

REFUGEES (FAMILY REUNION) (NO. 2) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Refugees (Family Reunion) (No. 2) Bill as introduced in the House of Commons on 19 July 2017 (Bill 13).

- These Explanatory Notes have been prepared by the Public Bill Office on behalf of Angus Brendan MacNeil MP in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice, provide background information on the development of policy and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 This Bill seeks to require a statement of changes to the Immigration Rules to be made to amend the provisions in those rules relating to the ability for refugees in the United Kingdom to sponsor family members to join them. The bill would also amend the Legal Aid, Sentencing and Punishment of Offenders Act 2012 to bring refugee family reunion applications into the scope of civil legal aid in England and Wales.

Policy and legal background

- 2 Section 3(2) of the Immigration Act 1971 provides for the Secretary of State to lay before Parliament statements of the rules (the “Immigration Rules”), or of any changes in the rules, with respect to the practice to be followed in the administration of the 1971 Act.
- 3 Part 11 of the Immigration Rules set out the eligibility for refugee family reunion. Currently, adult refugees in the United Kingdom can apply to sponsor their spouses/partners and their children under the age of 18 to join them. There is no application fee to be paid, although families are required to arrange their own travel if successful. According to Home Office statistics 7,439 refugee family reunion applications were made between October 2016 and September 2017. Over that same time 8,041 decisions on family reunion applications were made, with 5,197 granted (65%).¹
- 4 The Legal Aid, Sentencing and Punishment of Offenders Act 2012 sets out the services that are in scope for civil legal aid in England and Wales. Whereas previously legal aid had been available for refugee family reunion application, the 2012 Act, which came into force in April 2013, did not include such a provision. Legal aid, which is a devolved matter, is currently available for refugee family reunion applications in Scotland and Northern Ireland.

Territorial extent and application

- 5 Immigration matters are reserved but legal aid is a devolved matter. Clause 3 states that sections 1 and 3 of the Bill would extend to the whole of the United Kingdom but section 2 would extend to England and Wales only.

Commentary on provisions of Bill

Clause 1

- 6 Subsection (1) of clause 1 would require the Secretary of State, within six months of this Act being passed, to lay a statement of changes to the Immigration Rules to make provision for refugee family reunion in accordance with this Act.
- 7 Subsections (2) and (3) set out that such a statement must set out rules on the admission to the United Kingdom of the family members of a person granted “refugee status or humanitarian

¹ <https://www.gov.uk/government/statistics/immigration-statistics-july-to-september-2017-data-tables>

protection”, as defined in the Immigration Rules.

- 8 Subsection (4) provides a comprehensive list of those people that are included in the definition of “family members” for the purpose of this Act. The Secretary of State may also consider other persons as “family members” so long as regard is given to the factors set out in subsection (4)(e), which includes having regard to the “best interests” of a child.
- 9 Subsection (5) provides clarification of terms used in subsection (4). Specifically, it would ensure that any family member relationship arising from adoption includes circumstances of de facto adoption. It would also ensure that reference to the “best interests” of a child is read in accordance with Article 3 of the 1989 UN Convention on the Rights of the Child, to which the United Kingdom is a party.²

Clause 2

- 10 Clause 2 amends the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Under the 2012 Act, the types of case for which legal aid may be made available are set out in Part 1 of Schedule 1.
- 11 Subsection (2) of clause 2 inserts a new paragraph (30A Refugee family reunion) into Part 1 of Schedule 1 to the 2012 Act. This would make legal aid available for refugee family reunion cases in England and Wales.

Commencement

- 12 Clause 3 states that sections 1 and 3 of this Act will come into force on the day of Royal Assent. Section 2 comes into force two months after the Act is passed.

Financial implications of the Bill

- 13 Refugee family reunion applications made under the Immigration Rules are not separately recorded in the quarterly immigration statistics, but comprise the majority of the applications in the ‘Family: Other’ category. The number of applications in this category has increased in recent years, rising from 4,591 in the year ending September 2012 to 9,155 in the year ending September 2016. The most recent statistics available are those for the year ending September 2017. 7,439 refugee family reunion applications were made between October 2016 and September 2017. Over that same time 8,041 decisions on family reunion applications were made, with 5,197 granted (65%).³
- 14 It is difficult to estimate an average unit cost for the processing of refugee family reunion applications under the refugee family reunion immigration rules. However, during the passing of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 amendments were tabled that would bring family reunion applications into scope for civil legal aid. The Government Minister,

² Article 3 provides a binding obligation to give primary consideration to the best interests of the child. This obligation has been translated into UK domestic law, including in section 55 of the Borders, Citizenship and Immigration Act 2009 and the statutory guidance made under that section, *Every Child Matters – Change for Children*.

³ House of Commons Library, Briefing Paper Number 07511, 22 January 2018, [The UK’s refugee family reunion rules: striking the right balance?](#) and HM Government, [Immigration Statistics, July to September 2017: data tables](#)

Lord Wallace of Tankerness, stated at that time that the cost of this would be £5 million a year.⁴

15 The Bill therefore requires a money resolution.

⁴ HL Deb, 18 January 2012, [c678](#)

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