
Report Stage: Wednesday 1 December 2021

Nationality and Borders Bill, As Amended (Amendment Paper)

This document lists all amendments tabled to the Nationality and Borders Bill. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

★ New Amendments.

☆ Amendments which will comply with the required notice period at their next appearance.

New Amendments: 17 to 111 and NC20 to NC22

Secretary Priti Patel

NC20

★ To move the following Clause—

“References to justices of the peace in relation to Northern Ireland

(1) In section 33(1) of the Immigration Act 1971 (interpretation) at the appropriate place insert—

““justice of the peace”, in relation to Northern Ireland, means lay magistrate;”.

(2) In section 167(1) of the Immigration and Asylum Act 1999 (interpretation) at the appropriate place insert—

““justice of the peace”, in relation to Northern Ireland, means lay magistrate;”.

(3) In section 45 of the UK Borders Act 2007 (search for evidence of nationality: other premises), after subsection (5) insert—

“(6) In the application of this section to Northern Ireland a reference to a justice of the peace is to be treated as a reference to a lay magistrate.””

Member’s explanatory statement

This clause, to be inserted after Clause 74, makes provision for various references to a justice of the peace in the Immigration Acts to be read in relation to Northern Ireland as references to a lay magistrate. This follows the general transfer of functions from justices of the peace to lay magistrates by the Justice (Northern Ireland) Act 2002.

Neil Coyle
Bell Ribeiro-Addy
Stephen Farry
Apsana Begum

NC1

To move the following Clause—

“Prescribed period under section 94(3) of the Immigration and Asylum Act 1999

- (1) The Asylum Support Regulations 2000 (S.I. 2000/704) are amended as follows.
- (2) In regulation 2(2) (interpretation) for “28” substitute “56”.
- (3) Subject to subsection (4), this section does not prevent the Secretary of State from exercising the powers conferred by the Immigration and Asylum Act 1999 to prescribe by regulations a different period for the purposes of section 94(3) (day on which a claim for asylum is determined) of that Act.
- (4) The Secretary of State may not prescribe a period less than 56 days where regulation 2(2A) of the Asylum Support Regulations 2000 (S.I. 2000/704) applies.”

Member’s explanatory statement

When an individual is granted refugee status, their eligibility to Home Office financial support and accommodation currently ends after a further 28 days. This new clause would extend that period to 56 days or allow the Secretary of State to set a longer period.

Henry Smith
Andrew Rosindell
Alan Brown
Jeremy Corbyn
Caroline Lucas
Tim Loughton
Andrew Gwynne
Bell Ribeiro-Addy
Kate Osamor

NC2

Patrick Grady
Apsana Begum

John McDonnell
Margaret Ferrier

To move the following Clause—

“Acquisition by registration: Descendants of those born on British Indian Ocean Territory

- (1) The British Nationality Act 1981 is amended as follows.
- (2) After section 17H (as inserted by section 7) insert—

“17I Acquisition by registration: Descendants of those born on British Indian Ocean Territory

- (1) A person is entitled to be registered as a British Overseas Territories citizen on an application made under this section if they are a direct descendant of a person (“P”) who was a citizen of the United Kingdom and Colonies by virtue of P’s birth in the British Indian Ocean Territory or,

prior to 8 November 1965, in those islands designated as the British Indian Ocean Territory on that date.

- (2) A person who is being registered as a British Overseas Territories citizen under this section is also entitled to be registered as a British citizen.
- (3) No charge or fee shall be imposed for registration under this section.””

Member’s explanatory statement

This new clause would allow anyone who is descended from a person born before 1983 on the British Indian Ocean Territory to register as a British Overseas Territories citizen. They may also register as a British citizen at the same time. Both applications would be free of charge.

Dame Diana Johnson
Ms Harriet Harman
Barbara Keeley
Debbie Abrahams
Andrew Gwynne
Sarah Champion
Tonia Antoniazzi
Helen Hayes
Rushanara Ali
Sir Mark Hendrick
Valerie Vaz
Bell Ribeiro-Addy

Rosie Cooper
Christina Rees
Tony Lloyd
Stella Creasy
Carolyn Harris
Sir Peter Bottomley

Rosie Duffield
Julie Elliott
Clive Efford
Karin Smyth
Caroline Lucas
Claire Hanna

NC3

To move the following Clause—

“Offence of human trafficking for sexual exploitation

- (1) A person commits an offence if the person arranges or facilitates the travel of another person (“V”) to the United Kingdom with a view to V being sexually exploited in the United Kingdom.
- (2) It is irrelevant whether V consents to the travel (whether V is an adult or a child).
- (3) A person may in particular arrange or facilitate V’s travel to the United Kingdom by recruiting V, transporting or transferring V, harbouring or receiving V, or transferring or exchanging control over V.
- (4) A person arranges or facilitates V’s travel to the United Kingdom with a view to V being sexually exploited in the United Kingdom only if—
 - (a) the person intends to sexually exploit V in the United Kingdom during or after the travel, or
 - (b) the person knows or ought to know that another person is likely to sexually exploit V in the United Kingdom during or after the travel.
- (5) “Travel” means—
 - (a) arriving in, or entering, the United Kingdom,
 - (b) departing from any country outside the United Kingdom in circumstances where the person arranging or facilitating V’s travel intends that the destination will be the United Kingdom.

- (6) A person who is a UK national commits an offence under this section regardless of—
- (a) where the arranging or facilitating takes place, or
 - (b) where the travel takes place.
- (7) A person who is not a UK national commits an offence under this section if—
- (a) any part of the arranging or facilitating takes place in the United Kingdom, or
 - (b) the travel consists of arrival in or entry into, departure from, or travel within, the United Kingdom.
- (8) A person who commits an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for life;
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine or both.”

Andrew Rosindell

NC4

Jim Shannon

Margaret Ferrier

Stuart C McDonald

Sir Jeffrey M Donaldson

Carol Monaghan

Sammy Wilson

Mr Steve Baker

Gavin Robinson

Janet Daby

Dr Julian Lewis

Daisy Cooper

Tommy Sheppard

Sarah Champion

Tim Loughton

Ian Paisley

Daniel Kawczynski

Sir Iain Duncan Smith

Tom Randall

Royston Smith

Bob Blackman

Mr David Jones

To move the following Clause—

“Former British-Hong Kong service personnel: right of abode

- (1) The Immigration Act 1971 is amended as follows.
- (2) At the end of section 2(1) insert—
 - “(c) that person is a former member of the Hong Kong Military Service Corps or the Hong Kong Royal Naval service, or
 - (d) that person is the spouse or dependent of a former member of the Hong Kong Military Service Corps or the Hong Kong Royal Naval service.””

Member’s explanatory statement

This new clause would mean that all former British-Hong Kong service personnel, plus their spouses and dependents, would have right of abode in the UK.

Damian Green			NC5
Tom Tugendhat			
Stephen Timms			
Mr Andrew Mitchell			
Caroline Lucas			
Mr David Davis			
Layla Moran	Andrew Rosindell	Andrew Gwynne	
Sir Iain Duncan Smith	Dame Diana Johnson	Mr David Jones	
Peter Dowd	Sir Graham Brady	Mr Virendra Sharma	
Dr Liam Fox	Sarah Champion	Tim Loughton	
Sir Peter Bottomley	Jeremy Hunt	Ms Nusrat Ghani	
Mr Alistair Carmichael	Mr Steve Baker	Bob Seely	
Margaret Ferrier	Wendy Chamberlain	Neil Coyle	
Stephen Hammond	Stewart Malcolm McDonald	Stuart C McDonald	
Alyn Smith	Tom Randall	Bob Blackman	
Mr John Baron	Fiona Bruce	Alicia Kearns	
Chris Green	Royston Smith	Chris Bryant	
Sir Desmond Swayne	Munira Wilson	Tim Farron	
Christine Jardine			

To move the following 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 the condition set out in subsection (2) are eligible to apply for the British National (Overseas) visa.
- (2) The condition referred to in subsection (1) is that the person has at least one parent who is a British national (overseas).”

Member’s explanatory statement

This new clause would enable any persons from Hong Kong who have at least one parent who is a British national (overseas) to apply for the British National (Overseas) visa.

Holly Lynch			NC6
Bambos Charalambous			
Bell Ribeiro-Addy			
Apsana Begum			

To move the following Clause—

“Exemption for child victims of modern slavery, exploitation or trafficking

- (1) The Secretary of State may not serve a slavery or trafficking information notice on a person in respect of an incident or incidents which occurred when the person was aged under 18 years.
- (2) Section 61 of this Act does not apply in cases where either of the positive reasonable grounds decisions related to an incident or incidents which occurred when the person was aged under 18 years.
- (3) Section 62 of this Act does not apply in cases where the positive reasonable grounds decision related to an incident or incidents which occurred when the person was aged under 18 years.

- (4) Sections 64(3) and 64(6) of this Act do not apply in cases where the positive conclusive grounds decision related to an incident or incidents which occurred when the person was aged under 18 years.”

Member’s explanatory statement

This new clause would exempt victims of modern slavery, exploitation or trafficking from many of the provisions in Part 5 of the Bill if they were under 18 when they became a victim.

Rob Roberts
Sir Bernard Jenkin
Ms Diane Abbott
Wera Hobhouse

NC7

To move the following Clause—

“Exception to the requirement to pay fees in connection with immigration or nationality

- (1) In relation to an applicant meeting the criteria set out in subsection (2) of this section, the Secretary of State must by regulations provide for an exception to any requirement to pay fees set out in a fees order under section 68 (fees) of the Immigration Act 2014.
- (2) The criteria referred to in subsection (1) are that the applicant has—
- (a) lawfully resided in the UK for a minimum period of five years, and
 - (b) lawfully worked in a clinical capacity for the National Health Service anywhere in the United Kingdom for an unbroken period of three years

provided that, if the applicant leaves the employment of the National Health Service in any part of the United Kingdom within the three years following a successful application in respect of which the applicant was exempted from paying fees, those fees become payable on termination of employment in the National Health Service.”

Member’s explanatory statement

This new clause exempts clinical NHS workers from the fees associated with immigration and nationality, provided that they have lived lawfully in the UK for at least five years, worked in the NHS for at least three years, and continue to work in the NHS for a further three years after being granted the fee exemption.

Bell Ribeiro-Addy
 Caroline Lucas
 Zarah Sultana
 Claire Hanna
 Apsana Begum
 Stephen Farry
 Alison Thewliss
 Nadia Whittome
 Ian Lavery
 Ms Diane Abbott
 Kate Osborne
 John McDonnell
 Richard Burgon
 Mary Kelly Foy
 Rebecca Long Bailey

Wera Hobhouse
 Grahame Morris
 Claudia Webbe
 Dawn Butler
 Navendu Mishra
 Ian Byrne
 Lloyd Russell-Moyle
 Stella Creasy
 Kate Osamor

Kim Johnson
 Ian Mearns
 Andy McDonald
 Beth Winter
 Jeremy Corbyn
 Paula Barker
 Cat Smith
 Marsha De Cordova
 Mr Virendra Sharma

NC8

To move the following Clause—

“Children registering as British citizens: fees

- (1) Within two months of this Act being passed, the Secretary of State must amend the Immigration and Nationality (Fees) Regulations 2018.
- (2) The amendments referred to in subsection (1) must include—
 - (a) provision to ensure that the fees charged for applications for registration as a British citizen under the British Nationality Act 1981 or the British Nationality (Hong Kong) Act 1997, where the person in respect of whom the application is made is a child at the time the application is made, do not exceed the cost to the Home Office of processing the application;
 - (b) provision to ensure that no fees are charged for applications for registration as a British Citizen under the British Nationality Act 1981 or the British Nationality (Hong Kong) Act 1997 where the person in respect of whom the application is made—
 - (i) is a child being looked after by a local authority at the time the application is made; or
 - (ii) was looked after by a local authority when they were a child, and at the time the application is made is either—
 - (A) under the age of 21; or
 - (B) under the age of 25 and in full-time education.
- (3) Within six months of this Act being passed, the Secretary of State must lay before Parliament a report setting out the effect of such fees on the human rights of the children applying for registration as British citizens under the British Nationality Act 1981 and the British Nationality (Hong Kong) Act 1997.”

Member’s explanatory statement

In respect of children registering as British citizens, this new clause would prevent the Home Office from charging a fee which exceeds the cost of processing the application. It would also abolish such fees altogether for looked-after children until they reach the age of 21 (or 25 if in full-time education), and would require the Government to produce a report setting out the effect of such fees on children’s human rights.

Dame Meg Hillier
Mr Alistair Carmichael
Stephen Timms
Andy Slaughter
Sir Peter Bottomley
Hilary Benn
Barbara Keeley
Rosie Duffield
Kim Johnson
Sarah Champion
Stephen Farry
Emma Hardy
Wera Hobhouse
Marsha De Cordova
Margaret Ferrier
Claire Hanna

Debbie Abrahams
Jeremy Corbyn
Yasmin Qureshi
Dame Diana Johnson
Caroline Lucas
Tony Lloyd
Alyn Smith
Angus Brendan MacNeil
Helen Hayes
Kevin Brennan

Ms Anum Qaisar
Rushanara Ali
Mr Virendra Sharma
Jon Trickett
Mohammad Yasin
David Simmonds
Paul Blomfield
Kate Osamor
Colum Eastwood
Dr Philippa Whitford

NC9

To move the following Clause—

“Settled and pre-settled status under EU settlement scheme: certification

- (1) Within granting a person settled status or pre-settled status under the EU settlement scheme, the Secretary of State must require the provision of a physical certificate to that person.
- (2) The certificate mentioned in subsection (1) must confirm that the relevant person has the relevant status (settled status or pre-settled status).”

Member’s explanatory statement

This new clause would require the Government to issue a physical certificate when granting settled status or pre-settled status under the EU settlement scheme, allowing all those with such status to provide documentary proof.

Neil Coyle
Tim Farron
Joanna Cherry
Caroline Lucas
Helen Hayes
Stephen Farry

NC10

To move the following Clause—

“Asylum visa for persons in France

- (1) On an application by a person (“P”) to the appropriate decision-maker for entry clearance, the appropriate decision-maker must grant P entry clearance if he is satisfied that P is a relevant person.
- (2) For the purposes of paragraph (1), P is a relevant person if—
 - (a) P is in France on the date of application;
 - (b) P is not a national of a member State of the European Union or a national of Liechtenstein, Iceland, Norway or Switzerland;
 - (c) P intends to make a protection claim in the United Kingdom;
 - (d) P’s protection claim, if made in the United Kingdom, would have a realistic prospect of success; and

- (e) there are good reasons why P's protection claim should be considered in the United Kingdom.
- (3) For the purposes of paragraph (2)(e), in deciding whether there are good reasons why P's protection claim should be considered in the United Kingdom, the appropriate decision-maker shall take into account—
- (a) the relative strength of P's family and other ties to the United Kingdom;
 - (b) the relative strength of P's family and other ties to France;
 - (c) P's mental and physical health and any particular vulnerabilities that P has; and
 - (d) any other matter that the appropriate decision-maker thinks relevant.
- (4) For the purposes of an application under paragraph (1), the appropriate decision-maker must waive any of the requirements in paragraph (5) if satisfied that P cannot reasonably be expected to comply with them.
- (5) The requirements in this paragraph are—
- (a) any requirement prescribed (whether by immigration rules or otherwise) under section 50 of the Immigration, Asylum and Nationality Act 2006; and
 - (b) any requirement prescribed by regulations made under sections 5, 6, 7 or 8 of the UK Borders Act 2007 (biometric registration).
- (6) No fee may be charged for the making of an application under paragraph (1).
- (7) An entry clearance granted pursuant to paragraph (1) shall have effect as leave to enter for such period, being not less than six months, and on such conditions as the Secretary of State may prescribe by order.
- (8) Upon a person entering the United Kingdom (within the meaning of section 11 of the Immigration Act 1971) pursuant to leave to enter given under paragraph (7), that person shall be deemed to have made a protection claim in the United Kingdom.
- (9) The Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.
- (10) After paragraph 30(1)(b) of Part 1 of Schedule 1 insert—
- "; or
- (c) are conferred by or under sections [Asylum visa for persons in France] and [Right of appeal against France asylum visa refusal] of the Nationality and Borders Act 2022."
- (11) In this section and in section [Right of appeal against France asylum visa refusal]—

"appropriate decision-maker" means a person authorised by the Secretary of State by rules made under section 3 of the Immigration Act 1971 to grant an entry clearance under paragraph (1);

"entry clearance" has the same meaning as in section 33(1) of the Immigration Act 1971;

“protection claim”, in relation to a person, means a claim that to remove him from or require him to leave the United Kingdom would be inconsistent with the United Kingdom’s obligations—

- (a) under the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and the Protocol to that Convention;
- (b) in relation to persons entitled to a grant of humanitarian protection; or
- (c) under Articles 2 or 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4th November 1950.”

Member’s explanatory statement

This new clause would provide for a person in France to be granted entry clearance to allow them to claim asylum in the UK in certain circumstances.

Neil Coyle
Tim Farron
Joanna Cherry
Caroline Lucas
Helen Hayes
Stephen Farry

NC11

To move the following Clause—

“Right of appeal against France asylum visa refusal

- (1) If an application by a person (“P”) for entry clearance under clause [Asylum visa for persons in France] is refused by the appropriate decision-maker, P may appeal to the First-tier Tribunal against the refusal.
- (2) The following provisions of, or made under, the Nationality, Immigration and Asylum Act 2002 have effect in relation to an appeal under these Regulations to the First-tier Tribunal as if it were an appeal against a decision of the Secretary of State under section 82(1) of that Act (right of appeal to the Tribunal)—
 - (a) section 84 (grounds of appeal), as though the sole permitted ground of appeal was that the appropriate decision-maker was wrong to conclude that P was not a relevant person;
 - (b) section 85(1) to (4) (matters to be considered);
 - (c) section 86 (determination of appeal);
 - (d) section 105 and any regulations made under that section; and
 - (e) section 106 and any rules made pursuant to that section.
- (3) In an appeal under this section, the First-tier Tribunal—
 - (a) shall allow the appeal if it is satisfied that P is a relevant person; and
 - (b) shall otherwise dismiss the appeal.
- (4) In an appeal under this section, in deciding whether there are good reasons why P’s protection claim should be considered in the United Kingdom, the First-tier Tribunal shall apply section [Asylum visa for persons in France] (3) as though for the words “appropriate decision-maker” there were substituted the words “First-tier Tribunal”.

Member's explanatory statement

This new clause would allow a person whose application for entry clearance under clause [Asylum visa for persons in France] has been rejected to appeal to the First-tier Tribunal.

Apsana Begum			NC12
Bell Ribeiro-Addy			
Zarah Sultana			
Stephen Farry			
Ian Byrne			
Richard Burgon			
John McDonnell	Kate Osborne	Ms Diane Abbott	
Beth Winter	Nadia Whittome	Ian Mearns	
Dan Carden	Andy McDonald	Grahame Morris	
Jeremy Corbyn	Tahir Ali	Clive Lewis	

To move the following Clause—

“Residence permits: recourse to public funds

Within two months of this Act being passed, the Secretary of State must by regulations ensure that anyone holding a valid UK residence permit has recourse to public funds.”

Member's explanatory statement

Under this new clause, everyone holding a UK residence permit (many of whom currently have no recourse to public funds) would have recourse to public funds.

Apsana Begum			NC13
Bell Ribeiro-Addy			
Zarah Sultana			
Stephen Farry			
Ian Byrne			
Richard Burgon			
John McDonnell	Kate Osborne	Ms Diane Abbott	
Beth Winter	Nadia Whittome	Ian Mearns	
Dan Carden	Andy McDonald	Grahame Morris	
Jeremy Corbyn	Tahir Ali	Clive Lewis	

To move the following Clause—

“Undocumented migrants: access to work and services

- (1) The Immigration Act 2014 is amended as follows.
- (2) Omit sections 20 to 47.
- (3) The Immigration Act 2016 is amended as follows.
- (4) Omit sections 1 to 45.”

Member's explanatory statement

This new clause would repeal the sections of the 2014 and 2016 Immigration Acts which sought to further restrict undocumented migrants' access to work and services.

Bell Ribeiro-Addy
Apsana Begum
Zarah Sultana
Stephen Farry

NC14

To move the following Clause—

“Immigration health surcharge: abolition

Within two months of this Act being passed, the Secretary of State must amend the Immigration (Health Charge) Order 2015 in such a way as to abolish the immigration health surcharge.”

Member’s explanatory statement

This new clause would require the Secretary of State to abolish the immigration health surcharge.

Paul Blomfield
Richard Fuller
Alison Thewliss

NC15

☆ To move the following Clause—

“Time limit on immigration detention

- (1) This section applies to any person (“P”) who is liable to detention under a relevant detention power.
- (2) P may not be detained under a relevant detention power for a period of more than 28 days from the relevant time.
- (3) If P remains detained under a relevant detention power at the expiry of the period of 28 days then—
 - (a) P shall be released forthwith; and
 - (b) P may not be detained under a relevant detention power thereafter, unless the Secretary of State or an immigration officer, as the case may be, is satisfied that there has been a material change of circumstances since P’s release and that the criteria in section [Initial detention: criteria and duration](1) are met.
- (4) In this section, “relevant detention power” means a power to detain under—
 - (a) paragraph 16(2) of Schedule 2 to the Immigration Act 1971 (detention of persons liable to examination or removal);
 - (b) paragraph 2(1), (2) or (3) of Schedule 3 to that Act (detention pending deportation);
 - (c) section 62 of the Nationality, Immigration and Asylum Act 2002 (detention of persons liable to examination or removal); or
 - (d) section 36(1) of the UK Borders Act 2007 (detention pending deportation).
- (5) In this section, “relevant time” means the time at which P is first detained under a relevant detention power.

- (6) This section does not apply to a person in respect of whom the Secretary of State has certified that the decision to detain is or was taken in the interests of national security."

Member's explanatory statement

This new clause would prevent people who are liable to detention under a relevant power from being detained for longer than 28 days.

Paul Blomfield
Richard Fuller
Alison Thewliss

NC16

☆ To move the following Clause—

"Initial detention: criteria and duration

- (1) A person ("P") to whom section [*Time limit on immigration detention*] applies may not be detained under a relevant detention power other than for the purposes of examination, unless the Secretary of State or an immigration officer, as the case may be, is satisfied that—
- (a) P can be shortly removed from the United Kingdom;
 - (b) detention is strictly necessary to effect P's deportation or removal from the United Kingdom; and
 - (c) the detention of P is in all the circumstances proportionate.
- (2) P may not be detained under a relevant detention power for a period of more than 96 hours from the relevant time, unless—
- (a) P has been refused bail at an initial bail hearing in accordance with subsection (5)(b) of section [*Bail hearings*]; or
 - (b) the Secretary of State has arranged a reference to the Tribunal for consideration of whether to grant immigration bail to P in accordance with subsection (2)(c) of section [*Bail hearings*] and that hearing has not yet taken place.
- (3) Nothing in subsections (1) or (2) authorises the Secretary of State to detain P under a relevant detention power if such detention would, apart from this section, be unlawful.
- (4) In this section, "Tribunal" means the First-Tier Tribunal.
- (5) In this section, "relevant detention power" and "relevant time" have the meanings given in section [*Time limit on immigration detention*]."

Member's explanatory statement

This new clause sets out the circumstances in which a person to whom NC15 applies may be held in initial detention, and the maximum duration of such detention.

Paul Blomfield
Richard Fuller
Alison Thewliss

NC17

☆ To move the following Clause—

“Bail hearings

- (1) This section applies to any person (“P”) to whom section [*Time limit on immigration detention*] applies and who is detained under a relevant detention power.
- (2) Before the expiry of a period of 96 hours from the relevant time, the Secretary of State must—
 - (a) release P;
 - (b) grant immigration bail to P under paragraph 1 of Schedule 10 to the Immigration Act 2016; or
 - (c) arrange a reference to the Tribunal for consideration of whether to grant immigration bail to P.
- (3) Subject to subsection (4), when the Secretary of State arranges a reference to the Tribunal under subsection (2)(c), the Tribunal must hold an oral hearing (“an initial bail hearing”) which must commence within 24 hours of the time at which the reference is made.
- (4) If the period of 24 hours in subsection (3) ends on a Saturday, Sunday or Bank holiday, the Tribunal must hold an initial bail hearing on the next working day.
- (5) At the initial bail hearing, the Tribunal must—
 - (a) grant immigration bail to P under paragraph 1 of Schedule 10 to the Immigration Act 2016; or
 - (b) refuse to grant immigration bail to P.
- (6) Subject to subsection (7), the Tribunal must grant immigration bail to P at a bail hearing unless it is satisfied that the Secretary of State has established that the criteria in subsection 1 of section [Initial detention: criteria and duration] are met and that, in addition—
 - (a) directions have been given for P’s removal from the United Kingdom and such removal is to take place within 14 days;
 - (b) a travel document is available for the purposes of P’s removal or deportation; and
 - (c) there are no outstanding legal barriers to removal.
- (7) Subsection (6) does not apply if the Tribunal is satisfied that the Secretary of State has established that the criteria in subsection 1 of section [*Initial detention: criteria and duration*] above are met and that there are very exceptional circumstances which justify maintaining detention.
- (8) In subsection (6), “a bail hearing” includes—
 - (a) an initial bail hearing under subsection (2); and
 - (b) the hearing of an application for immigration bail under paragraph 1(3) of Schedule 10 of the Immigration Act 2016.
- (9) In this section, “Tribunal” means the First-Tier Tribunal.

- (10) The Secretary of State shall provide to P or to P's legal representative, not more than 24 hours after the relevant time, copies of all documents in the Secretary of State's possession which are relevant to the decision to detain.
- (11) At the initial bail hearing, the Tribunal shall not consider any documents relied upon by the Secretary of State which were not provided to P or to P's legal representative in accordance with subsection (10), unless—
- (a) P consents to the documents being considered; or
 - (b) in the opinion of the Tribunal there is a good reason why the documents were not provided to P or to P's legal representative in accordance with subsection (10).
- (12) The Immigration Act 2016 is amended as follows—
- (a) After paragraph 12(4) of schedule 10 insert—
- “(4A) Sub-paragraph (2) above does not apply if the refusal of bail by the First tier Tribunal took place at an initial bail hearing within the meaning of section [Bail hearings] of the Sovereign Borders Act 2021.”

Member's explanatory statement

In respect of people to whom NC15 applies, this new clause would require the Secretary of State to either release them, grant immigration bail or arrange a reference to the Tribunal within 96 hours.

Sir Christopher Chope
Mr Philip Hollobone
Esther McVey
Mark Jenkinson
Mrs Pauline Latham
Chris Green
Philip Davies
Chris Loder
Craig Mackinlay
Mr Peter Bone

Andrew Rosindell
Andrew Bridgen
Sir Desmond Swayne
Nigel Mills

Sir Robert Syms
Richard Drax
Henry Smith

NC18

☆ To move the following Clause—

“Illegal immigration: offences

- (1) Any person who is present in the United Kingdom without legal authority shall be guilty of an offence.
- (2) Any person who enters or attempts to enter the United Kingdom without legal authority shall be guilty of an offence.
- (3) A person guilty of an offence under this section is liable—
 - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both);
 - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
 - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).”

Member's explanatory statement

This new clause would create offences in respect of persons who have entered the UK illegally or who have remained in the UK without legal authority.

Sir Christopher Chope
Mr Philip Hollobone
Sir Desmond Swayne

NC19

☆ To move the following Clause—

"Illegal immigration offences: deportation orders

- (1) Any person who is convicted of an offence under section 24 of the Immigration Act 1971 shall be subject to a deportation order unless the Secretary of State deems such a deportation order to be against the public interest.
- (2) For the purposes of subsection (1) above, a deportation order shall be deemed to be in the public interest unless a certificate to the contrary has been submitted by the Secretary of State to the Court."

Liz Saville Roberts
Ben Lake
Hywel Williams

NC21

★ To move the following Clause—

"Nation of Sanctuary

- (1) The Secretary of State and Welsh Ministers must jointly produce guidance setting out how measures under this Act may be exercised in a way that secures compliance with—
 - (a) the Welsh Government's commitment to be a "Nation of Sanctuary"; and
 - (b) the plan published by the Welsh Government in January 2019 entitled "Nation of Sanctuary – Refugee and Asylum Seeker Plan".
- (2) Before issuing the guidance, the Secretary of State must—
 - (a) in collaboration with the Welsh Minister, prepare and consult on a draft; and
 - (b) publish a response to the consultation.
- (3) In preparing the guidance, consideration must be given to the following matters as far as they relate to refugees and asylum seekers—
 - (a) conditions in asylum accommodation;
 - (b) access to public services;
 - (c) access to language support;
 - (d) access to education and training;
 - (e) employment opportunities; and
 - (f) access to health and social services.

- (4) No guidance may be published under this section unless a draft of the guidance has been laid before and approved by Senedd Cymru.

Member's explanatory statement

This new clause would require the UK and Welsh Governments to jointly produce guidance setting out how measures under this Act can be exercised in a way which is consistent with the Welsh Government's commitment of being a Nation of Sanctuary. No guidance can be published unless it has been approved by the Senedd.

Ms Harriet Harman
Joanna Cherry

NC22

- ★ To move the following Clause—

"Requirement for the Secretary of State to waive the full capacity requirement

- (1) In section 44A of the British Nationality Act 1981, for "may" substitute "should"."

Member's explanatory statement

This would give effect to the recommendation of the Joint Committee on Human Rights to require the Secretary of State to waive the requirement for a person to have full capacity if it is in that person's best interests to do so.

Ms Harriet Harman
Joanna Cherry

108

- ★ Clause 3, page 8, line 33, leave out subsection (4)

Member's explanatory statement

This would give effect to the recommendation of the Joint Committee on Human Rights to remove the good character requirement for a person applying for British overseas territories citizenship who has previously been discriminated against where this could perpetuate that discrimination.

Mr David Davis 12
 Bell Ribeiro-Addy
 Naz Shah
 Caroline Lucas
 Dawn Butler
 Stephen Farry
 Kate Hollern Apsana Begum Claire Hanna
 Paul Blomfield

Page 11, line 35, leave out Clause 9

Member's explanatory statement

This amendment would remove clause 9, which would enable the Home Secretary to deprive UK nationals of citizenship without notice.

Ms Harriet Harman 109
 Joanna Cherry

★ Page 11, line 35, leave out Clause 9

Member's explanatory statement

This would give effect to the recommendation of the Joint Committee on Human Rights to remove clause 9 which adds additional barriers to a child born in the UK who is stateless from obtaining British citizenship.

Secretary Priti Patel 17

★ Clause 9, page 12, line 28, after "against" insert "a decision to make"

Member's explanatory statement

This amendment corrects a mistake in describing the right of appeal applied by subsection (7).

Secretary Priti Patel 18

★ Clause 9, page 12, line 29, leave out "to make the order"

Member's explanatory statement

This amendment is consequential on Amendment 17.

Mr Alistair Carmichael 2
 Ed Davey
 Daisy Cooper
 Wendy Chamberlain
 Tim Farron
 Sarah Green
 Wera Hobhouse
 Sarah Olney
 Bell Ribeiro-Addy
 Apsana Begum

Christine Jardine
 Jamie Stone
 Stephen Farry

Layla Moran
 Munira Wilson
 Claire Hanna

Page 12, line 33, leave out Clause 10

Member's explanatory statement

This amendment would remove clause 10, which restricts entitlement to British citizenship for children born stateless in the UK.

Ms Harriet Harman 111
 Joanna Cherry

- ★ Clause 10, page 13, line 23, after "birth", insert "without any legal or administrative barriers"

Member's explanatory statement

This would give effect to the recommendation of the Joint Committee on Human Rights to ensure that, in compliance with Article 1 of the 1961 UN Statelessness Convention, British citizenship is only withheld from a stateless child born in the UK where the nationality of a parent is available to the child immediately, without any legal or administrative hurdles.

Ms Harriet Harman 110
 Joanna Cherry

- ★ Clause 10, page 13, line 27, at end insert—

"(d) in all the circumstances, it would be in the best interests of the child for it to acquire the nationality in question."

Member's explanatory statement

This would give effect to the recommendation of the Joint Committee on Human Rights to ensure that the best interests of the child are central to decision-making in deciding whether to grant or decline an application for British citizenship by a stateless child who was born in the UK.

Tim Farron 8
 Mr Alistair Carmichael
 Bell Ribeiro-Addy
 Ed Davey
 Daisy Cooper
 Wendy Chamberlain
 Sarah Green
 Layla Moran
 Munira Wilson
 Apsana Begum

Wera Hobhouse
 Sarah Olney
 Stephen Farry

Christine Jardine
 Jamie Stone
 Claire Hanna

Page 14, line 4, leave out Clause 11

Member's explanatory statement

This amendment would remove clause 11, which provides for the differential treatment of refugees depending on their method of arrival in the UK.

Secretary Priti Patel 19

- ★ Clause 12, page 15, line 12, leave out "or 95A" and insert "(support for asylum seekers) or section 4 (accommodation for failed asylum seekers)"

Member's explanatory statement

This amendment, together with Amendments 20 to 25, are needed to cater for the fact that certain provisions relating to accommodation support for asylum seekers and failed asylum seekers may not be in force by the time clause 12 is commenced.

Secretary Priti Patel 20

- ★ Clause 12, page 15, line 15, leave out "supported persons" and insert "persons supported under those sections"

Member's explanatory statement

See explanatory statement for Amendment 19.

Secretary Priti Patel 21

- ★ Clause 12, page 15, line 17, leave out "protection claim" and insert "claim for asylum"

Member's explanatory statement

See explanatory statement for Amendment 19.

Secretary Priti Patel

22

- ★ Clause 12, page 15, line 22, after “under” insert “any of the following”

Member’s explanatory statement

See explanatory statement for Amendment 19.

Secretary Priti Patel

23

- ★ Clause 12, page 15, line 26, leave out from “section” to end of line 27 and insert “4(6) (conditions for support under section 4),”

Member’s explanatory statement

See explanatory statement for Amendment 19.

Secretary Priti Patel

24

- ★ Clause 12, page 15, leave out lines 28 to 30

Member’s explanatory statement

See explanatory statement for Amendment 19.

Secretary Priti Patel

25

- ★ Clause 12, page 15, line 30, at end insert—

“(1A) In section 97(3A) of the Immigration and Asylum Act 1999 (as inserted by subsection (1))—

- (a) in the words before paragraph (a)—
 - (i) for “section 4 (accommodation for failed asylum seekers)” substitute “section 95A (support for failed asylum seekers)”;
 - (ii) for “persons supported under those sections” substitute “supported persons”;
- (b) in paragraph (a), for “claim for asylum” substitute “protection claim”;
- (c) in paragraph (b)—
 - (i) for sub-paragraph (iii) substitute—
 - “(iii) regulations made under section 95A(5) (conditions for support under section 95A);”
 - (ii) at the end insert—
 - “(iv) regulations made under section 30 of the Nationality, Immigration and Asylum Act 2002 (conditions of residence in accommodation centre).”

Member's explanatory statement

See explanatory statement for Amendment 19.

Secretary Priti Patel

26

- ★ Clause 15, page 19, leave out lines 3 to 5

Member's explanatory statement

This amendment removes the power of the Secretary of State to consider an asylum claim that she has previously declared inadmissible where she determines that it is unlikely to be possible to remove the claimant to a safe third State within a reasonable period.

Neil Coyle
Stephen Farry

14

Clause 17, page 21, line 16, at end insert—

“(1A) The Secretary of State may not serve an evidence notice on a person who was under 18 years of age at the time of their arrival in the United Kingdom.”

Member's explanatory statement

This amendment would remove the ability to serve an evidence notice on children and young people who arrived in the UK before the age of 18.

Secretary Priti Patel

27

- ★ Clause 17, page 21, line 21, at end insert—

“(3A) Subsection (4) also applies if the recipient of an evidence notice provides the First-tier Tribunal, the Upper Tribunal (when acting in the circumstances mentioned in section 21(4B)) or the Special Immigration Appeals Commission with evidence in support of the claim where the evidence—

- (a) should have been provided in response to the evidence notice but was not, and
- (b) is provided on or after the specified date.”

Member's explanatory statement

This amendment ensures that if a claimant provides evidence to the Tribunal or SIAC after the date by which it should have been provided to the Secretary of State in response to an evidence notice, the claimant must also provide the Tribunal or SIAC with their reasons for the evidence being late.

Secretary Priti Patel

28

- ★ Clause 18, page 21, line 29, leave out "(2)" and insert "(1A)"

Member's explanatory statement

This amendment is consequential on Amendment 29.

Secretary Priti Patel

29

- ★ Clause 18, page 21, line 30, at end insert—

"(1A) After subsection (1) insert—

"(1A) Tribunal Procedure Rules must secure that, where the deciding authority is the First-tier Tribunal, it must include, as part of its reasons for a decision that disposes of proceedings, a statement explaining—

- (a) whether it considers that the claimant has engaged in behaviour to which this section applies, and
- (b) if it considers that the claimant has engaged in such behaviour, how it has taken account of the behaviour in making its decision.

(1B) Rules under section 5 of the Special Immigration Appeals Commission Act 1997 (SIAC procedure rules) must secure that, where the deciding authority is the Special Immigration Appeals Commission, it must include, as part of its reasons for a decision that determines proceedings, a statement explaining the matters mentioned in subsection (1A)(a) and (b)."

Member's explanatory statement

This amendment will require the Tribunal and SIAC to explicitly address the application of section 8 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 in their decisions. Section 8 requires decision-makers to take into account, as damaging a claimant's credibility, certain types of behaviours, such as behaviour designed to mislead or not acting in good faith.

Secretary Priti Patel

30

★ Clause 19, page 23, line 25, at end insert—

“(5A) Subsection (6) also applies if the PRN recipient provides the First-tier Tribunal, the Upper Tribunal (when acting in the circumstances mentioned in section 21(4B)) or the Special Immigration Appeals Commission with any statement, information or evidence mentioned in subsection (3)(a) that—

- (a) should have been provided in response to the priority removal notice but was not, and
- (b) is provided on or after the PRN cut-off date.”

Member’s explanatory statement

This amendment secures that if a PRN recipient provides a statement, information or evidence to the Tribunal or SIAC on or after the PRN cut-off date when it should have been provided before that date to the Secretary of State in response to the priority removal notice, they must also provide the Tribunal or SIAC with their reasons for the material being late.

Secretary Priti Patel

31

★ Clause 21, page 24, line 32, leave out paragraph (a) and insert—

- “(a) a PRN recipient provided material in response to the priority removal notice served on them,
- (aa) the material was provided late, and”

Member’s explanatory statement

This is a drafting change to make clearer the distinction between subsection (1) and the new subsection (1A) inserted by Amendment 32.

Secretary Priti Patel

32

★ Clause 21, page 24, line 34, at end insert—

“(1A) This section also applies where—

- (a) a PRN recipient provided material to the First-tier Tribunal, the Upper Tribunal (when acting in the circumstances mentioned in subsection (4B)) or the Special Immigration Appeals Commission,
- (b) the material should have been provided in response to the priority removal notice served on the PRN recipient but was not,
- (c) the material was provided late, and
- (d) a relevant decision is being made.”

Member's explanatory statement

This amendment will mean that the damage to credibility provision in clause 21 will also apply where a PRN recipient provides material to the Tribunal or SIAC on or after the PRN cut-off date where that material should have been provided to the Secretary of State in response to the priority removal notice but was not. See also Amendment 33.

Secretary Priti Patel

33

- ★ Clause 21, page 24, line 42, leave out from "recipient," to end of line and insert "a deciding authority"

Member's explanatory statement

This amendment, together with Amendment 37, will mean that the duty to take into account (as damaging to a person's credibility) material provided late in response to a priority removal notice will apply not only to the Secretary of State but also to immigration officers, the Tribunal and SIAC.

Secretary Priti Patel

34

- ★ Clause 21, page 24, line 44, leave out "anything mentioned in subsection (1)(a)" and insert "the material"

Member's explanatory statement

This amendment is consequential on Amendments 31 and 32.

Secretary Priti Patel

35

- ★ Clause 21, page 24, line 45, at end insert—

"(3A) Tribunal Procedure Rules must secure that, where the First-tier Tribunal or the Upper Tribunal (when acting in the circumstances mentioned in subsection (4B)) is making a decision that disposes of proceedings, it must include, as part of its reasons for the decision, a statement explaining—

- (a) whether it considers that this section applies, and
- (b) if it considers that this section does apply, how, in making its decision, it has taken account of the fact that the PRN recipient provided the material late.

(3B) Rules under section 5 of the Special Immigration Appeals Commission Act 1997 (SIAC procedure rules) must secure that, where the Special Immigration Appeals Commission is making a decision that determines proceedings, it must include, as part of its reasons for the decision, a statement explaining the matters mentioned in subsection (3A)(a) and (b)."

Member's explanatory statement

This amendment will require the Tribunal and SIAC, when making decisions on protection or human rights claims, to explicitly address how it has acted on the requirement that it take into account the late provision of material in response to a priority removal notice, as damaging the claimant's credibility.

Secretary Priti Patel

36

- ★ Clause 21, page 25, line 1, leave out “anything mentioned in subsection (1)(a)” and insert “material”

Member’s explanatory statement

This amendment is consequential on Amendments 31 and 32.

Secretary Priti Patel

37

- ★ Clause 21, page 25, line 3, at end insert—

“(4A) In subsection (3) “deciding authority”—

- (a) in relation to a decision mentioned in subsection (2)(a) means—
 - (i) the Secretary of State,
 - (ii) an immigration officer,
 - (iii) the First-tier Tribunal,
 - (iv) the Upper Tribunal in the circumstances described in subsection (4B), or
 - (v) the Special Immigration Appeals Commission;
- (b) in relation to a decision mentioned in subsection (2)(b), means the competent authority.

(4B) The circumstances are when the Upper Tribunal is acting—

- (a) under section 12(2)(b)(ii) of the Tribunals, Courts and Enforcement Act 2007 (Upper Tribunal re-making First-tier Tribunal decision on finding of error of law), or
- (b) in relation to—
 - (i) an expedited appeal within the meaning of section 82A of the Nationality, Immigration and Asylum Act 2002, or
 - (ii) an expedited related appeal within the meaning of section 23 that involves a protection claim or a human rights claim.”

Member’s explanatory statement

See explanatory statement for Amendment 33.

Secretary Priti Patel

38

- ★ Clause 21, page 25, line 7, at beginning insert ““priority removal notice”,”

Member’s explanatory statement

This amendment is consequential on Amendments 31 and 32.

Secretary Priti Patel 39

- ★ Clause 22, page 25, line 35, leave out “in the interests of justice” and insert “the only way to secure that justice is done”

Member’s explanatory statement

This amendment secures that an appeal will remain in the expedited judicial process where possible, by providing that the Upper Tribunal may only make an order to remove an appeal from the expedited judicial process if that is the only way for justice to be done in a particular case.

Secretary Priti Patel 40

- ★ Clause 22, page 25, line 36, leave out “to do so”

Member’s explanatory statement

This amendment is consequential on Amendment 39.

Secretary Priti Patel 41

- ★ Clause 23, page 26, line 26, after “pending” insert “before the First-tier Tribunal”

Member’s explanatory statement

This amendment secures that it is only where a related appeal (as defined in clause 23(2)) is pending before the First-tier Tribunal (rather than before SIAC) that it must be joined to a section 82 appeal that is expedited as provided for in clause 22.

Secretary Priti Patel 42

- ★ Clause 23, page 26, line 39, leave out “in the interests of justice” and insert “the only way to secure that justice is done”

Member’s explanatory statement

This amendment secures that a related appeal will remain in the expedited judicial process where possible, by providing that the Upper Tribunal may only make an order to remove a related appeal from the expedited judicial process if that is the only way for justice to be done in a particular case.

Secretary Priti Patel

43

- ★ Clause 23, page 26, line 40, leave out “to do so”

Member’s explanatory statement

This amendment is consequential on Amendment 42.

Neil Coyle
Stephen Farry

15

Clause 25, page 29, line 13, at end insert—

“(2A) For the purposes of subsection (2), “good reasons” include, but are not limited to, the claimant having been under the age of 18 years at the time of their arrival in the UK.”

Member’s explanatory statement

Under this amendment, a claimant who was under the age of 18 at the time of their arrival in the UK would be regarded as having good reasons for providing evidence late.

Secretary Priti Patel

44

- ★ Clause 25, page 29, line 39, after “Tribunal” insert “in the circumstances described in subsection (8)”

Member’s explanatory statement

Clause 25 requires decision-makers to have regard to the principle that minimal weight should be given to evidence on asylum claims etc provided late. The amendment means that clause 25 will only apply to the Upper Tribunal when acting on appeal from the First-tier Tribunal or on an expedited appeal, and not when it is acting in judicial review proceedings.

Secretary Priti Patel

45

★ Clause 25, page 29, line 45, at end insert—

“(8) The circumstances are when the Upper Tribunal is acting—

- (a) under section 12(2)(b)(ii) of the Tribunals, Courts and Enforcement Act 2007 (Upper Tribunal re-making First-tier Tribunal decision on finding of error of law), or
- (b) in relation to—
 - (i) an expedited appeal within the meaning of section 82A of the Nationality, Immigration and Asylum Act 2002, or
 - (ii) an expedited related appeal within the meaning of section 23 that involves an asylum claim or a human rights claim.”

Member’s explanatory statement

See explanatory statement for Amendment 44.

Secretary Priti Patel

46

★ Clause 26, page 30, line 35, leave out “in the interests of justice” and insert “the only way to secure that justice is done”

Member’s explanatory statement

This amendment secures that an appeal will remain in the accelerated detained appeal route where possible, by providing that the First-tier Tribunal or the Upper Tribunal may only make an order to remove an appeal from the accelerated detained appeal route if that is the only way for justice to be done in a particular case.

Secretary Priti Patel

47

★ Clause 26, page 30, line 36, leave out “to do so”

Member’s explanatory statement

This amendment is consequential on Amendment 46.

Mr David Davis			11
Mr Alistair Carmichael			
Mr Andrew Mitchell			
Caroline Nokes			
Bell Ribeiro-Addy			
Paul Blomfield			
Apsana Begum	Ed Davey	Daisy Cooper	
Christine Jardine	Layla Moran	Wendy Chamberlain	
Jamie Stone	Sarah Olney	Tim Farron	
Wera Hobhouse	Munira Wilson	Sarah Green	

Clause 28, page 32, line 1, leave out paragraph (a)

Member's explanatory statement

This is a paving amendment for Amendment 9.

Secretary Priti Patel			48
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★ Clause 34, page 35, line 10, leave out "return" and insert "travel"

Member's explanatory statement

This amendment, and Amendments 49 and 50, clarify that where there is a part of their country of nationality (or, where relevant, previous habitual residence) to which an asylum seeker can reasonably be expected to travel to and remain in, they are not to be taken as a refugee, even where they have not previously been in that part of the country.

Secretary Priti Patel			49
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★ Clause 34, page 35, line 12, leave out "return" and insert "travel"

Member's explanatory statement

See explanatory statement for Amendment 48.

Secretary Priti Patel			50
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★ Clause 34, page 35, line 18, leave out "return" and insert "travel"

Member's explanatory statement

See explanatory statement for Amendment 48.

Secretary Priti Patel

51

★ Clause 39, page 38, line 18, at end insert—

“(B1A) A person who—

- (a) has only a limited leave to enter or remain in the United Kingdom, and
- (b) knowingly remains beyond the time limited by the leave, commits an offence.”

Member’s explanatory statement

This amendment, together with Amendments 52, 53 and 54, has the effect of increasing the penalty for the offence currently in section 24(1)(b)(i) of the Immigration Act 1971 of overstaying leave to remain, so that it is punishable on indictment with up to four years of imprisonment.

Ms Harriet Harman
Joanna Cherry

102

★ Clause 39, page 38, leave out lines 19 to 23

Member’s explanatory statement

This would give effect to the recommendation of the Joint Committee on Human Rights to prevent ‘arrival’ in the United Kingdom without a valid entry clearance, rather than ‘entry’ into the United Kingdom without a valid entry clearance, becoming an offence.

Secretary Priti Patel

52

★ Clause 39, page 38, line 31, leave out “subsection (A1), (B1), (C1) or” and insert “any of subsections (A1) to”

Member’s explanatory statement

See explanatory statement to Amendment 51.

Secretary Priti Patel

53

★ Clause 39, page 39, line 3, leave out “subsection (B1), (C1) or” and insert “any of subsections (B1) to”

Member’s explanatory statement

See explanatory statement to Amendment 51.

Secretary Priti Patel

54

- ★ Clause 39, page 39, line 11, leave out “, omit paragraph (a)” and insert “—
- (i) omit paragraph (a);
 - (ii) in paragraph (b), for the words from “either” to the end, substitute “fails to observe a condition of the leave.”;

Member’s explanatory statement

See explanatory statement to Amendment 51.

Secretary Priti Patel

55

- ★ Clause 39, page 39, line 11, at end insert—
- “(aa) in subsection (1A), for “subsection (1)(b)(i)”, substitute “subsection (B1A)”;

Member’s explanatory statement

This amendment is consequential on Amendments 51 and 54.

Ms Harriet Harman
Joanna Cherry

103

- ★ Clause 39, page 39, line 30, leave out subsection (4)

Member’s explanatory statement

This would give effect to the recommendation of the Joint Committee on Human Rights to prevent the offence of facilitating a breach of immigration law being extended to include facilitating ‘arrival’ in the United Kingdom without a valid entry clearance in addition to facilitating ‘entry’ into the United Kingdom without a valid entry clearance.

Secretary Priti Patel

56

- ★ Clause 39, page 39, line 33, after “(B1)” insert “, (B1A)”

Member’s explanatory statement

This amendment is consequential on Amendment 51.

Secretary Priti Patel

57

- ★ Clause 39, page 39, line 35, after “(B1)” insert “, (B1A)”

Member’s explanatory statement

This amendment is consequential on Amendment 51.

Secretary Priti Patel

58

- ★ Clause 39, page 39, line 43, after “(B1)” insert “, (B1A)”

Member’s explanatory statement

This amendment is consequential on Amendment 51.

Secretary Priti Patel

59

- ★ Clause 39, page 39, line 46, after “(B1)” insert “, (B1A)”

Member’s explanatory statement

This amendment is consequential on Amendment 51.

Ms Harriet Harman
Joanna Cherry

104

- ★ Clause 39, page 40, line 2, at end insert—

“(10) In section 31(3) of the Immigration and Asylum Act 1999 (defences based on Article 31(1) of the Refugee Convention), after paragraph (aa) insert—

“(ab) section 24 of the Immigration Act 1971 (illegal entry and similar offences)”.

Member’s explanatory statement

This would give effect to the recommendation of the Joint Committee on Human Rights to extend the statutory defence based on Article 31 of the Refugee Convention to offences of illegal entry under section 24 of the Immigration Act 1971.

Secretary Priti Patel

60

- ★ Clause 40, page 40, line 3, at end insert—

“(A1)The Immigration Act 1971 is amended as follows.”

Member’s explanatory statement

This amendment is consequential on Amendment 63.

Ms Harriet Harman 105
Joanna Cherry

- ★ Clause 40, page 40, line 7, leave out subsection (2)

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”.

Secretary Priti Patel 61

- ★ Clause 40, page 40, line 4, leave out “of the Immigration Act 1971”.

Member’s explanatory statement

This amendment is consequential on Amendment 60.

Secretary Priti Patel 62

- ★ Clause 40, page 40, line 7, leave out “of the Immigration Act 1971”.

Member’s explanatory statement

This amendment is consequential on Amendment 60.

Secretary Priti Patel 63

- ★ Clause 40, page 40, line 8, at end insert—

“(3) Before section 25C insert—

“25BA Facilitation offences: application to rescuers

- (1) A person does not commit a facilitation offence if the act of facilitation was an act done by or on behalf of, or co-ordinated by—
 - (a) Her Majesty’s Coastguard, or
 - (b) an overseas maritime search and rescue authority exercising similar functions to those of Her Majesty’s Coastguard.
- (2) In proceedings for a facilitation offence, it is a defence for the person charged with the offence to show that—
 - (a) the assisted individual had been in danger or distress at sea, and
 - (b) the act of facilitation was an act of providing assistance to the individual at any time between—
 - (i) the time when the assisted individual was first in danger or distress at sea, and
 - (ii) the time when the assisted individual was delivered to a place of safety on land.

- (3) For the purposes of subsection (2), the following are not to be treated as an act of providing assistance—
- (a) the act of delivering the assisted individual to the United Kingdom in circumstances where—
 - (i) the United Kingdom was not the nearest place of safety on land to which the assisted individual could have been delivered, and
 - (ii) the person charged with the offence did not have a good reason for delivering the assisted individual to the United Kingdom instead of to a nearer place of safety on land;
 - (b) the act of steering a ship in circumstances where the person charged with the offence was on the same ship as the assisted individual at the time when the individual was first in danger or distress at sea.
- (4) A person is taken to have shown a fact mentioned in subsection (2) if—
- (a) sufficient evidence of the fact is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (5) In this section—
- “act of facilitation”—
- (a) in relation to an offence under section 25 (assisting unlawful immigration), means the act mentioned in subsection (1)(a) of that section;
 - (b) in relation to an offence under section 25A (helping asylum-seeker to enter the UK), means the act of facilitating the arrival (or attempted arrival) in, or entry (or attempted entry) into, the United Kingdom of an individual, as mentioned in subsection (1)(a) of that section;
 - (c) in relation to an offence under section 25B(1) (facilitating breach of deportation order), means the act mentioned in subsection (1)(a) of that section;
 - (d) in relation to an offence under section 25B(3) (assisting entry to UK in breach of an exclusion order), means the act mentioned in subsection (3)(a) of that section;
- “assisted individual”—
- (a) in relation to an offence under section 25, means the individual whose breach (or attempted breach) of immigration law is facilitated by the act of facilitation;
 - (b) in relation to an offence under section 25A, means the individual whose arrival (or attempted arrival) in, or entry (or attempted entry) into, the United Kingdom is facilitated by the act of facilitation;
 - (c) in relation to an offence under section 25B(1), means the individual whose breach (or attempted breach) of a deportation order is facilitated by the act of facilitation;
 - (d) in relation to an offence under section 25B(3), means the individual who is assisted to arrive in, enter or remain (or to attempt to arrive in, enter or remain) in the United Kingdom by the act of facilitation;

“facilitation offence” means—

- (a) an offence under section 25 (assisting unlawful immigration),
- (b) an offence under section 25A (helping asylum-seeker to enter the United Kingdom), or
- (c) an offence under section 25B (assisting entry to the United Kingdom in breach of deportation or exclusion order) to the extent that the section continues to apply by virtue of regulation 5(7) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309);

“ship” includes—

- (a) every description of vessel (including a hovercraft), and
- (b) any other structure (whether with or without means of propulsion) constructed or used to carry persons, goods, plant or machinery by water.

25BB Facilitation offences: defences relating to stowaways

- (1) In proceedings for a facilitation offence brought against a master of a ship, it is a defence for the master to show—
 - (a) that the assisted individual was a stowaway when the act of facilitation took place, and
 - (b) that the master, or a person acting on the master’s behalf, reported the presence of the assisted individual on the ship to the Secretary of State or an immigration officer—
 - (i) in a case where the ship was scheduled to go to the United Kingdom, as soon as reasonably practicable after the time when the ship’s next scheduled port of call became a port in the United Kingdom, or
 - (ii) in a case where the ship was not scheduled to go to the United Kingdom but the master of the ship decided that the ship needed to go to the United Kingdom (whether for reasons relating to the presence of the assisted individual on board or for other reasons), as soon as reasonably practicable after the master made that decision.
- (2) In proceedings for a facilitation offence, it is a defence for the person charged with the offence to show—
 - (a) that the assisted individual was a stowaway when the act of facilitation took place,
 - (b) that they were acting to ensure the security, general health, welfare or safety of the assisted individual, and
 - (c) that they had reported the presence of the assisted individual to the master of the ship as soon as reasonably practicable.
- (3) A person is taken to have shown a fact mentioned in subsection (1) or (2) if—
 - (a) sufficient evidence of the fact is adduced to raise an issue with respect to it, and

- (b) the contrary is not proved beyond reasonable doubt.
- (4) For the purposes of this section, an individual is a stowaway on a ship if—
 - (a) they boarded the ship without the knowledge of the master of the ship, and
 - (b) the master was not aware of their presence on the ship when the ship departed from the port where the individual boarded.
- (5) But an individual ceases to be a stowaway if, after the master of the ship has become aware of their presence on the ship, the individual is given permission to leave the ship by the immigration authorities of a country that the ship arrives at (whether or not they do in fact leave the ship there).
- (6) In this section, “act of facilitation”, “assisted individual”, “facilitation offence” and “ship” have the same meanings as in section 25BA.””

Member’s explanatory statement

This amendment adds two new sections into the Immigration Act 1971 to provide for exclusions or defences to the offences of facilitating illegal entry or the entry of asylum-seekers in circumstances where: (1) a person rescues another person at sea, or (2) a ship’s master carries a stowaway into the UK or a person on board a ship assists a stowaway for humanitarian reasons.

Neil Coyle
Bell Ribeiro-Addy
Stephen Farry
Apsana Begum

1

Clause 40, page 40, line 8, at end insert—

- “(3) In section 25A(3) of the Immigration Act 1971 (helping asylum seeker to enter United Kingdom), for paragraph (a) substitute—
- “(a) aims to—
 - (i) protect lives at sea, or
 - (ii) assist asylum-seekers; and””

Member’s explanatory statement

This amendment would add people working on behalf of organisations that aim to protect lives at sea to those who are exempt for prosecution for helping someone seeking asylum to enter the UK, as long as those organisations do not charge for their service.

Ms Harriet Harman
Joanna Cherry

106

★ Clause 45, page 43, line 12, at end insert—

“(6B) Nothing in this section, or in sections 10A to 10E, permits a person to be removed from the United Kingdom if that removal would violate their common law right to access justice.”

Member’s explanatory statement

This would give effect to the recommendation of the Joint Committee on Human Rights to make clear that the regime for providing notice to persons liable to removal remains subject to the common law right to access justice, which in the asylum context is mirrored by Article 13 ECHR.

Ms Harriet Harman
Joanna Cherry

107

★ Page 49, line 3, leave out Clause 47

Member’s explanatory statement

This would give effect to the recommendation of the Joint Committee on Human Rights to prevent it being compulsory for decision makers and tribunals to take into account whether a person has failed to cooperate with any immigration process when making decisions on immigration bail.

Dame Diana Johnson
Ms Harriet Harman
Barbara Keeley
Debbie Abrahams
Andrew Gwynne
Sarah Champion
Tonia Antoniazzi
Helen Hayes
Rushanara Ali
Sir Mark Hendrick
Valerie Vaz
Bell Ribeiro-Addy

Rosie Cooper
Christina Rees
Tony Lloyd
Stella Creasy
Carolyn Harris
Sir Peter Bottomley

Rosie Duffield
Julie Elliott
Clive Efford
Karin Smyth
Caroline Lucas

5

Clause 58, page 57, line 41, at end insert—

“(5) The provision of relevant status information identifying a person as a likely victim of human trafficking for sexual services shall constitute a “good reason” for the purposes of this section.”

Member's explanatory statement

This amendment would mean that the credibility of victims of human trafficking for sexual services would not be called into question by reason of the late provision of information relating to that fact.

Dame Diana Johnson
 Ms Harriet Harman
 Barbara Keeley
 Debbie Abrahams
 Andrew Gwynne
 Sarah Champion
 Tonia Antoniazzi
 Helen Hayes
 Rushanara Ali
 Sir Mark Hendrick
 Valerie Vaz
 Bell Ribeiro-Addy

Rosie Cooper
 Christina Rees
 Tony Lloyd
 Stella Creasy
 Carolyn Harris
 Sir Peter Bottomley

Rosie Duffield
 Julie Elliott
 Clive Efford
 Karin Smyth
 Caroline Lucas

6

Clause 58, page 57, line 41, at end insert—

- “(5) Subsection (2) does not apply where the person is a victim of trafficking for the purposes of forced prostitution.
- (6) For the purposes of subsection (5) the person may be considered a victim of trafficking for the purposes of forced prostitution if there is evidence that the person—
- (a) has been transported from one location to another on a daily basis;
 - (b) bears signs of physical abuse including but not limited to—
 - (i) branding;
 - (ii) bruising;
 - (iii) scarring;
 - (iv) burns; or
 - (v) tattoos indicating gang membership;
 - (c) lacks access to their own earnings, such as by having no bank account in their own name;
 - (d) has limited to no English language skills, or only such language skills as pertain to sexualised acts;
 - (e) lives or stays at the same address as person(s) meeting the criteria in paragraphs (a) to (d);
 - (f) sleeps in the premises in which they work.”

Member's explanatory statement

Under this amendment, late provision of relevant status information would not be taken as damaging the credibility of the person providing the information if that person were a victim of trafficking for the purposes of forced prostitution.

Dame Diana Johnson			7
Ms Harriet Harman			
Barbara Keeley			
Debbie Abrahams			
Andrew Gwynne			
Sarah Champion			
Tonia Antoniazzi	Rosie Cooper	Rosie Duffield	
Helen Hayes	Christina Rees	Julie Elliott	
Rushanara Ali	Tony Lloyd	Clive Efford	
Sir Mark Hendrick	Stella Creasy	Karin Smyth	
Valerie Vaz	Carolyn Harris	Caroline Lucas	
Bell Ribeiro-Addy	Sir Peter Bottomley		

Clause 59, page 58, line 5, at end insert—

“(za) at the end of paragraph (a) insert—

“(aa) the sorts of things which indicate that a person may be a victim of human trafficking for sexual services;”

Member’s explanatory statement

This amendment would require the Secretary of State to issue specific guidance on the sorts of things which indicate that a person may be a victim of human trafficking for sexual services.

Secretary Priti Patel 64

★ Clause 60, page 59, line 1, leave out subsection (2)

Member’s explanatory statement

This amendment removes the requirement that there must be at least 30 days between the making of a positive reasonable grounds decision in relation to an identified potential victim of slavery or human trafficking and the making of a conclusive grounds decision.

Secretary Priti Patel 65

★ Clause 60, page 59, line 4, at beginning insert “Subject to section 62(2),”

Member’s explanatory statement

This is a drafting amendment to make it clear that the prohibition on removal of an identified potential victim does not apply where they are disqualified from protection under clause 62 as a threat to public order or for having acted in bad faith.

Secretary Priti Patel 66

★ Clause 60, page 59, line 10, leave out paragraph (b) and insert—

“(b) ending with whichever of the following is the later—

(i) the day on which the conclusive grounds decision is made in relation to the identified potential victim;

- (ii) the end of the period of 30 days beginning with the day mentioned in paragraph (a)."

Member's explanatory statement

This amendment is consequential on Amendment 64. It ensures that an identified potential victim is entitled to a recovery period (giving protection from removal) of at least 30 days even where a conclusive grounds decision is made within 30 days of the positive reasonable grounds decision.

Secretary Priti Patel

67

- ★ Clause 61, page 59, line 17, after "person" insert ", in a case where the reasonable grounds for believing that the person is a victim of slavery or human trafficking arise from things done wholly before the first RG decision was made"

Member's explanatory statement

This amendment corrects a drafting error in the definition of "further RG decision".

Secretary Priti Patel

68

- ★ Clause 61, page 59, line 18, leave out paragraph (c)

Member's explanatory statement

This amendment is consequential on Amendment 67.

Secretary Priti Patel

69

- ★ Clause 61, page 59, line 21, leave out subsections (2) to (4) and insert—

"(2) If the competent authority considers it appropriate in the circumstances of a particular case, the authority may determine that the person may not be removed from, or required to leave, the United Kingdom during the period—

- (a) beginning with the day on which the further RG decision is made, and
- (b) ending with whichever of the following is the later—
 - (i) the day on which the conclusive grounds decision is made in relation to the further RG decision;
 - (ii) the end of the period of 30 days beginning with the day mentioned in paragraph (a).

This is subject to section 62(2)."

Member's explanatory statement

This amendment removes the disapplication of a requirement to make a conclusive grounds decision following a "further RG decision" and instead provides that, although an identified

potential victim is not automatically entitled to protection from removal following a further RG decision, the competent authority may decide that it is appropriate to give them that protection.

Mr Alistair Carmichael 3
 Ed Davey
 Daisy Cooper
 Wendy Chamberlain
 Tim Farron
 Sarah Green
 Wera Hobhouse
 Sarah Olney
 Bell Ribeiro-Addy

Christine Jardine
 Jamie Stone
 Stephen Farry

Layla Moran
 Munira Wilson
 Apsana Begum

Page 59, line 39, leave out Clause 62

Member's explanatory statement

This amendment would remove clause 62, which excludes potential modern slavery victims from protection in certain circumstances.

Secretary Priti Patel 70

★ Clause 62, page 60, line 1, leave out paragraph (a)

Member's explanatory statement

This amendment is consequential on Amendments 64 and 69.

Secretary Priti Patel 71

★ Clause 62, page 60, line 4, at end insert “, and

- (c) any requirement under section 64 to grant the person limited leave to remain in the United Kingdom.”

Member's explanatory statement

This amendment provides that if an identified potential victim is disqualified from protection (on the grounds of public order or acting in bad faith) but goes on to receive a positive conclusive grounds decision, any requirement to grant them leave to remain in the United Kingdom that would otherwise arise under clause 64 ceases to apply.

Secretary Priti Patel

72

- ★ Clause 63, page 61, line 28, leave out from “any” to “arising” in line 29 and insert “physical, psychological or social harm”

Member’s explanatory statement

This amendment changes the reference to “social well-being” to “social harm” to follow more closely the language of the Council of Europe Convention on Action against Trafficking in Human Beings.

Secretary Priti Patel

73

- ★ Clause 63, page 61, line 35, leave out paragraph (b)

Member’s explanatory statement

This amendment is consequential on Amendment 69.

Secretary Priti Patel

74

- ★ Clause 63, page 61, line 43, leave out paragraph (b) and insert—
- “(b) ending with whichever of the following is the later—
- (i) the day on which the conclusive grounds decision is made in relation to the further RG decision;
 - (ii) the end of the period of 30 days beginning with the day mentioned in paragraph (a).”

Member’s explanatory statement

This amendment is consequential on Amendment 64.

Secretary Priti Patel

75

- ★ Clause 63, page 61, line 45, leave out subsection (5)

Member’s explanatory statement

This amendment is consequential on Amendment 73.

Secretary Priti Patel

78

- ★ Clause 64, page 62, line 23, leave out “give” and insert “grant”

Member’s explanatory statement

This amendment and Amendments 81 to 83 make minor drafting changes for consistency with related provisions on the statute book.

Secretary Priti Patel

76

- ★ Clause 64, page 62, line 26, after “any” insert “physical or psychological”

Member’s explanatory statement

This amendment removes assisting a victim of slavery or human trafficking in their recovery from harm to their social well-being from the list of purposes for which the Secretary of State is required to give a victim limited leave to remain the United Kingdom.

Secretary Priti Patel

77

- ★ Clause 64, page 62, line 27, leave out from “exploitation” to end of line 28

Member’s explanatory statement

This amendment is consequential on Amendment 76.

Secretary Priti Patel

79

- ★ Clause 64, page 62, line 33, at end insert—
“(2A)Subsection (2) is subject to section 62(2).”

Member’s explanatory statement

This amendment is consequential on Amendment 71.

Secretary Priti Patel

80

- ★ Clause 64, page 63, line 3, leave out “as” and insert “which may be, but does not need to be, an agreement”

Member’s explanatory statement

This amendment makes it clear that a trafficking victim may be removed to a country which is not a signatory to the Council of Europe Convention on Action against Trafficking in Human Beings, if the UK has made an agreement with that country.

Secretary Priti Patel

81

- ★ Clause 64, page 63, line 9, leave out “give” and insert “grant”

Member’s explanatory statement

See the explanatory statement for Amendment 78.

Secretary Priti Patel

82

- ★ Clause 64, page 63, line 11, leave out “given” and insert “granted”

Member’s explanatory statement

See the explanatory statement for Amendment 78.

Secretary Priti Patel

83

- ★ Clause 64, page 63, line 12, leave out “given” and insert “granted”

Member’s explanatory statement

See the explanatory statement for Amendment 78.

Stephen Farry
Claire Hanna
Colum Eastwood

13

Clause 71, page 69, line 38, 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.

Secretary Priti Patel

84

★ Clause 81, page 79, line 4, leave out subsections (4) and (5) and insert—

“(4) Her Majesty may by Order in Council provide for any of the provisions of this Act to extend, with or without modifications, to any of the Channel Islands or the Isle of Man.

(5) A power under any provision listed in subsection (6) may be exercised so as to extend (with or without modification) to any of the Channel Islands or the Isle of Man any amendment or repeal made by or under this Act of any part of an Act to which the provision listed in subsection (6) relates.

(6) Those provisions are—

- (a) section 36 of the Immigration Act 1971,
- (b) section 15(1) of the Asylum and Immigration Appeals Act 1993,
- (c) section 13(5) of the Asylum and Immigration Act 1996,
- (d) section 9(3) of the Special Immigration Appeals Commission Act 1997,
- (e) section 170(7) of the Immigration and Asylum Act 1999,
- (f) section 163(4) of the Nationality, Immigration and Asylum Act 2002,
- (g) section 338 of the Criminal Justice Act 2003,
- (h) section 49(3) of the Asylum and Immigration (Treatment of Claimants etc) Act 2004,
- (i) section 63(3) of the Immigration, Asylum and Nationality Act 2006,
- (j) section 60(4) of the UK Borders Act 2007,
- (k) section 57(5) of the Borders, Citizenship and Immigration Act 2009,
- (l) section 76(6) of the Immigration Act 2014,
- (m) section 60(6) of the Modern Slavery Act 2015,
- (n) section 95(5) of the Immigration Act 2016, and
- (o) section 8(3) of the Immigration and Social Security (EU Withdrawal) Act 2020.”

Member’s explanatory statement

This amendment will enable the provisions of the Bill to be extended, by Order in Council, the Channel Islands and the Isle of Man.

Secretary Priti Patel

85

- ★ Clause 82, page 79, line 21, leave out “This Part and”

Member’s explanatory statement

This amendment, and Amendment 86, make minor drafting changes needed as a result of Amendment 87.

Secretary Priti Patel

86

- ★ Clause 82, page 79, line 25, leave out paragraph (b) and insert—
“(b) this Part.”

Member’s explanatory statement

See statement for Amendment 85.

Secretary Priti Patel

87

- ★ Clause 82, page 79, line 26, at end insert—

“(3A) The following provisions come into force on the day on which this Act is passed for the purposes of making (and, where required, consulting on) regulations—

- (a) section 13 (requirement to make asylum claim at “designated place”);
- (b) section 26 (accelerated detained appeals);
- (c) section 41 and Schedule 4 (penalty for failure to secure goods vehicle etc);
- (d) section 42 (working in United Kingdom waters: arrival and entry);
- (e) section 49 (persons subject to immigration control: referral or age assessment by local authority);
- (f) section 51 (regulations about use of scientific methods in age assessments);
- (g) section 52 (regulations about age assessments);
- (h) section 68 (interpretation of Part 5);
- (i) section 77 (pre-consolidation amendments of immigration legislation).”

Member’s explanatory statement

This amendment brings powers in the Bill to make regulations into force on Royal Assent, so that the regulations can be prepared in advance of the substantive provisions being commenced. The regulations themselves will not be commenced for at least two months after Royal Assent.

Secretary Priti Patel

88

- ★ Clause 82, page 79, line 38, leave out paragraph (g)

Member's explanatory statement

This amendment is consequential on Amendment 87.

Secretary Priti Patel

89

- ★ Clause 82, page 79, line 42, leave out paragraphs (j) and (k)

Member's explanatory statement

This amendment is consequential on Amendment 87.

Secretary Priti Patel

90

- ★ Clause 82, page 80, line 3, leave out paragraph (n)

Member's explanatory statement

This amendment is consequential on Amendment 87.

Paul Blomfield
Richard Fuller
Alison Thewliss

16

- ☆ Clause 82, page 80, line 3, at end insert—

"(5) Sections [Time limit on immigration detention], [Initial detention: criteria and duration] and [Bail hearings] come into force six months after the day on which this Act is passed."

Member's explanatory statement

This amendment would bring NC15-NC17 into force six months after the day on which the Bill is passed.

Secretary Priti Patel

91

- ★ Schedule 2, page 82, line 8, leave out "as follows" and insert "in accordance with paragraphs 2 to 6"

Member's explanatory statement

This amendment is consequential on Amendment 93.

Secretary Priti Patel

92

- ★ Schedule 2, page 82, line 28, after “82A” insert “and section 23 of the Nationality and Borders Act 2021”

Member’s explanatory statement

This amendment secures that practice directions under section 107 of the Nationality, Immigration and Asylum Act 2002 can cover not only expedited appeals under the new section 82A of that Act (as inserted by clause 22) but also expedited related appeals under clause 23.

Secretary Priti Patel

93

- ★ Schedule 2, page 82, line 32, at end insert—

“7 In section 8 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (claimant’s credibility), in subsection (9A)—

- (a) for the words from the beginning to “subsection (7) the” substitute “In this section a”;
- (b) after “acting” insert “—
 - (a) ”;
 - (c) at the end insert “, or
 - (b) in relation to—
 - (i) an expedited appeal within the meaning of section 82A of the Nationality, Immigration and Asylum Act 2002, or
 - (ii) an expedited related appeal within the meaning of section 23 of the Nationality and Borders Act 2021 that involves an asylum claim or a human rights claim.””

Member’s explanatory statement

This amendment is needed so as to make sure that section 8 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 applies to the Upper Tribunal when it is acting on an expedited appeal (a new procedure introduced by clause 22) or a expedited related appeal (see clause 23).

Mr David Davis			9
Mr Alistair Carmichael			
Mr Andrew Mitchell			
Caroline Nokes			
Bell Ribeiro-Addy			
Stephen Farry			
Claire Hanna	Paul Blomfield	Apsana Begum	
Ed Davey	Daisy Cooper	Christine Jardine	
Layla Moran	Wendy Chamberlain	Jamie Stone	
Sarah Olney	Tim Farron	Wera Hobhouse	
Munira Wilson	Sarah Green		

Schedule 3, page 82, line 36, 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).

Mr David Davis			10
Mr Alistair Carmichael			
Mr Andrew Mitchell			
Caroline Nokes			
Bell Ribeiro-Addy			
Paul Blomfield			
Apsana Begum	Ed Davey	Daisy Cooper	
Christine Jardine	Layla Moran	Wendy Chamberlain	
Jamie Stone	Sarah Olney	Tim Farron	
Wera Hobhouse	Munira Wilson	Sarah Green	

Schedule 3, page 84, line 1, leave out paragraph 4

Member's explanatory statement

This amendment is consequential on Amendment 9.

Secretary Priti Patel			94
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★ Schedule 4, page 88, line 1, at end insert—

“(1A)After subsection (2A) insert—

“(2B) The Secretary of State may reduce the amount of a penalty under this section if the responsible person can show that they took the actions specified in regulations under subsection (2C) in relation to the securing of the transporter against unauthorised access.

(2C) The Secretary of State must specify in regulations the actions that a responsible person must have taken in order to be eligible for a reduction in the amount of a penalty.

- (2D) The actions that may be specified in regulations under subsection (2C) include, in particular—
- (a) actions in relation to checking a person has not gained unauthorised access to the transporter,
 - (b) actions in relation to the reporting of any unauthorised access to the transporter, and
 - (c) actions in relation to the keeping of records to establish that other actions specified in the regulations have been taken.
- (2E) Before making regulations under subsection (2C), the Secretary of State must consult such persons as the Secretary of State considers appropriate.””

Member’s explanatory statement

This amendment provides the Secretary of State with a discretion to reduce the amount of a penalty for carrying a clandestine entrant where the responsible person can show that they took steps specified in regulations to secure their vehicle (see also Amendment 95 which removes this as a defence).

Secretary Priti Patel

95

- ★ Schedule 4, page 88, line 38, leave out sub-paragraphs (2) and (3) and insert—
- “(2) Omit subsection (3).
- (3) In subsection (3A)—
- (a) at the end of paragraph (b) insert “and”,
 - (b) for paragraph (c) substitute—
- “(c) the carrier had taken the actions specified in regulations under subsection (3B) in relation to the securing of the wagon against unauthorised access.”, and
- (c) omit paragraph (d).
- (3A) After subsection (3A) insert—
- “(3B) The Secretary of State must specify in regulations the actions to be taken for the purposes of subsection (3A)(c) in relation to the securing of a rail freight wagon against unauthorised access.
- (3C) The actions that may be specified in regulations under subsection (3B) include, in particular—
- (a) actions in relation to checking a person has not gained unauthorised access to the wagon,
 - (b) actions in relation to the reporting of any unauthorised access to the wagon, and
 - (c) actions in relation to the keeping of records to establish that other actions specified in the regulations have been taken.”

(3D) Before making regulations under subsection (3B), the Secretary of State must consult such persons as the Secretary of State considers appropriate.””

Member's explanatory statement

This amendment removes the defence to the offence of carrying a clandestine entrant that the carrier did not know about the clandestine and had taken specified actions to secure their vehicle (but this could reduce the penalty: see Amendment 94). It also makes minor changes to the defence available to train operators where it would be unsafe to stop the train on discovering a clandestine in a rail freight wagon.

Ms Harriet Harman
Joanna Cherry

96

- ★ Schedule 6, page 95, line 25, at end insert—

“(4) Authority for the purposes of subsection (3) may be given in relation to a foreign ship only if the Convention permits the exercise of Part A1 powers in relation to the ship.”

Member's explanatory statement

This would give effect to the recommendation of the Joint Committee on Human Rights to follow the drafting in the equivalent paragraphs of sections 28M, 28N and 28O of the Immigration Act, and ensure that enforcement action complies with international maritime law, similar to other enforcement action under Schedule 4A to the Immigration Act 1971.

Ms Harriet Harman
Joanna Cherry

97

- ★ Schedule 6, page 98, leave out lines 6 to 11 and insert—

- (a) every description of vessel (including a hovercraft) used in navigation, but
(b) does not include any vessel that is not seaworthy or where there could otherwise be a risk to the safety of life and well-being of those onboard.”

Member's explanatory statement

This would give effect to the recommendation of the Joint Committee on Human Rights to ensure that enforcement action such as pushbacks could not be taken against unseaworthy vessels such as dinghies.

Ms Harriet Harman
Joanna Cherry

98

- ★ Schedule 6, page 98, line 20, 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.

Ms Harriet Harman 99
Joanna Cherry

- ★ Schedule 6, page 102, line 31, at end insert—

“(2) Force 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 that the use of force in maritime enforcement powers cannot be used in a manner that would endanger lives at sea.

Mr Alistair Carmichael 4
Ed Davey
Daisy Cooper
Wendy Chamberlain
Tim Farron
Sarah Green
Wera Hobhouse
Sarah Olney
Bell Ribeiro-Addy
Apsana Begum

	Christine Jardine Jamie Stone Stephen Farry	Layla Moran Munira Wilson Claire Hanna
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Schedule 6, page 102, leave out lines 35 to 40

Member's explanatory statement

This amendment would remove the provision granting immigration and enforcement officers immunity from civil or criminal liability for anything done in the performance of their functions.

Ms Harriet Harman 100
Joanna Cherry

- ★ Schedule 6, page 102, line 36, leave out “criminal or”

Member's explanatory statement

This would give effect to the recommendation of the Joint Committee on Human Rights to remove the immunity from criminal proceedings for “relevant officers” for criminal offences committed whilst undertaking pushbacks or other maritime enforcement operations.

Ms Harriet Harman 101
Joanna Cherry

- ★ Schedule 6, page 102, line 36, leave out lines 36 to 40 and insert—

“J1 The Home Office, rather than an individual officer, is liable in civil proceedings for anything done in the purported performance of functions under this Part of this Schedule.”

Member's explanatory statement

This would give effect to the recommendation of the Joint Committee on Human Rights to ensure that the Home Office is liable, rather than immigration officers and enforcement officers being personally liable for civil wrongs that may occur whilst undertaking pushbacks or other maritime enforcement operations.

Order of the House

[20 July 2021]

That the following provisions shall apply to the Nationality and Borders Bill:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 4 November 2021.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and Third Reading

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

Other proceedings

7. Any other proceedings on the Bill may be programmed.
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