 and 126

- 12 Lord Amendments 1 and 126 would allow the Government to make provisions for the Director of Labour Market Enforcement to receive a pension.

Lords Amendments to Clause 2: Labour Market Enforcement Strategy

Lords Amendments 2 to 6

- 13 Lords Amendments 2 to 4 would require the Director to include information sharing matters in the annual strategy, such as the form and frequency with which information is provided.
- 14 Lords Amendment 5 is a minor drafting change.
- 15 Lords Amendment 6 would remove a definition used in Part 1 of the Bill, which is now contained along with others in a new clause.

Lords Amendments to Clause 3: Non-compliance in the labour market etc: interpretation

Lords Amendments 7 to 19

- 16 Lords Amendments 7, 8 and 14 would better define non-compliance within the scope of the labour market enforcement strategy. The amendments would also give the Secretary of State the power to add further instances of non-compliance (whether contained in primary or secondary legislation) by regulations subject to the negative procedure.
- 17 Lords Amendments 9 to 13 would better define the labour market functions within the scope of the labour market enforcement strategy by reference to the Employment Agencies Act 1973, the National Minimum Wage Act 1998 and the Gangmasters (Licensing) Act 2004.
 - a. Amendment 9 would add the new functions which Ministers are proposing for the new Gangmasters and Labour Abuse Authority under the Modern Slavery Act 2015 and investigation by all the enforcing authorities of breaches of the new Labour Market Enforcement (LME) undertakings and orders to the scope of the labour market enforcement strategy.
 - b. Amendment 12 would add offences of breaching the new LME orders, which all three enforcement bodies (Employment Agency Standards Inspectorate (EAS), HMRC's National Minimum Wage team and the Gangmasters and Labour Abuse Authority ("the GLAA")) can enforce.
- 18 Lords Amendments 13 and 18 would also ensure the labour market enforcement strategy captures all labour market enforcement functions of the three enforcement bodies. These amendments would add the use of the new LME undertakings and orders, and Slavery and Trafficking Prevention orders obtained by the GLAA for secondary and inchoate offences (e.g. assisting, inciting).
- 19 Lords Amendments 15 to 18 also better define the list of labour market offences in the scope of the labour market enforcement strategy.
 - a. There is one offence in the Employment Agencies Act 1973 that can be committed by Employment Agency Standard Inspectorate (EAS) inspectors – the improper disclosure of data. Amendment 15 would exclude this from the scope of the labour market enforcement strategy because this is best dealt with via different, disciplinary procedures.
 - b. Amendments 16 and 18 would add offences of breaching Slavery and Trafficking Orders under Part 2 of the Modern Slavery Act 2015 which the Gangmasters and Labour Abuse Authority will be able to enforce. This is because Ministers want the

These Explanatory Notes relate to the Lords Amendments to the Immigration Bill as brought from the House of Lords on 12 April 2016 (Bill 159)

scope of the Director's labour market enforcement strategy to be at least as wide as that of the three enforcement bodies.

- c. Amendment 17 would add related offences such as attempting, conspiring, inciting, aiding and abetting etc in relation to labour market offences only.
- 20 Lords Amendments 19 would define how the regulation-making powers this Part confers on the Secretary of State can be used.

Lords Amendments after Clause 5

Lords Amendments 20 and 21

- 21 Lords Amendments 20 and 21 would insert new clauses ("Information gateways" and "Information gateways: supplementary") which would set out restrictions on data sharing to ensure the gateways are used appropriately and proportionately. It makes unauthorised disclosure of HMRC information subject to the offence contained in the Commissioners for Revenue and Customs Act 2005.

Lords Amendments to Clause 6: Information hub

Lords Amendment 22

- 22 Lords Amendment 22 would allow the Director to request information from labour market enforcement bodies and vice versa, to enable the swift sharing of intelligence.

Lords Amendments after Clause 7

Lords Amendment 23

- 23 Lords Amendment 23 would insert a new clause (Renaming of Gangmasters Licensing Authority) which would change the name of the Gangmasters Licensing Authority (GLA) to the Gangmasters and Labour Abuse Authority (GLAA). This name change seeks to reflect the changing and broader functions of the Gangmasters Licensing Authority and the shift from a role purely concerned with licensing gangmasters to one that encompasses greater enforcement powers across a wider range of offences. It does, however, seek to retain the international reputation of the Gangmasters Licensing Authority by building on the current name.

Lords Amendments 24 and 125

- 24 Lords Amendments 24 and 125 would insert a new clause (PACE powers in England and Wales for labour abuse prevention officers) and would include in the new Schedule (Functions in relation to Labour Market) provisions to strengthen and extend the powers of the Gangmasters and Labour Abuse Authority (GLAA) by giving it the ability to investigate breaches of the National Minimum Wage and National Living Wage and the regulation of employment agencies, where they are in connection with labour market exploitation.
- 25 These amendments will also enable the GLAA to apply to the courts for Slavery and Trafficking Prevention Orders and Slavery and Trafficking Risk Orders and investigate breaches of their Orders, under Part 2 of the Modern Slavery Act 2015, thus allowing enforcement officers to take action when they identify a substantial risk of very serious worker exploitation occurring. These powers strengthen the existing powers of the GLA and ensure that immediate action can be taken where the GLAA finds evidence of potential exploitation.

These Explanatory Notes relate to the Lords Amendments to the Immigration Bill as brought from the House of Lords on 12 April 2016 (Bill 159)

Lords Amendment 25

- 26 Lords Amendment 25 would insert a new clause (PACE powers in England and Wales for labour abuse prevention officers) which seeks to strengthen the powers of the Gangmasters and Labour Abuse Authority (GLAA) by giving it police-style investigative and enforcement powers in England and Wales. It seeks to allow the Secretary of State to designate trained labour abuse prevention officers with powers under the Police and Criminal Evidence Act (PACE) 1984, which they may use only in relation to labour market offences relating to National Minimum Wage rules, employment agency regulations and relevant criminal offences including the new enforcement order and Modern Slavery Act 2015 offences, as well as those under the Gangmasters (Licensing) Act 2004.
- 27 These powers will be similar to those of HMRC and Immigration Enforcement officers and will allow officers to arrest suspects, enter premises where they believe labour market offending is taking place, and to search and seize evidence. In doing this, the amendment strengthens the powers of the GLAA and ensures that immediate action can be taken where the GLAA finds evidence of potential exploitation.

Lords Amendment 26

- 28 Lords Amendment 26 would insert a new clause (Relationship with other agencies: requests for assistance) which would create a formal statutory mechanism for the Gangmasters and Labour Abuse Authority to request assistance (the 'power to ask') from the National Crime Agency, the police or Immigration Enforcement. Refusal of assistance would require a written explanation. Other bodies can be included in this list by the Secretary of State through regulations approved by both Houses. Requests can be made when the GLAA believe that their efforts to tackle labour market exploitation can be improved by assistance from these bodies.
- 29 The amendment also creates a reciprocal power to ask assistance of the GLAA by the listed bodies, if those bodies believe that the assistance of the GLAA can support the delivery of their functions.

Lords Amendments 27 to 46

- 30 Lords Amendments 27 to 46 would insert new clauses to create a new regime of labour market enforcement, or "LME" undertakings and orders, backed up by a criminal offence for non-compliance. The enforcement regime is an important element of the Government's response to the consultation Tackling Exploitation in the Labour Market, and links with the enhanced remit of the Gangmasters and Labour Abuse Authority to tackle abuse across the economy. Essentially, the regime provides a means of introducing custodial penalties for a number of labour market offences which are currently only punishable with a fine, the aim being to better deter rogue businesses from exploiting their workers and to divert them from further offending.
- 31 The enforcement bodies will be able to seek an LME undertaking where they believe a trigger offence under specified labour market legislation has been or is being committed. The undertaking may include measures to secure compliance, publicise the fact that an undertaking is being made and the actions taken or of a type prescribed by the Secretary of State in regulations. An undertaking may remain in place for up to 2 years.
- 32 Where a business refuses to give an undertaking within the negotiation period or breaches an undertaking, an enforcement body may apply to the court for an LME order. The scope of the measures which may be included in an order is the same as for the undertaking. A court

These Explanatory Notes relate to the Lords Amendments to the Immigration Bill as brought from the House of Lords on 12 April 2016 (Bill 159)

may also make an order following conviction for a trigger offence.

- 33 Where a business fails to comply with an order, a criminal offence is committed, the maximum penalty for which is 2 years imprisonment and/or a fine on conviction on indictment, or 12 months imprisonment and/or a fine on summary conviction.
- 34 Provision is also made to appeal against, vary or discharge an order; and to empower the enforcing authorities to operate the new regime.

Lords Amendments to Clause 8: Offence of illegal working

Lords Amendments 47 to 51

- 35 Lords Amendments 47 to 51 would introduce a mens rea to the offence of illegal working, such that an individual must know or have reasonable cause to believe that they are disqualified from working by reason of their immigration status.

Lords Amendments to Clause 9: Offence of employing illegal worker

Lords Amendments 52 to 55

- 36 Lords Amendments 52 to 55 would clarify that the offence of employing an individual whom the employer knows or has reasonable cause to believe has no permission to accept the work is only committed where the employee does not have the right to work.

Lords Amendments to Clause 10: Licensing Act 2003: amendments relating to illegal working

Lords Amendments 56 and 57

- 37 Lords Amendments 56 and 57 would amend the existing delegated power in clause 10 so as to allow regulations making similar provision in Scotland and Northern Ireland to amend not only Acts of the Scottish Parliament or Northern Ireland legislation, but also Acts of the UK Parliament (and subordinate legislation made under them).

Lords Amendments to Clause 11 and Schedule 2: Private hire vehicles etc

Lords Amendments 58, 147, 148 and 154

- 38 Lords Amendments 147, 148 and 154 would extend provisions to Scotland and Northern Ireland equivalent to those for England and Wales. These substantive provisions would replace the enabling power to extend the scheme to Scotland and Northern Ireland contained in clause 11(2), which is deleted from the Bill by amendment 58.
- 39 In the case of Scotland, the provisions amend the Civic Government (Scotland) Act 1982 and in the case of Northern Ireland, it is the Taxis Act (Northern Ireland) 2008 which is amended.

Lords Amendments after Clause 12

Lords Amendment 59*

- 40 Lords Amendment 59 would insert a new clause (Asylum seekers: permission to work after six months) which permits unrestricted access to the labour market for asylum seekers in the UK if their asylum claim has been outstanding for 6 months or more, regardless of whether the delay is of their own making.

These Explanatory Notes relate to the Lords Amendments to the Immigration Bill as brought from the House of Lords on 12 April 2016 (Bill 159)

Lords Amendment 60*

- 41 Lords Amendment 60 would insert a new clause (Overseas domestic workers) which amends the Modern Slavery Act 2015, replacing section 53 of that Act. It would permit overseas domestic workers, that is those persons who are admitted to the UK as domestic workers of overseas employers and diplomats, to change their employer whilst in the UK and extend their visa. It also requires there to be a period in which no immigration enforcement action can be taken against an overseas domestic worker; and requires the Secretary of State to issue guidance requiring overseas domestic workers to attend a group information session.

Lords Amendments to Clause 13: Offence of leasing premises

Lords Amendments 61 and 62

- 42 Lords Amendment 61 would provide a defence for any landlord charged with the offence of renting to a disqualified person when they know or have reasonable cause to believe that is the case. The defence will be available to any landlord who has taken reasonable steps to end the tenancy within a reasonable period of time. The amendment also provides that the courts must have regard to statutory guidance issued by the Secretary of State in determining whether the defence applies.
- 43 Lords Amendment 62 is a technical amendment which would ensure that any tenancy agreement is not invalidated where a landlord is charged with one of the offences relating to residential tenancies. This will allow the parties to such a tenancy to enforce any provisions of the agreement.

Lords Amendments to Clause 14: Eviction

Lords Amendment 63

- 44 Lords Amendment 63 would provide that when a landlord serves a notice to quit on a tenant who is disqualified from renting for the purposes of section 33D of the Immigration Act 2014 the notice must be in a prescribed form. The Secretary of State may prescribe the form that notice must take by order.

Lords Amendments to Clause 16: Extension to Wales, Scotland and Northern Ireland

Lords Amendment 64

- 45 Lords Amendment 64 would remove the provisions that allow the Secretary of State to amend, repeal or revoke enactments within this Bill when making provision to extend the residential tenancies provisions to Scotland, Wales and Northern Ireland. This responds to concerns expressed by the Delegated Powers and Regulatory Reform Committee.

Lords Amendments to Clause 17: Powers to carry out searches relating to driving licences

Lords Amendments 65 to 68

- 46 Lords Amendments 65 to 68 would take account of a planned departmental re-organisation in Northern Ireland by deleting the reference to the Department of the Environment (DOE) and substituting Department for Infrastructure. As drafted, the clause contains references to the Department of the Environment (DOE) in Northern Ireland as this is the body responsible

These Explanatory Notes relate to the Lords Amendments to the Immigration Bill as brought from the House of Lords on 12 April 2016 (Bill 159)

for issuing driving licences in that part of the UK, via its executive agency – the Driver and Vehicle Agency. However, the DOE is set to be abolished and its functions related to driving licences will be transferred to a new Department for Infrastructure.

Lords Amendments to Clause 18: Offence of driving when unlawfully in the United Kingdom

Lords Amendments 69 to 77

- 47 Lords Amendments 69 to 70 would introduce a mens rea to the offence of driving when unlawfully in the United Kingdom, such that an individual must know or have reasonable cause to believe that they are disqualified from driving by reason of their immigration status.
- 48 Lords Amendments 71 to 75 would add the destination of costs paid to release a vehicle from detention to the list of regulations to be made about the release of a vehicle because of its use in the new driving offence.
- 49 Lords Amendments 76 and 77 are minor technical amendments which would remove the reference to constable from the warrants a justice of the peace in Scotland may not issue.

Lords Amendments to Clause 25: Search for nationality documents by detainee custody officers etc

Lords Amendments 78 and 79

- 50 Lords Amendments 78 to 79 are minor and technical, and would clarify that the Secretary of State's power to direct a prison officer or a prisoner custody officer to search a person for nationality documents, where this is in respect of a person whom the Secretary of State "intends to make" a deportation order, arises where a notice of the intention to deport has been served on the detained person.

Lords Amendments to Clause 30: Detention etc. by immigration officers in Scotland

Lords Amendments 80 to 82

- 51 Lords Amendment 80 would clarify that under section 24A of the Criminal Law (Consolidation) (Scotland) Act 1995, the role of "custody review officer" can be undertaken by a police inspector and not just a person of equivalent rank. For persons detained (pending arrest and charge) by an immigration officer on suspicion of an immigration or nationality offence, a "custody review officer" may authorise an extension of the time period for which a person can be held in detention.
- 52 Amendments 81 to 82 are minor and technical and would delete references which are now redundant.

Lords Amendments after Clause 30

Lords Amendment 83

- 53 Lords Amendment 83 would insert a new clause (Powers to take fingerprints etc. from dependants) which amends the definition of dependants in sections 141 and 142 of the Immigration and Asylum Act 1999 (power to take fingerprints, and power to require attendance for fingerprinting) to bring them in line with the definition of family members in section 10 of the 1999 Act, as amended by the Immigration Act 2014, specifically to include

These Explanatory Notes relate to the Lords Amendments to the Immigration Bill as brought from the House of Lords on 12 April 2016 (Bill 159)

other adult dependants, not just a spouse.

Lords Amendment 84*

- 54 Lords Amendment 84 would insert a new clause (Immigration detention: time limit and judicial oversight) which introduces judicial oversight to the immigration detention regime and imposes a limit on the period of time a person can be detained.

Lords Amendments after Clause 31

Lords Amendment 85

- 55 Lords Amendment 85 inserts a new clause (Guidance on detention of vulnerable persons) which requires the Secretary of State to issue guidance to be taken into account by those assessing whether an individual is vulnerable and, if it is determined that they are, in determining whether to detain them. The amendment would also prohibit the detention for immigration purposes of any woman known by the Secretary of State to be pregnant or whom the Secretary of State could reasonably be expected to know to be pregnant. It would further require the Secretary of State to lay the guidance before Parliament in draft prior to it being issued, and provides for the guidance to come into force by virtue of regulations made by the Secretary of State.

Lords Amendments to Clause 32: Immigration bail

Lords Amendments 86

- 56 Lords Amendment 86 is minor and technical, and would be a minor drafting change.

Lords Amendments after Clause 37

Lords Amendment 87*

- 57 Lords Amendment 87 inserts a new clause (Unaccompanied refugee children: relocation and support) which would require the Secretary of State to make arrangements to relocate to the United Kingdom and support 3,000 unaccompanied refugee children from other countries in Europe and that this must be in addition to the resettlement of children under the Vulnerable Persons Relocation Scheme. Depending on the detailed arrangements for implementation of any such relocation scheme, costs under this amendment could be up to £100m for each year of care provided.

Lords Amendments to Clause 39: Transfer of responsibility for relevant children

Lords Amendments 88 and 89

- 58 Lords Amendments 88 and 89 would enable the provisions relating to unaccompanied asylum-seeking children to be extended to those migrant children arriving in the UK with leave to enter or remain to ensure that refugee children resettled as part of the Government's new resettled scheme can be included in a dispersal scheme.

Lords Amendments to Clause 42: Scheme for transfer of responsibility for relevant children

Lords Amendments 90 to 97

- 59 Lords Amendments 90 to 97 are technical amendments which would ensure that the Secretary of State can operate more than one transfer scheme and is not required to send a

These Explanatory Notes relate to the Lords Amendments to the Immigration Bill as brought from the House of Lords on 12 April 2016 (Bill 159)

separate direction notice to every local authority every time a child needs to be transferred under a scheme.

Lords Amendments to Clause 43: Extension to Wales, Scotland and Northern Ireland

Lords Amendments 98 to 101

- 60 Lords Amendments 98 to 101 would tighten up the power to make regulations extending or applying to Wales, Scotland and Northern Ireland provision about the transfer of local authority responsibility for certain children. They would ensure that, if regulations under clause 43 make free-standing provision equivalent to that in clauses 39 to 42, they can also confer powers equivalent to those in clause 39(6) and (10). They would also respond to concerns of the Delegated Powers and Regulatory Reform Committee by removing from clause 43 the sub-delegated power to make regulations.

Lords Amendments to Clause 47 and 49: English language requirements for public sector workers and Power to expand meaning of persons working for public authority

Lords Amendments 102 to 105, 108 to 110

- 61 Lords Amendments 102 to 105, 108 to 110 would expand the definition of an “agency worker” to include that which applies to Northern Ireland and make explicit that the existing definition of “agency worker” in clause 47 applies to England, Wales and Scotland. They would also expand the definition of “Crown employment” to include that which applies to Northern Ireland and make explicit that the existing definition applies to England, Wales and Scotland.

Lords Amendments to Clause 48: Meaning of public authority

Lords Amendments 106 and 107

- 62 Lords Amendments 106 and 107 would clarify that for the purpose of Part 7 a ‘public authority’ in any of Scotland, Wales and Northern Ireland is limited to a person who exercises ‘non-devolved’ functions.

Lords Amendments to Clause 52: Application of Part to Wales

Lords Amendments 111

- 63 Lords Amendment 111 would refine the provision about the application of Part 7 to Wales to clarify that it could apply to a public authority which is based outside Wales but operates also in Wales.
- 64 Part 7, as drafted, applies to all public authorities exercising functions in Wales; this amendment would contribute to limiting the scope of the duty to public authorities exercising functions outside the legislative competence of the Welsh Assembly.

Lords Amendments to Clause 53: Interpretation of Part

Lords Amendment 112

These Explanatory Notes relate to the Lords Amendments to the Immigration Bill as brought from the House of Lords on 12 April 2016 (Bill 159)

65 Lords Amendment 112 would provide a definition of "Wales".

Lords Amendments before Clause 60

Lords Amendment 113

66 Lords Amendment 113 would put on the face of the Bill that the powers being introduced continue to be subject to the duty to have regard to the best interests of children under section 55 of the Borders, Citizenship and Immigration Act 2009.

Lords Amendments to Clause 62: Regulations

Lords Amendments 114 to 120

67 Lords Amendments 114, 119 and 120 would make it clearer that regulations under a provision which attracts the affirmative procedure may be combined with other regulations, but that, if this happens, the affirmative procedure applies.

68 Lords Amendment 115 would specify that the affirmative resolution procedure applies to regulations made under clause 3 which amend or repeal primary legislation.

69 Lords Amendments 116 and 117 would provide that the affirmative resolution procedure applies to regulations made under the provisions mentioned in those amendments.

70 Lords Amendment 118 is a minor and technical amendment which would delete a reference which is now redundant following removal of the enabling power it refers to at Lords Committee stage.

Lords Amendments to Clause 64: Extent

Lords Amendments 121 to 123

71 Lords Amendment 121 would provide for Part 7 applying to Northern Ireland, deleting a reference for the Part applying to England, Wales and Scotland only.

72 Lords Amendments 122 to 123 would ensure territorial extent provisions accurately reflect the position in the Modern Slavery Act 2015 as amended.

Lords Amendments before Schedule 1

Lords Amendment 124

73 Lords Amendment 124 would insert a new Schedule (Persons to whom Director etc may disclose information) which lists the persons to whom the Director of Labour Market Enforcement may disclose information.

Lords Amendment 125

74 Lords Amendment 125 would insert a new Schedule (Functions in relation to Labour Market) which makes amendments to other Acts that are necessary for Clause 11 and to extend the remit of the GLAA to other labour market enforcement functions.

75 Paragraphs 1-3 of the new Schedule would amend the Employment Agencies Act 1973 so that in addition to appointing his own officers to enforce the Act, the Secretary of State can also make arrangements for officers of other relevant authorities, including the GLAA, to enforce it.

76 Paragraphs 4-7 would amend the National Minimum Wage Act 1998 so that in addition to appointing his own officers or arranging for any Minister of the Crown or government

These Explanatory Notes relate to the Lords Amendments to the Immigration Bill as brought from the House of Lords on 12 April 2016 (Bill 159)

department or any body performing functions on behalf of the Crown or their officers to enforce the Act, the Secretary of State can also make arrangements for the GLAA to enforce it.

- 77 Paragraphs 8-17 would insert new sections 11A and 30A into the Modern Slavery Act 2015, giving the Secretary of State the power to make arrangements for the GLAA to enforce those offences within Parts 1 and 2 of the Act that are defined as labour market offences. This would enable the GLAA to investigate offences under the Modern Slavery Act 2015 of slavery, servitude, forced or compulsory labour or human trafficking. It would also enable the GLAA to apply to the courts to obtain Slavery and Trafficking Prevention Orders and Slavery and Trafficking Risk Orders and investigate breaches of their Orders, under Part 2 of the Modern Slavery Act 2015.
- 78 Currently section 33 of the Modern Slavery Act requires the Secretary of State to issue guidance to those bodies in the exercise of their powers under Part 2 of the Act. Paragraph 17 would amend section 33 to require the Secretary of State to also issue guidance to the GLAA, reflecting their new role.

Lords Amendment 126

- 79 Lords Amendment 121 would insert a new Schedule (Consequential and related amendments) which makes amendments to other Acts that are necessary for the labour market enforcement measures in Chapter 1 to be complete.
- 80 Paragraphs 10 – 12 of the new Schedule would amend the Police Reform Act 2002.
- 81 Paragraph 11 would introduce Independent Police Complaints Commission (IPCC) oversight for GLAA officers' exercise of PACE powers.
- 82 Paragraph 12 would allow the Secretary of State to confer functions on the IPCC in relation to GLAA officers, including regulations making provision for the GLAA to make payment to the IPCC. It would also allow the IPCC and Parliamentary Commissioner for Administration to jointly investigate GLAA officers and ensures that GLAA officers, the IPCC and Parliamentary Commissioner for Administration disclose information as part of any complaints procedure.
- 83 Paragraphs 13 – 29 would amend the Gangmasters (Licensing) Act 2004.
- 84 Paragraphs 14 and 15 would update section 1 of that Act to reflect the Gangmasters and Labour Abuse Authority's new name.
- 85 Paragraph 15 also would introduce a duty on the GLAA to exercise their functions in accordance with the Director's strategy.
- 86 Paragraph 16 would mean that before giving specific directions to the GLAA in writing, the Secretary of State must consult the GLAA and the Director of Labour Market Enforcement.
- 87 Paragraph 17 would allow the Secretary of State to apply the Act to prescribed areas of work, through regulations, after consulting with the GLAA and Director of Labour Market Enforcement.
- 88 Paragraph 18 would mean that licensing rules would not only be introduced by statutory instrument, as they are currently, but would also be subject to the added requirement of the approval of the Secretary of State for all types of rule, including rules about fees.
- 89 Paragraph 19 – 22 would provide that where they have them, GLAA enforcement officers can

These Explanatory Notes relate to the Lords Amendments to the Immigration Bill as brought from the House of Lords on 12 April 2016 (Bill 159)

rely on their PACE powers, rather than relying on powers in the Gangmasters (Licensing) Act 2004.

- 90 Paragraph 23 would enable the GLAA to share information encompassing all labour market enforcement functions within the Director's remit and labour market enforcement undertaking and orders.
- 91 Paragraph 24 would amend Schedule 2 to the Gangmasters (Licensing) Act 2004, which covers the application of the Act to Northern Ireland. This makes sure that other than the name change it remains as it is in Northern Ireland as the GLAA's expanded role under the Gangmasters (Licensing) Act 2004 applies only in Great Britain.
- 92 Paragraph 25 would update the Pensions Act 2004 to add the Director of Labour Market Enforcement and a member of his/her staff to the list of persons which the Pensions Regulator needs in order to share their information under that Act whilst retaining the restrictions in onward sharing in that Act.
- 93 Paragraph 26 would update the Natural Environment and Rural Communities Act 2006 to reflect the Gangmasters and Labour Abuse Authority's new name.
- 94 Paragraph 27 would update the Regulatory Enforcement and Sanctions Act 2008 to reflect the Gangmasters and Labour Abuse Authority's new name.
- 95 Paragraphs 28 – 35 would amend the Modern Slavery Act 2015.
- 96 Paragraphs 29 and 34 would update section 52 of and Schedule 3 to the Modern Slavery Act respectively to change references to the Gangmasters Licensing Authority to the renamed Gangmasters and Labour Abuse Authority.
- 97 Paragraph 30 would insert a new section 54A into the Modern Slavery Act allowing disclosure of information to the GLAA from specified persons and vice versa. A new Schedule 4A in the Modern Slavery Act will list those specified persons – this is inserted in paragraph 35. It also introduces the power for the Secretary of State to amend this list, through regulations.
- 98 Paragraph 32 would mean that the power to add to this list would be subject to the affirmative procedure.
- 99 Paragraph 31 would repeal section 55 of the Modern Slavery Act and the duty on the Secretary of State to consult on the role of the Gangmasters Licensing Act, now that this has been completed.
- 100 Paragraph 33 would ensure that these new additions to the Modern Slavery Act (section 54A and Schedule 4A) only apply to England and Wales.
- 101 Paragraph 36 would update the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 to reflect the Gangmasters and Labour Abuse Authority's new name.

Lords Amendments to Schedule 1: Licensing Act 2003: amendments relating to illegal working

Lords Amendment 127 and 128

102 Lords Amendments 127 and 128 would amend paragraphs 34 and 35 of Schedule 1 to

These Explanatory Notes relate to the Lords Amendments to the Immigration Bill as brought from the House of Lords on 12 April 2016 (Bill 159)

stipulate that those who have applied for premises or personal licences and who have not received a decision on their application before these provisions have commenced will not be subject to the Bill's provisions. This amendment avoids potential retrospective effect.

Lords Amendments to Schedule 2: Private hire vehicles

Lords Amendment 129 to 146, 155

103 Lords Amendments 129 to 132 would make clear and consistent across all relevant licensing legislation the offence of non compliance with the mandatory return of expired licences and all licences which have been revoked or suspended on immigration grounds to the relevant licensing authority. It also provides that the Secretary of State may amend daily fine amounts by secondary legislation where there is a continuing offence of non compliance with this requirement.

104 Taxi and Private Hire Vehicle (PHV) licensing in Plymouth is covered by the Plymouth City Council Act 1975 and not by the Local Government (Miscellaneous Provisions) Act 1976. Accordingly, Lords Amendment 133 would amend the 1975 Act to extend to Plymouth taxi and PHV licensing provisions equivalent to those for the rest of England and Wales.

105 Lords Amendments 134 to 146 would specify when immigration offences and penalties will not be taken into account in any decision to revoke or suspend a licence. These are spent convictions and civil penalties which were served more than 3 years before and which have been paid in full.

106 Lords Amendment 155 would add transitional provisions which ensure that none of the provisions have retrospective effect.

Lords Amendments to Schedule 3: Illegal working closure notices and illegal working compliance orders

Lords Amendment 156 to 166

107 Lords Amendments 156 to 166 would clarify the circumstances in which a person may apply to the courts for compensation. The amendments would make it clear that where certain conditions for issuing the notice have not been satisfied due to a mistake by immigration officers, the mechanism for claiming compensation will apply.

108 The amendments would also correct an incorrect cross-reference in the offence in paragraph 11(3) of Schedule 3 – the offence should apply to persons acting under paragraph 10, not paragraph 5(1).

Lords Amendments to Schedule 5: Amendments to search warrant provisions

Lords Amendment 167 to 180

109 Lords Amendments 167 to 180 would exclude immigration officers in Scotland from applying for multi-entry/all premises warrants because immigration officers operating in Scotland need to continue to work within the Scottish criminal justice system which does not currently include provision for either "all premises" or "multiple entry" warrants.

Lords Amendments to Schedule 6: Duty to supply nationality documents to Secretary of State: persons to

These Explanatory Notes relate to the Lords Amendments to the Immigration Bill as brought from the House of Lords on 12 April 2016 (Bill 159)

whom duty applies

Lords Amendment 181 and 182

- 110 Lords Amendments 181 would make consequential amendments to Schedule 6 to the Bill to reflect the change of name of the Gangmasters Licensing Authority to the Gangmasters and Labour Abuse Authority.
- 111 Lords Amendment 182 would add education bodies to the list of persons in new Schedule A1 to the Immigration and Asylum Act 1999 who, subject to certain conditions, may be required to supply nationality documents to the Secretary of State.

Lords Amendments to Schedule 7: Immigration bail

Lords Amendment 183 to 215

- 112 Lords Amendments 183 to 209 would replace the Secretary of State's proposed power to impose an electronic monitoring or residence condition where the Tribunal has not done so with a duty on the Secretary of State or Tribunal, when releasing a person on bail who the subject of deportation proceedings, to make such a person subject to an electronic monitoring condition unless the Secretary of State considers it would be impractical or in breach of the ECHR to do so.
- 113 Lords Amendments 210 to 215 are consequential amendments to legislation which would ensure that the provisions in Schedule 7 work as they should, by bringing existing legislation into line with Schedule 7, removing references to provisions, and associated terminology, which have been repealed or are being repealed by Schedule 7 and, where necessary, inserting references to the relevant provisions of Schedule 7.

Lords Amendments to Schedule 8: Support for certain categories of migrant

Lords Amendment 216 to 221

- 114 Lords Amendments 216 and 218 are consequential amendments linked to the repeal of section 4 of the Immigration and Asylum Act 1999.
- 115 Lords Amendments 217 and 219 are consequential amendments to Schedule 8 to the Bill which would reflect the amendments and repeals made by Schedule 7.
- 116 Lords Amendment 220 would amend section 166 of the Immigration and Asylum Act 1999 (regulations and orders) to provide that the affirmative resolution procedure would apply to regulations made under the powers in section 95A of that Act (support for failed-asylum seekers, etc who are unable to leave the UK) which is inserted by this Bill, and also to regulations made under Schedule 8 to that Act which make provision with respect to those powers.
- 117 Lords Amendment 221 would exclude Home Office and local authority accommodation from the Right to Rent scheme under the Immigration Act 2014.

Lords Amendments to Schedule 9: Availability of local authority support

Lords Amendment 222 to 249

- 118 Lords Amendments 222 and 225 are technical amendments which would clarify that the

These Explanatory Notes relate to the Lords Amendments to the Immigration Bill as brought from the House of Lords on 12 April 2016 (Bill 159)

provisions restricting the availability of care leaver support under the Children Act 1989 apply to a person in England.

- 119 Lords Amendments 223 and 226 would extend the forms of care leaver support under the Children Act 1989 for which a person in England who has refugee status abroad or is a citizen of another EEA country will not generally be eligible.
- 120 Lords Amendment 227 would retain Children Act care leaver support for those, e.g. who have been looked after by the local authority as a victim of trafficking, with an outstanding first application or appeal to regularise their immigration status.
- 121 Lords Amendments 228, 229 and 244 would bring ‘Zambrano carers’ (non-EEA nationals reliant on being the primary carer of a British citizen for the lawfulness of their presence here) into the scope of the new scheme in England under paragraph 10A of Schedule 3 to the Nationality, Immigration and Asylum Act 2002 for local authority accommodation and subsistence support for destitute families.
- 122 Lords Amendments 230 to 234 are technical amendments which would ensure that a person who could appeal but has not yet done so is covered by the new scheme in England under paragraph 10A of Schedule 3 to the 2002 Act for local authority accommodation and subsistence support for destitute families.
- 123 Lords Amendment 235 would enable local authorities to prevent destitution by providing temporary support to families under the new scheme under paragraph 10A of Schedule 3 to the 2002 Act pending their decision on eligibility for support under it.
- 124 Lords Amendment 236 is a technical amendment to clarify the definition of care leaver to cover all relevant adult migrants.
- 125 Lords Amendments 237 and 239 would enable local authorities to provide under the new scheme under paragraph 10B of Schedule 3 to the 2002 Act for any other social care support required by an adult migrant care leaver whose accommodation and subsistence needs are being met by the Home Office because they are a failed asylum seeker facing a genuine obstacle to their departure from the UK.
- 126 Lords Amendments 238 and 240 to 242 are technical amendments which would ensure that a person who could appeal but has not yet done so is covered by the new scheme in England under paragraph 10B of Schedule 3 to the 2002 Act for local authority support for adult care leavers.
- 127 Lords Amendment 244 would enable local authorities to prevent destitution by providing temporary support to care leavers under the new scheme under paragraph 10B of Schedule 3 to the 2002 Act pending their decision on eligibility for support under it.
- 128 Lords Amendment 245 would specify that it is for the Secretary of State to make any regulations under the sub-delegated power in paragraph 15(d) of Schedule 3 to the 2002 Act (which is inserted by this Bill) providing for arrangements for support to be provided to certain classes of person who are ineligible for some other support. This responds to a concern from the Delegated Powers and Regulatory Reform Committee that that power was not sufficiently closely circumscribed.
- 129 Lords Amendments 246, 247 and 248 provide that the affirmative resolution procedure will apply to regulations made under paragraphs 2A(3)(b), 10A or 10B of Schedule 3 to the 2002 Act (which are inserted by this Bill). This responds to a recommendation of the Delegated

These Explanatory Notes relate to the Lords Amendments to the Immigration Bill as brought from the House of Lords on 12 April 2016 (Bill 159)

Lords Amendments to Schedule 10: Penalties relating to airport control areas

Lords Amendment 250 to 252

130 Lords Amendments 250 to 252 would make the power in paragraph 28(6) of Schedule 2 to the 1971 Act (inserted by paragraph 1 of Schedule 10 to the Bill) to prescribe the maximum level of financial penalties on owners and agents of aircraft, where they fail to take reasonable steps to secure that passengers are not embarked or disembarked outside designated control areas at airports, subject to the draft affirmative procedure. This responds to a recommendation of the Delegated Powers and Regulatory Reform Committee.

Lords Amendments to Schedule 11: Maritime enforcement

Lords Amendment 253

131 Lords Amendment 253 would make the new maritime powers available to harbour police in Northern Ireland (Belfast and Larne) in order for the measures to apply consistently across the UK.

Lords Amendments in the Title

Lords Amendment 254

132 Lords Amendment 254 updates the long title of Part 1 to reflect the broader set of measures the Government has added to Part 1 of the Bill.

IMMIGRATION BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

These Explanatory Notes refer to Lords amendments to the Immigration Bill as brought from the House of Lords on 12 April 2016 (Bill 159).

Ordered, by the House of Commons to be Printed, 12 April 2016.

© Parliamentary copyright 2016

This publication may be reproduced under the terms of Open Parliament Licence which is published at www.parliament.uk/site-information/copyright

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS

LONDON - THE STATIONERY OFFICE LIMITED

Printed In the United Kingdom by the Stationery Office Limited

£ FOR TSO USE