

# Illegal Migration Bill

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[AS AMENDED IN COMMITTEE]

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[AS AMENDED IN COMMITTEE]

A

**BILL**

TO

Make provision for and in connection with the removal from the United Kingdom of persons who have entered or arrived in breach of immigration control; to make provision about detention for immigration purposes; to make provision about unaccompanied children; to make provision about victims of slavery or human trafficking; to make provision about leave to enter or remain in the United Kingdom; to make provision about citizenship; to make provision about the inadmissibility of certain protection and certain human rights claims relating to immigration; to make provision about the maximum number of persons entering the United Kingdom annually using safe and legal routes; and for connected purposes.

**B**E IT ENACTED by the King’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Introduction*

**1 Introduction**

- (1) The purpose of this Act is to prevent and deter unlawful migration, and in particular migration by unsafe and illegal routes, by requiring the removal from the United Kingdom of certain persons who enter or arrive in the United Kingdom in breach of immigration control. 5
  
- (2) To advance that purpose, this Act— 10
  - (a) places a duty on the Secretary of State to make arrangements for the removal of certain persons who enter or arrive in the United Kingdom in breach of immigration control as soon as is reasonably practicable after their entry 15



or arrival, subject only to the exceptions specified by or under this Act;

- (b) provides for protection claims and certain human rights claims made by persons who meet the conditions for removal under this Act to be inadmissible; 5
- (c) provides for the detention of persons who are subject to removal under this Act; 10
- (d) provides for protections and entitlements to assistance and support which are available to victims of modern slavery or human trafficking not to apply to persons who are subject to removal under this Act; 15
- (e) prevents persons who meet the conditions for removal under this Act from being given leave to enter or remain in the United Kingdom; 20
- (f) prevents persons who meet the conditions for removal under this Act from settling in the United Kingdom or obtaining citizenship;

- (g) provides a procedure for persons who are subject to removal under this Act to challenge their removal by means of a suspensive claim (as defined in section 37); 5
    - (h) has the effect that all other legal challenges to the removal of persons under this Act do not suspend the duty to make arrangements for their removal. 10
- (3) Accordingly, and so far as it is possible to do so, provision made by or by virtue of this Act must be read and given effect so as to achieve the purpose mentioned in subsection (1). 15
- (4) In addition, this Act makes provision—
  - (a) about the period for which persons may be detained in immigration detention;
  - (b) for persons liable to deportation to be deemed to be a threat to public order for the purposes of the disapplication of the protections that apply to victims of modern slavery or human trafficking; 20

- (c) for asylum claims and human rights claims made by nationals of certain safe States to be inadmissible;
  - (d) for the maximum number of persons who may enter the United Kingdom annually using safe and legal routes to be specified in regulations which are subject to approval by Parliament. 5
- (5) Section 3 of the Human Rights Act 1998 (interpretation of legislation) does not apply in relation to provision made by or by virtue of this Act. 10

*Duty to make arrangements for removal*

**2 Duty to make arrangements for removal**

- (1) The Secretary of State must make arrangements for the removal of a person from the United Kingdom if the person meets the following four conditions. 15
- (2) The first condition is that—
  - (a) the person requires leave to enter the United Kingdom, but has entered the United Kingdom— 20

- (i) without leave to enter, or
    - (ii) with leave to enter that was obtained by means which included deception by any person,
  - (b) the person has entered the United Kingdom in breach of a deportation order, 5
  - (c) the person requires entry clearance under the immigration rules, but has arrived in the United Kingdom without a valid entry clearance, or 10
  - (d) the person is required under immigration rules not to travel to the United Kingdom without an electronic travel authorisation that is valid for that person’s journey to the United Kingdom, but has arrived in the United Kingdom without such an electronic travel authorisation. 15
- (3) The second condition is that the person entered or arrived in the United Kingdom as mentioned in subsection (2) on or after 7 March 2023. 20

- (4) The third condition is that, in entering or arriving as mentioned in subsection (2), the person did not come directly to the United Kingdom from a country in which the person’s life and liberty were threatened by reason of their race, religion, nationality, membership of a particular social group or political opinion. 5
- (5) For the purposes of subsection (4) a person is not to be taken to have come directly to the United Kingdom from a country in which their life and liberty were threatened as mentioned in that subsection if, in coming from such a country, they passed through or stopped in another country outside the United Kingdom where their life and liberty were not so threatened. 10  
15
- (6) The fourth condition is that the person requires leave to enter or remain in the United Kingdom but does not have it. 20
- (7) Any limited leave to enter or remain given under the immigration rules to a person within section 3(1) (unaccompanied children) is to be disregarded in

determining whether the person meets the condition in subsection (6).

(8) In this section—

“country” includes territory;

“deportation order” means an order under section 5 of the Immigration Act 1971; 5

“electronic travel authorisation” means an authorisation in electronic form to travel to the United Kingdom;

“entry clearance” has the meaning given by section 33(1) of the Immigration Act 1971. 10

(9) In this Act “immigration rules” means rules under section 3(2) of the Immigration Act 1971. 15

(10) Section 11(1) of the Immigration Act 1971 (person deemed not to enter the United Kingdom before disembarkation, while in controlled area or while under immigration control) applies for the purposes of this section as it applies for the purposes of that Act. 20

- (11) The only circumstances in which the duty in subsection (1) does not apply to a person who meets the four conditions in this section are where—
- (a) section 3(1) applies to the person (unaccompanied children), 5
  - (b) regulations under section 3(5) (other exceptions) apply to the person, or
  - (c) section 61 or 62 of the Nationality and Borders Act 2022 (victims of slavery and human trafficking) apply in relation to the person, so far as they have effect by virtue of section 21 of this Act (modern slavery provisions relating to removal and leave). 10  
15

### **3 Unaccompanied children etc**

- (1) The duty in section 2(1) does not require the Secretary of State to make arrangements for the removal of a person from the United Kingdom at a time when the person is an unaccompanied child. 20
- (2) The Secretary of State may make arrangements for the removal of a person

from the United Kingdom at a time when the person is an unaccompanied child.

- (3) For the purposes of this Act a person (“C”) is an “unaccompanied child” if—
  - (a) C meets the four conditions in section 2, 5
  - (b) C is under the age of 18, and
  - (c) at the relevant time no individual (whether or not a parent of C) who was aged 18 or over had care of C. 10
- (4) In subsection (3) “the relevant time” means the time of C’s entry or arrival in the United Kingdom by virtue of which the duty in section 2(1) would apply in relation to C apart from this section. 15
- (5) The Secretary of State may by regulations make provision for other exceptions from the duty in section 2(1).
- (6) Regulations under subsection (5) may make provision for this Act or any other enactment to have effect with modifications in relation to a person to whom an exception applies. 20



- (7) In subsection (6) “enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978.

**4 Disregard of certain claims, applications etc** 5

- (1) The duty in section 2(1) or the power in section 3(2) applies in relation to a person who meets the four conditions in section 2 regardless of whether— 10
  - (a) the person makes a protection claim,
  - (b) the person makes a human rights claim,
  - (c) the person claims to be a victim of slavery or a victim of human trafficking as defined by regulations made by the Secretary of State under section 69 of the Nationality and Borders Act 2022, or 15
  - (d) the person makes an application for judicial review in relation to their removal from the United Kingdom under this Act. 20

- (2) If a person who meets the four conditions in section 2 makes a protection claim, or a human rights claim within subsection (5), the Secretary of State must declare the claim inadmissible (and see section 39(4) in relation to human rights claims not within subsection (5)). 5
- (3) A protection claim or a human rights claim declared inadmissible under subsection (2) cannot be considered under the immigration rules. 10
- (4) A declaration under subsection (2) that a protection claim or a human rights claim is inadmissible is not a decision to refuse the claim and, accordingly, no right of appeal under section 82(1)(a) or (b) of the Nationality, Immigration and Asylum Act 2002 (appeal against refusal of protection claim or human rights claim) arises. 15
- (5) A human rights claim is within this subsection if it is a claim that removal of a person from the United Kingdom to— 20

  - (a) a country of which the person is a national or citizen, or

(b) a country or territory in which the person has obtained a passport or other document of identity,

would be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Convention).

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(6) In this Act—

“application for judicial review” means—

(a) in England and Wales and Northern Ireland, an application to the High Court for judicial review, and

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(b) in Scotland, an application to the supervisory jurisdiction of the Court of Session;

“human rights claim” has the meaning given by section 113(1) of the Nationality, Immigration and Asylum Act 2002;

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“protection claim” has the meaning given by section 82(2) of that Act.

(7) In this section, references to a claim include a claim—

20

- (a) that was made on or after  
7 March 2023, and
- (b) that has not been decided by the  
Secretary of State on the date on  
which this section comes into force. 5

**5 Removal for the purposes of section 2 or 3**

- (1) Where the Secretary of State is required  
by section 2(1) to make arrangements for  
the removal of a person from the United  
Kingdom, the Secretary of State must 10  
ensure that the arrangements are made—
  - (a) as soon as is reasonably practicable  
after the person’s entry or arrival  
in the United Kingdom, or
  - (b) where the person has ceased to 15  
be an unaccompanied child, as  
soon as is reasonably practicable  
after the person has ceased to  
be an unaccompanied child.
- (2) The following provisions of this 20  
section apply where—

- (a) the Secretary of State is required by section 2(1) to make arrangements for the removal of a person (“P”) from the United Kingdom, or
  - (b) the Secretary of State may make arrangements for the removal of a person (“P”) from the United Kingdom under section 3(2). 5
- (3) Subject as follows, P may be removed to—
  - (a) a country of which P is a national or citizen, 10
  - (b) a country or territory in which P has obtained a passport or other document of identity,
  - (c) a country or territory in which P embarked for the United Kingdom, or 15
  - (d) a country or territory to which there is reason to believe P will be admitted.
- (4) If P is a national of a country listed in section 80AA(1) of the Nationality, Immigration and Asylum Act 2002 (inadmissibility of certain asylum and human rights claims: safe States), P may 20

not be removed to a country or territory within subsection (3)(a) or (b) if—

(a) P makes a protection claim or a human rights claim, and

(b) the Secretary of State considers that there are exceptional circumstances which prevent P’s removal to that country. 5

(5) For the purposes of subsection (4), exceptional circumstances include— 10

(a) in a case where P is a national of a country that is a signatory to the Human Rights Convention, where that country is derogating from any of its obligations under the Human Rights Convention in accordance with Article 15 of the Convention; 15

(b) in a case where P is a national of a member State, where the member State is the subject of a proposal initiated in accordance with the procedure referred to in Article 7(1) of the Treaty on European Union and— 20

- (i) the proposal has yet to be determined by the Council of the European Union or (as the case may be) the European Council,
- (ii) the Council of the European Union has determined, in accordance with Article 7(1), that there is a clear risk of a serious breach by the member State of the values referred to in Article 2 of the Treaty, or
- (iii) the European Council has determined, in accordance with Article 7(2), the existence of a serious and persistent breach by the member State of the values referred to in Article 2 of the Treaty.

- (6) Subsection (7) applies if—
  - (a) P is a national of a country listed in section 80AA(1) of the Nationality, Immigration and Asylum Act 2002, and
  - (b) P makes a protection claim or a human rights claim.

- (7) P may be removed to a country or territory within subsection (3)(c) or (d) only if it is listed in the Schedule.
- (8) Subsection (9) applies if—
  - (a) P is not a national of a country listed in section 80AA(1) of the Nationality, Immigration and Asylum Act 2002, and 5
  - (b) P makes a protection claim or a human rights claim.
- (9) P may not be removed to a country or territory within subsection (3)(a) or (b); and P may be removed to a country or territory within subsection (3)(c) or (d) only if it is listed in the Schedule. 10
- (10) Where a country or territory is listed in the Schedule in respect of a description of person, subsection (7) or (9) has effect in relation to P and that country or territory only if the Secretary of State is satisfied that P is within that description. 15
- (11) Where a part of a country or territory is listed in the Schedule, references to a country or territory in subsections 20



(7), (9) and (10) have effect in relation to that country or territory as if they were references to that part.

- (12) In this section references to a claim include a claim— 5
- (a) that was made on or after 7 March 2023, and
- (b) that has not been decided by the Secretary of State on the date on which this section comes into force. 10
- (13) In this Act “the Human Rights Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950, as it has effect for the time being in relation to the United Kingdom. 15
- (14) Where the Secretary of State exercises the power in subsection (2) of section 80AA to amend the list of States in subsection (1) of that section so as to add a State, subsections (4), (6) and (7) apply to a person who is a national of that State if— 20

- (a) they have made a protection claim or a human rights claim on or after 7 March 2023, and
- (b) the claim has not been decided by the Secretary of State on the date on which the amendment comes into force. 5

## 6 Powers to amend Schedule

- (1) The Secretary of State may by regulations amend the Schedule to add a country or territory, or part of a country or territory, if satisfied that— 10
  - (a) there is in general in that country or territory, or part, no serious risk of persecution, and
  - (b) removal of persons to that country or territory, or part, pursuant to the duty in section 2(1) will not in general contravene the United Kingdom’s obligations under the Human Rights Convention. 15 20
- (2) If the Secretary of State is satisfied that the statements in subsection (1)(a) and (b) are true of a country or territory, or

part of a country or territory, in relation to a description of person, regulations under subsection (1) may add the country or territory or part to the Schedule in respect of that description of person.

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(3) A description for the purposes of subsection (2) may refer to—

(a) sex,

(b) language,

(c) race,

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(d) religion,

(e) nationality,

(f) membership of a social or other group,

(g) political opinion, or

(h) any other attribute or circumstance that the Secretary of State thinks appropriate.

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(4) In deciding whether the statements in subsection (1)(a) and (b) are true of a country or territory, or part of a country or territory, the Secretary of State—

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- (a) must have regard to all the circumstances of the country or territory, or part (including its laws and how they are applied), and
  - (b) must have regard to information from any appropriate source (including member States and international organisations). 5
- (5) The Secretary of State may by regulations amend the Schedule to omit a country or territory, or part of a country or territory; and the omission may be— 10
  - (a) general, or
  - (b) have the effect that the country or territory, or part, remains listed in the Schedule in respect of a description of person. 15

## **7 Further provisions about removal**

- (1) This section applies where—
  - (a) the Secretary of State is required by section 2(1) to make arrangements 20

for the removal of a person (“P”) from the United Kingdom, or

(b) the Secretary of State may make arrangements for the removal of a person (“P”) from the United Kingdom under section 3(2).

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(2) P may not be removed from the United Kingdom unless—

(a) the Secretary of State or an immigration officer has given a notice in writing to P stating—

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- (i) that P is to be removed, and
- (ii) the country or territory to which P is to be removed, and

(b) the claim period (as defined for the purposes of section 40 (serious harm suspensive claims) and 41 (factual suspensive claims)) has expired.

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(3) A notice under subsection (2) must—

(a) set out the periods mentioned in subsection (2)(b), and

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- (b) contain details of P’s right to make a suspensive claim under section 40 or 41 (suspensive claims).
- (4) Subject to section 5, the Secretary of State may give directions to the owners or agents of a ship, aircraft, train or vehicle requiring them to make arrangements for P’s removal from the United Kingdom in any ship, aircraft, train or vehicle specified or indicated in the direction to a country or territory so specified. 5  
10
- (5) Where the Secretary of State may give directions for P’s removal in accordance with subsection (4) the Secretary of State may instead give directions for P’s removal in accordance with arrangements to be made by the Secretary of State to any country or territory to which P could be removed under subsection (4). 15
- (6) The costs of complying with any directions given under this section must be defrayed by the Secretary of State. 20
- (7) P may be placed, under the authority of an immigration officer or the Secretary of State,

on board any ship, aircraft, train or vehicle in which P is to be removed in accordance with directions under this section.

- (8) Where subsection (7) applies, the captain of the ship or aircraft, the train manager of the train or the driver of the vehicle— 5

  - (a) must, if so required by an immigration officer or the Secretary of State, prevent P from disembarking in the United Kingdom or before the directions for P’s removal have been fulfilled, and 10
  - (b) may for that purpose detain P in custody on board the ship, aircraft, train or vehicle.

- (9) A person is deemed to be in legal custody at any time when the person is detained under subsection (8)(b). 15
- (10) Paragraph 17A of Schedule 2 to the Immigration Act 1971 (period of detention) applies in relation to detention under subsection (8)(b) on board a ship, aircraft, train or vehicle as it applies in relation 20

to detention on board a ship or aircraft under paragraph 16(4) of that Schedule.

(11) In this section a reference to an “owner” of a ship, aircraft, train or vehicle includes a reference to any person who jointly owns it. 5

(12) Where—

(a) P is to be removed to a country or territory, and

(b) only part of that country or territory is listed in the Schedule, 10

references in this section to the country or territory are to that part.

(13) In this Act “immigration officer” means a person appointed by the Secretary of State as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971. 15

## 8 Removal of family members

(1) Where directions are given in respect of a person (“P”) under subsection (4) or (5) of section 7, directions to the same effect may be given under that subsection in respect of a member of P’s family who meets the 20



following three conditions, provided that the Secretary of State or an immigration officer has given the family member a notice of removal under section 7(2).

- (2) The first condition is that the family member is—
  - (a) P’s partner,
  - (b) P’s child, or a child living in the same household as P in circumstances where P has care of the child, 10
  - (c) in a case where P is a child, P’s parent, or
  - (d) an adult dependent relative of P.
- (3) The second condition is that the family member does not have leave to enter or remain in the United Kingdom. 15
- (4) The third condition is that the family member—
  - (a) is not a British citizen or an Irish citizen, and 20

(b) does not have the right of abode in the United Kingdom within the meaning of section 2 of the Immigration Act 1971.

(5) Subsections (6) to (10) of section 7 apply in relation to directions under this section, and the persons subject to those directions, as they apply in relation to directions under that section and the persons subject to those directions. 5

(6) Subsection (7) applies in relation to a person who— 10

(a) is a member of the family of a person who meets the four conditions in section 2, and

(b) meets the three conditions in subsections (2) to (4) of this section. 15

(7) The following provisions apply in relation to a person to whom this subsection applies, and the power to remove such a person, as they apply to a person who meets the four conditions in section 2 and the duty to remove such a person— 20

- (a) section 4 (disregard of certain claims, applications etc);
- (b) section 7(2) and (3) (notice of removal);
- (c) sections 21 to 24 (disapplication of modern slavery provisions), 5  
 subject to section 25 (suspension and revival of sections 21 to 24).

(8) In this section—

“child” means a person who is under the age of 18; 10

“partner”, in relation to a person (“A”), means—

- (a) A’s spouse,
- (b) A’s civil partner, or
- (c) A’s unmarried partner (“B”), 15  
 where A and B have been living together in a relationship similar to a marriage or a civil partnership for at least two years.

**9 Support where asylum claim inadmissible**

- (1) The Immigration and Asylum Act 1999 is amended in accordance with subsections (2) and (3).
- (2) If paragraph 1 of Schedule 11 to the Immigration Act 2016, which repeals section 4 of the Immigration and Asylum Act 1999, is not yet in force on the day this section comes into force, in subsection (2)(b) of that section, after “the Nationality, Immigration and Asylum Act 2002” insert “and section 4 of the Illegal Migration Act 2023”. 5  
10
- (3) In section 94 (interpretation of Part 6: support for asylum-seekers etc)—
  - (a) in subsection (4A), after “the Nationality, Immigration and Asylum Act 2002” insert “or section 4 of the Illegal Migration Act 2023”, 15
  - (b) in subsection (4B), for “of that Act” substitute “of the Nationality, Immigration and Asylum Act 2002”, and 20
  - (c) in subsection (4C), for “of that Act” substitute “of the Nationality,

Immigration and Asylum Act 2002 or under section 4 of the Illegal Migration Act 2023”.

- (4) The Nationality, Immigration and Asylum Act 2002 is amended as follows. 5
- (5) In section 18(1ZA) (asylum seeker: definition), after “section 80A or 80B” insert “of this Act or section 4 of the Illegal Migration Act 2023”.
- (6) In section 21 (sections 17 to 20: supplementary), in subsection (3)(a), after “section 80A or 80B” insert “of this Act or section 4 of the Illegal Migration Act 2023”. 10
- (7) In paragraph 17(2A) of Schedule 3 (withholding and withdrawal of support: interpretation), after “section 80A or 80B” insert “of this Act or section 4 of the Illegal Migration Act 2023”. 15

**10 Other consequential amendments relating to removal**

- (1) In Schedule 2 to the Immigration Act 1971 (administrative provisions as to control on entry etc), after paragraph 11 insert— 5
  - “11A Paragraphs 8 to 10 do not apply to a person if—
    - (a) the Secretary of State is required by section 2(1) of the Illegal Migration Act 2023 to make arrangements for the removal of the person from the United Kingdom, or 10
    - (b) the Secretary of State may make arrangements for the removal of the person from the United Kingdom under section 3(2) of that Act, 15

but see section 7 of that Act.”
- (2) The Immigration and Asylum Act 1999 is amended in accordance with subsections (3) and (4). 20

(3) In section 10 (removal of persons unlawfully in the United Kingdom), after subsection (11) insert—

“(12) This section does not apply to a person if—

5

(a) the Secretary of State is required by section 2(1) of the Illegal Migration Act 2023 to make arrangements for the removal of the person from the United Kingdom, or

10

(b) the Secretary of State may make arrangements for the removal of the person from the United Kingdom under section 3(2) of that Act,

15

but see section 7 of that Act.”

(4) In section 156(1)(b) (arrangements for the provision of escorts and custody), for “or this Act” substitute “, this Act or the Illegal Migration Act 2023”.

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(5) In section 80A of the Nationality, Immigration and Asylum Act 2002

(claims by nationals of listed safe States), after subsection (5) insert—

“(5A) This section does not apply to—

(a) a person who meets the four conditions in section 2 of the Illegal Migration Act 2023 (duty to make arrangements for removal), or

(b) a person who—

- (i) is a member of the family of a person who meets those four conditions, and
- (ii) meets the three conditions in section 8 of that Act (removal of family members).”

(6) In Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (removal of asylum seeker to safe country)—

(a) in paragraph 3, after subparagraph (2) insert—



- “(3) This paragraph does not apply for the purposes of determining whether a person who has made an asylum claim or a human rights claim may be removed from the United Kingdom to a State of which the person is not a national or citizen if—
- 5
- (a) the Secretary of State is required by section 2(1) of the Illegal Migration Act 2023 to make arrangements for the removal of the person from the United Kingdom, or
- 10
- (b) the Secretary of State may make arrangements for the removal of the person from the United Kingdom under section 3(2) of that Act,
- 15
- but see section 5 of that Act.”;
- (b) in paragraph 8, after subparagraph (2) insert—
- “(3) This paragraph does not apply for the purposes of determining whether a person who has made an asylum claim may be removed from the United
- 20

Kingdom to a State of which the person is not a national or citizen if—

- (a) the Secretary of State is required by section 2(1) of the Illegal Migration Act 2023 to make arrangements for the removal of the person from the United Kingdom, or 5
- (b) the Secretary of State may make arrangements for the removal of the person from the United Kingdom under section 3(2) of that Act, 10

but see section 5 of that Act.”;

- (c) in paragraph 13, after subparagraph (2) insert—

“(3) This paragraph does not apply for the purposes of determining whether a person who has made an asylum claim may be removed from the United Kingdom to a State of which the person is not a national or citizen if— 15

- (a) the Secretary of State is required by section 2(1) of the Illegal Migration Act 2023 to make arrangements 20

for the removal of the person  
 from the United Kingdom, or  
 (b) the Secretary of State may make  
 arrangements for the removal of the  
 person from the United Kingdom 5  
 under section 3(2) of that Act,  
 but see section 5 of that Act.”

*Detention and bail*

**11 Powers of detention**

- (1) Schedule 2 to the Immigration Act 1971 10  
 (administrative provisions as to control  
 on entry etc) is amended in accordance  
 with subsections (2) and (3).
- (2) After paragraph 16(2B), insert—
- “(2C) A person may be detained under the 15  
 authority of an immigration officer—
- (a) if the immigration officer suspects  
 that the person meets the four  
 conditions in section 2 of the Illegal  
 Migration Act 2023 (conditions 20  
 relating to removal from the United

- Kingdom), pending a decision as to whether the conditions are met;
- (b) if the immigration officer suspects that the Secretary of State has a duty to make arrangements for the removal of the person from the United Kingdom under that section, pending a decision as to whether the duty applies; 5
- (c) if the Secretary of State has such a duty, pending the person’s removal from the United Kingdom in accordance with that section; 10
- (d) if the person meets those four conditions but the Secretary of State does not have such a duty by virtue of subsection (1) of section 3 of that Act— 15
- (i) pending a decision to give limited leave to enter or remain under the immigration rules to the person for the purposes of that subsection, 20

- (ii) pending a decision to give leave under section 8AA of the Immigration Act 1971 (discretionary leave for persons generally ineligible for leave etc), 5
  - (iii) pending a decision to give leave under section 65(2) of the Nationality and Borders Act 2022 (leave to remain for victims of slavery or human trafficking), or 10
  - (iv) pending a decision to remove the person under subsection (2) of section 3 of the Illegal Migration Act 2023 (power to remove unaccompanied children), and pending their removal in accordance with that subsection. 15 20
- (2D) A person (“F”) may be detained under the authority of an immigration officer—

- (a) if the immigration officer suspects that F is a relevant family member in relation to a person (“P”) who meets the four conditions in section 2 of the Illegal Migration Act 2023 (conditions relating to removal from the United Kingdom)—

  - (i) pending a decision as to whether P meets those four conditions, and
  - (ii) pending a decision as to whether F meets the three conditions in section 8 of that Act (removal of family members);
- (b) if F is a relevant family member in relation to P and the immigration officer suspects that the Secretary of State has a duty to make arrangements for the removal of P from the United Kingdom under section 2 of the Illegal Migration Act 2023, pending a decision as to whether the duty applies;

- (c) if F is a relevant family member in relation to P and the duty referred to in paragraph (b) applies in relation to P, pending the giving of directions for P’s removal under section 7(4) or (5) of the Illegal Migration Act 2023; 5
- (d) if F is a relevant family member in relation to P and directions for P’s removal have been given under section 7(4) or (5) of that Act, pending a decision as to whether to give directions in respect of F under section 8(1) of that Act; 10
- (e) if directions are given in respect of F under section 8(1) of the Illegal Migration Act 2023, pending F’s removal in accordance with that section; 15
- (f) if F is a relevant family member in relation to P but the duty referred to in paragraph (b) does not apply in relation to P by virtue of section 3(1) of that Act— 20

- (i) pending a decision to give leave to P as mentioned in sub-paragraph (2C) (d)(i), (ii) or (iii), or
- (ii) pending a decision to remove P as mentioned in sub-paragraph (2C) (d)(iv), and pending the giving of directions for P’s removal under section 7(4) or (5) of that Act. 5  
10
  
- (2E) For the purposes of sub-paragraph (2D), a person is a “relevant family member” in relation to P if they are a member of P’s family who meets the three conditions in section 8 of the Illegal Migration Act 2023. 15
  
- (2F) A person who may be detained under sub-paragraph (2C) or (2D) may no longer be detained under sub-paragraph (1), (1A), (1B), (2), (3) or (4). 20
  
- (2G) A person (of any age) detained under sub-paragraph (2C) or (2D) may be



detained in any place that the Secretary of State considers appropriate.”

- (3) In the italic heading before paragraph 16, at the end insert “, or for the purposes of the Illegal Migration Act 2023”. 5
  
- (4) In section 147 of the Immigration and Asylum Act 1999 (interpretation of Part 8 of that Act), in the definition of “pre-departure accommodation”—
  - (a) in the words before paragraph (a), omit “for a period of”; 10
  - (b) at the beginning of paragraph (a), insert “for a period of”;
  - (c) omit the “or” at the end of paragraph (a); 15
  - (d) at the beginning of paragraph (b), insert “for a period of”;
  - (e) at the end of paragraph (b), insert “, or
    - (c) for any period, where the detention is under— 20
      - (i) paragraph 16(2C) or (2D) of Schedule 2 to

- the Immigration Act 1971  
(detention under authority  
of immigration officer for  
the purposes of the Illegal  
Migration Act 2023), or 5
- (ii) section 62(2A) or (2B)  
of the Nationality,  
Immigration and Asylum  
Act 2002 (detention  
under authority of 10  
Secretary of State for the  
purposes of the Illegal  
Migration Act 2023);”.
- (5) Section 62 of the Nationality, Immigration  
and Asylum Act 2002 (detention by 15  
Secretary of State) is amended in  
accordance with subsections (6) to (10).
- (6) After subsection (2), insert—
- “(2A) A person may be detained under the  
authority of the Secretary of State— 20
- (a) if the Secretary of State  
suspects that the person meets  
the four conditions in section 2

of the Illegal Migration Act 2023  
 (conditions relating to removal  
 from the United Kingdom),  
 pending a decision as to  
 whether the conditions are met;

5

(b) if the Secretary of State  
 suspects that the Secretary  
 of State has a duty to make  
 arrangements for the removal  
 of the person from the United  
 Kingdom under that section,  
 pending a decision as to  
 whether the duty applies;

10

(c) if the Secretary of State  
 has such a duty, pending  
 the person’s removal from  
 the United Kingdom in  
 accordance with that section;

15

(d) if the person meets those four  
 conditions but the Secretary  
 of State does not have such  
 a duty by virtue of subsection  
 (1) of section 3 of that Act—

20

- (i) pending a decision to give limited leave under the immigration rules to the person for the purposes of that subsection, 5
- (ii) pending a decision to give leave under section 8AA of the Immigration Act 1971 (discretionary leave for persons generally ineligible for leave etc), 10
- (iii) pending a decision to give leave under section 65(2) of the Nationality and Borders Act 2022 (leave to remain for victims of slavery or human trafficking), or 15
- (iv) pending a decision to remove the person under subsection (2) of section 3 of the Illegal Migration Act 2023 (power to remove unaccompanied children), 20

and pending their removal in accordance with that subsection.

- (2B) A person (“F”) may be detained under the authority of the Secretary of State—
  - (a) if the Secretary of State suspects that F is a relevant family member in relation to a person (“P”) who meets the four conditions in section 2 of the Illegal Migration Act 2023 (conditions relating to removal from the United Kingdom)—
    - (i) pending a decision as to whether P meets those four conditions, and
    - (ii) pending a decision as to whether F meets the three conditions in section 8 of that Act (removal of family members);
  - (b) if F is a relevant family member in relation to P and the

Secretary of State suspects that the Secretary of State has a duty to make arrangements for the removal of P from the United Kingdom under section 2 of the Illegal Migration Act 2023, pending a decision as to whether the duty applies;

5

(c) if F is a relevant family member in relation to P and the duty referred to in paragraph (b) applies in relation to P, pending the giving of directions for P’s removal under section 7(4) or (5) of the Illegal Migration Act 2023;

10

15

(d) if F is a relevant family member in relation to P and directions for P’s removal have been given under section 7(4) or (5) of that Act, pending a decision as to whether to give directions in respect of F under section 8(1) of that Act;

20

- (e) if directions are given in respect of F under section 8(1) of the Illegal Migration Act 2023, pending F’s removal in accordance with that section; 5
- (f) if F is a relevant family member in relation to P but the duty referred to in paragraph (b) does not apply in relation to P by virtue of section 3(1) of that Act— 10
  - (i) pending a decision to give leave to P as mentioned in subsection (2A)(d)(i), (ii) or (iii), or 15
  - (ii) pending a decision to remove P as mentioned in subsection (2A)(d)(iv), and pending the giving of directions for P’s removal under section 7(4) or (5) of that Act. 20
- (2C) For the purposes of subsection (2B), a person is a “relevant family

member” in relation to P if they are a member of P’s family who meets the three conditions in section 8 of the Illegal Migration Act 2023.

- (2D) A person who may be detained under subsection (2A) or (2B) may no longer be detained under subsection (1) or (2). 5
  
- (2E) A person (of any age) detained under subsection (2A) or (2B) may be detained in any place that the Secretary of State considers appropriate.” 10
  
- (7) In subsection (3), in the opening words, for “that Act” substitute “the Immigration Act 1971”. 15
  
- (8) After subsection (3) insert—
  - “(3A) But a provision of Schedule 2 to the Immigration Act 1971 which is expressed to relate only to a person who is detained or liable to detention under sub-paragraph (2) of paragraph 16 of that Schedule does not apply 20



to a person who is detained or liable to detention under subsection (2A) or (2B) of this section.”

(9) In subsection (7), for “this section” substitute “subsection (1) or (2)”. 5

(10) In subsection (7A), for “this section” substitute “subsection (1) or (2)”.

(11) In section 60(8) of Immigration Act 2016 (limitation on detention of pregnant women), in paragraph (c) of the definition of “relevant detention power”, after “section 62” insert “(1) or (2)”. 10

## **12 Period for which persons may be detained**

(1) In Schedule 2 to the Immigration Act 1971 (administrative provisions as to control on entry etc.)— 15

(a) in paragraph 16 (powers to detain), after sub-paragraph (4) insert—

“(5) See paragraph 17A for provision about the period for which persons may be detained under this paragraph.”; 20

(b) after paragraph 17 insert—

- “17A (1) A person liable to be detained under paragraph 16 may be detained for such period as, in the opinion of the Secretary of State, is reasonably necessary to enable the examination or removal to be carried out, the decision to be made, or the directions to be given. 5
- (2) Sub-paragraphs (1) to (2), (2C), (2D), (3) and (4) of paragraph 16 apply regardless of whether there is anything that for the time being prevents the examination or removal from being carried out, the decision from being made, or the directions from being given. 10 15
- (3) Sub-paragraphs (1) and (2) are subject to—
- (a) paragraph 16(1B) (power to detain for examination for period not exceeding 12 hours); 20

- (b) paragraph 16(2A) and paragraph 18B (limitation on detention of unaccompanied children);
    - (c) paragraph 16(2B) and section 60 of the Immigration Act 2016 (limitation on detention of pregnant women). 5
  - (4) Sub-paragraph (5) applies if, while a person is detained under paragraph 16, the Secretary of State no longer considers that the examination or removal will be carried out, the decision will be made, or the directions will be given within a reasonable period of time. 10
  - (5) The person may be detained under paragraph 16 for such further period as, in the opinion of the Secretary of State, is reasonably necessary to enable such arrangements to be made for the person’s release as the Secretary of State considers to be appropriate.” 15  
20
- (2) In paragraph 2 of Schedule 3 to the Immigration Act 1971 (detention or control pending deportation)—

(a) after sub-paragraph (3) insert—

- “(3A) A person liable to be detained under sub-paragraph (1), (2) or (3) may be detained for such period as, in the opinion of the Secretary of State, is reasonably necessary to enable the deportation order to be made, or the removal to be carried out. 5
- (3B) Sub-paragraphs (1) to (3) apply regardless of whether there is anything that for the time being prevents the deportation order from being made or the removal from being carried out. 10
- (3C) Sub-paragraphs (3A) and (3B) are subject to sub-paragraph (4ZA) and section 60 of the Immigration Act 2016 (limitation on detention of pregnant women). 15
- (3D) Sub-paragraph (3E) applies if, while a person is detained under sub-paragraph (1), (2) or (3), the Secretary of State no longer considers that the deportation order will be made 20

or the removal will be carried out within a reasonable period of time.

- (3E) The person may be detained under that sub-paragraph for such further period as, in the opinion of the Secretary of State, is reasonably necessary to enable such arrangements to be made for the person’s release as the Secretary of State considers to be appropriate.”; 5 10

- (b) in sub-paragraph (4), for “17 to 18A” substitute “17, 18, 18A”.

- (3) In section 10(9) of the Immigration and Asylum Act 1999 (application of Schedule 2 to the Immigration Act 1971 in relation to persons unlawfully in the United Kingdom)— 15

- (a) in paragraph (b), for “16(2) to (4)” substitute “16(2) to (2B), (3) and (4)”;

- (b) after paragraph (c) insert— 20

- “(ca) paragraph 17A (period for which persons may be detained);”.

- (4) In section 62 of the Nationality, Immigration and Asylum Act 2002 (detention by Secretary of State)—
  - (a) after subsection (2E) (inserted by section 11(6)), insert— 5
    - “(2F) A person liable to be detained under this section may be detained for such period as, in the opinion of the Secretary of State, is reasonably necessary to enable the decision to be made, the removal or examination to be carried out, or the directions to be given. 10
    - (2G) Subsections (1) to (2B) apply regardless of whether there is anything that for the time being prevents the decision from being made, the removal or examination from being carried out, or the directions from being given. 15
    - (2H) Subsections (2F) and (2G) are subject to— 20

- (a) paragraph 18B of Schedule 2 to the Immigration Act 1971 (limitation on detention of unaccompanied children), as applied by subsection (3); 5
  - (b) subsection (7A) and section 60 of the Immigration Act 2016 (limitation on detention of pregnant women).
- (2I) Subsection (2J) applies if, while a person is detained under this section, the Secretary of State no longer considers that the decision will be made, the removal or examination will be carried out, or the directions will be given within a reasonable period of time. 10 15
- (2J) The person may be detained under this section for such further period as, in the opinion of the Secretary of State, is reasonably necessary to enable such arrangements to be made for the person's 20

release as the Secretary of State considers to be appropriate.”;

(b) in subsection (3), in the opening words, after “under that Schedule” insert “, other than paragraph 17A,”. 5

(5) In section 36 of the UK Borders Act 2007 (detention relating to deportation), after subsection (1) insert—

“(1A) A person liable to be detained under subsection (1) may be detained for such period as, in the opinion of the Secretary of State, is reasonably necessary to enable the decision as to whether section 32(5) applies, or the deportation order, to be made. 10 15

(1B) Subsection (1) applies regardless of whether there is anything that for the time being prevents the decision or the deportation order from being made. 20

(1C) Subsections (1A) and (1B) are subject to subsection (2A) and section 60 of



the Immigration Act 2016 (limitation on detention of pregnant women).

(1D) Subsection (1E) applies if, while a person is detained under subsection (1), the Secretary of State no longer considers that the decision or the deportation order will be made within a reasonable period of time. 5

(1E) The person may be detained under subsection (1) for such further period as, in the opinion of the Secretary of State, is reasonably necessary to enable such arrangements to be made for the person’s release as the Secretary of State considers to be appropriate.” 10 15

(6) In regulation 32 of the Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052) as it continues to have effect following its revocation (person subject to removal), for paragraph (1) substitute— 20

“(1) If there are reasonable grounds for suspecting that a person is

someone who may be removed from the United Kingdom under regulation 23(6)(b), that person may be detained under the authority of the Secretary of State pending a decision whether or not to remove the person under that regulation.

5

(2) A person liable to be detained under paragraph (1) may be detained for such period as, in the opinion of the Secretary of State, is reasonably necessary to enable the decision to be made.

10

(3) Paragraph (1) applies regardless of whether there is anything that for the time being prevents the decision from being made.

15

(4) Paragraph (5) applies if, while a person is detained under paragraph (1), the Secretary of State no longer considers that the decision will be made within a reasonable period of time.

20

(5) The person may be detained under

paragraph (1) for such further period as, in the opinion of the Secretary of State, is reasonably necessary to enable such arrangements to be made for the person’s release as the Secretary of State considers to be appropriate.

5

- (6) Paragraphs 17, 18 and 18A of Schedule 2 to the 1971 Act apply in relation to detention under paragraph (1) as they apply in relation to detention under paragraph 16 of that Schedule.”

10

**13 Powers to grant immigration bail**

- (1) Schedule 10 to the Immigration Act 2016 (immigration bail) is amended as follows.

15

- (2) In paragraph 1 (power to grant immigration bail)—

- (a) in sub-paragraph (1)(a), for “or (2)” substitute “, (2), (2C) or (2D)”,

20

- (b) in sub-paragraph (3)(a), for “or (2)” substitute “, (2), (2C) or (2D)”, and

(c) in sub-paragraph (9), after “bail)” insert “and paragraph 3A (legal proceedings)”.

(3) In paragraph 3 (exercise of power to grant immigration bail)— 5

(a) in sub-paragraph (2), after paragraph (e) insert—

“(eza) whether the Secretary of State has a duty to make arrangements for the removal of the person from the United Kingdom under section 2(1) of the Illegal Migration Act 2023, 10

(ezb) whether the Secretary of State has a duty to make arrangements for the removal of another person (“P”) under that section, where the person whose immigration bail is being considered is a member of P’s family and meets the three conditions in section 8 of the Illegal 15  
20

Migration Act 2023 (power to remove family member),”;

(b) after sub-paragraph (3) insert —

A person who is being detained under—

5

“(3A) (a) paragraph 16(2C) or (2D) of that Schedule, or

(b) section 62(2A) or (2B) of the Nationality, Immigration and Asylum Act 2002,

10

must not be granted immigration bail by the First-tier Tribunal until after the end of the period of 28 days beginning with the date on which the person’s detention under that provision began.”

15

(4) After paragraph 3 insert—

*“Legal proceedings*

3A(1) This paragraph applies in relation to—

(a) a decision to detain a person under the authority of an immigration officer under paragraph 16(2C)

20

or (2D) of Schedule 2 to the  
Immigration Act 1971,

- (b) a decision to detain a person under the authority of the Secretary of State under section 62(2A) or (2B) of the Nationality, Immigration and Asylum Act 2002, and 5
  - (c) where a person is being detained under a provision mentioned in paragraph (a) or (b), a decision of the Secretary of State to refuse to grant immigration bail to the person. 10
- (2) In relation to detention during the relevant period, the decision is final and is not liable to be questioned or set aside in any court. 15
- (3) In particular—
- (a) the powers of the immigration officer or the Secretary of State (as the case may be) are not to be regarded as having been exceeded by reason of any error made in reaching the decision; 20

- (b) the supervisory jurisdiction does not extend to, and no application or petition for judicial review may be made or brought in relation to, the decision. 5
  
- (4) Sub-paragraphs (2) and (3) do not apply so far as the decision involves or gives rise to any question as to whether the immigration officer or the Secretary of State is acting or has acted— 10
  - (a) in bad faith, or
  - (b) in such a procedurally defective way as amounts to a fundamental breach of the principles of natural justice. 15
  
- (5) Sub-paragraphs (2) and (3) do not affect any right of a person to—
  - (a) apply for a writ of habeas corpus, or
  - (b) in Scotland, apply to the Court of Session for suspension and liberation. 20
  
- (6) In this paragraph—

“decision” includes any  
purported decision;

“relevant period” means the period  
of 28 days beginning with the date  
on which the person’s detention  
under the provision mentioned  
in sub-paragraph (1) began;

5

“the supervisory jurisdiction” means  
the supervisory jurisdiction of—

(a) the High Court, in England and  
Wales or Northern Ireland, or

10

(b) the Court of Session, in Scotland.”

## **14 Disapplication of duty to consult Independent Family Returns Panel**

In section 54A of the Borders,  
Citizenship and Immigration Act 2009  
(Independent Family Returns Panel),  
after subsection (3) insert—

15

“(3A) The duty under subsection (2)(a)  
does not apply where the proposed  
removal is for the purposes of section  
2 of the Illegal Migration Act 2023

20



(duty to make arrangements for removal) or under section 8 of that Act (power to remove family members).

- (3B) The duty under subsection (2)
  - (b) does not apply where the proposed detention is under—
    - (a) paragraph 16(2C) or (2D) of Schedule 2 to the Immigration Act 1971 (detention under authority of immigration officer relating to removal under the Illegal Migration Act 2023), or
      - (b) section 62(2A) or (2B) of the Nationality, Immigration and Asylum Act 2002 (detention under authority of Secretary of State relating to removal under the Illegal Migration Act 2023)."

*Unaccompanied children*

**15 Accommodation and other support for unaccompanied migrant children**

- (1) The Secretary of State may provide, or arrange for the provision of, accommodation in England for unaccompanied children in England. 5
- (2) In this section, “accommodation for unaccompanied migrant children” means accommodation provided under this section. 10
- (3) While a child is residing in accommodation for unaccompanied migrant children, the Secretary of State may provide, or arrange for the provision of, other types of support to the child. 15
- (4) Subsections (1) to (3) are to be treated as having had effect at all times on or after 7 March 2023.

**16 Transfer of children from Secretary of State to local authority and vice versa** 20

- (1) The Secretary of State may decide that a child is to cease residing in accommodation

- for unaccompanied migrant children on a certain date (the transfer date).
- (2) On making that decision, the Secretary of State must direct a local authority in England to receive the child on the transfer date. 5
- (3) The transfer date must be a date falling after the end of the period of five working days beginning with the day on which the local authority was given the direction. 10
- (4) When a local authority receives a child in compliance with a direction under subsection (2), the child becomes a child within the area of that local authority for the purposes of Part 3 of the Children Act 1989 (support for children and families provided by local authorities in England). 15
- (5) The Secretary of State may decide that an unaccompanied child who is being looked after by a local authority in England is to cease being looked after by the local authority on a certain date (the transfer date). 20

- (6) On making that decision, the Secretary of State must direct the local authority to cease looking after the child on the transfer date.
- (7) The transfer date must be a date falling after the end of the period of five working days beginning with the day on which the local authority was given the direction. 5
- (8) When a local authority ceases looking after a child in compliance with a direction under subsection (6), the Secretary of State must arrange for the child to reside in accommodation for unaccompanied migrant children from the transfer date. 10
- (9) In this section and sections 17 and 18— 15
  - “accommodation for unaccompanied migrant children” has the same meaning as in section 15;
  - “local authority” has the same meaning as in the Children Act 1989 (see section 105(1) of that Act); 20

“looked after”: references to a child being looked after by a local authority have the same meaning as in the Children Act 1989 (see section 105(4) of that Act);

“working day” means any day which is not Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971. 5

**17 Duty of local authority to provide information to the Secretary of State 10**

(1) The Secretary of State may direct a local authority to provide information to the Secretary of State for the purposes of helping the Secretary of State to make a decision under section 16(1) or (5) (decision to transfer unaccompanied migrant child from Secretary of State to local authority or vice versa). 15

(2) The information that the Secretary of State may direct a local authority to provide is— 20

(a) information about the support or accommodation provided

to children who are looked after by the local authority;

(b) such other information as may be specified in regulations made by the Secretary of State.

5

(3) A local authority which is directed to provide information under this section must provide it—

(a) in such form and manner as the Secretary of State may direct, and

10

(b) before such time or before the end of such period as the Secretary of State may direct.

**18 Enforcement of local authorities’ duties under sections 16 and 17**

15

(1) If the Secretary of State is satisfied that a local authority has failed, without reasonable excuse, to comply with a direction under section 16 or a duty under section 17, the Secretary of State may make an order declaring that authority to be in default with respect to that direction or duty.

20

- (2) An order under subsection (1) must give the Secretary of State's reasons for making it.
- (3) An order under subsection (1) may contain such directions for the purpose of ensuring that the direction or duty is complied with, within such period as may be specified in the order, as appears to the Secretary of State to be necessary. 5
- (4) Any such direction may be enforced on an application made on behalf of the Secretary of State, by a mandatory order. 10

**19 Extension to Wales, Scotland and Northern Ireland**

- (1) The Secretary of State may make regulations enabling sections 15 to 18 to apply in relation to Wales, Scotland or Northern Ireland. 15
- (2) The regulations may amend, repeal or revoke any enactment (including an enactment contained in this Act). 20
- (3) The regulations may not confer functions on—

- (a) the Welsh Ministers,
  - (b) the Scottish Ministers,
  - (c) the First Minister and deputy First Minister in Northern Ireland,
  - (d) a Northern Ireland Minister, or 5
  - (e) a Northern Ireland department.
- (4) In this section, “enactment” includes—
- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978; 10
  - (b) an enactment contained in, or in an instrument made under, an Act or Measure of Senedd Cymru;
  - (c) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament; 15
  - (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation.



## **20 Transfer of children between local authorities**

- (1) Section 69 of the Immigration Act 2016 (transfer of responsibility for relevant children) is amended as follows. 5
- (2) In subsection (9) (definition of “relevant child”)—
  - (a) omit the “or” at the end of paragraph (b), and
  - (b) after paragraph (c) insert “, or 10
  - (d) an unaccompanied child, within the meaning of the Illegal Migration Act 2023 (see section 3(3) of that Act).”
- (3) In subsection (10), at the end insert “(a) to (c)”. 15

### *Modern slavery*

## **21 Provisions relating to removal and leave**

- (1) Subsection (2) (disapplication of modern slavery provisions) applies in relation to a person if— 20

- (a) the Secretary of State is required by section 2(1) to make arrangements for the removal of the person from the United Kingdom, and
- (b) a decision has been made by a competent authority that there are reasonable grounds to believe that the person is a victim of slavery or human trafficking (a “positive reasonable grounds decision”).

This is subject to subsections (3) to (6).

- (2) Where this subsection applies in relation to a person—
  - (a) any prohibition arising under section 61 or 62 of the Nationality and Borders Act 2022 (recovery period) on removing the person from, or requiring them to leave, the United Kingdom does not apply in relation to the person, and
  - (b) any requirement under section 65 of that Act (leave to remain) to grant the person limited leave to remain

in the United Kingdom does not apply in relation to the person.

- (3) Subsection (2) does not apply in relation to a person if—
  - (a) the Secretary of State is satisfied 5
    - that the person is cooperating with a public authority in connection with an investigation or criminal proceedings in respect of the relevant exploitation,
  - (b) the Secretary of State considers 10
    - that it is necessary for the person to be present in the United Kingdom to provide that cooperation, and
  - (c) the Secretary of State does not 15
    - consider that the public interest in the person providing that cooperation is outweighed by any significant risk of serious harm to members of the public which is posed by the person.
- (4) In subsection (3)— 20
  - (a) the reference to a person cooperating with a public authority in connection with an investigation

or criminal proceedings is to the person doing so to the extent that is reasonable having regard to the person’s circumstances, and

(b) “the relevant exploitation” means— 5

(i) the conduct or alleged conduct resulting in the positive reasonable grounds decision, and

(ii) where a positive conclusive grounds decision has also 10  
 been made in relation to the person, any other conduct resulting in that decision.

(5) The Secretary of State may by 15  
 regulations make provision about the circumstances in which it is necessary for a person to be present in the United Kingdom to provide cooperation of the kind mentioned in subsection (3)(a).

(6) Subsection (2) does not apply in relation 20  
 to a person (“A”) if subsection (3) applies in relation to a person (“P”) and—

- (a) A is P’s child, or a child living in the same household as P in circumstances where P has care of A, or
- (b) in a case where P is a child—
  - (i) A is P’s parent, or 5
  - (ii) A lives in the same household as P and has sole responsibility for P.
- (7) Subsection (8) applies to a person if—
  - (a) the Secretary of State is not required by section 2(1) to make arrangements for the removal of the person from the United Kingdom, 10
  - (b) the only reason why the Secretary of State is not required to do so is that the person has limited leave to remain in the United Kingdom granted under section 65(2) of the Nationality and Borders Act 2022, 15
  - (c) that leave was granted on or after 7 March 2023, and 20
  - (d) subsection (3) or (6) does not apply in relation to the person.

- (8) The Secretary of State may revoke the leave granted to the person under section 65(2) of the Nationality and Borders Act 2022.
- (9) Subsection (8) is to be treated for the purposes of section 3 of the Immigration Act 1971 as if it were provision made by that Act. 5
- (10) In this section—
- “child” means a person who is under the age of 18; 10
- “competent authority” means a person who is a competent authority of the United Kingdom for the purposes of the Trafficking Convention; 15
- “positive conclusive grounds decision” means a decision made by a competent authority that a person is a victim of slavery or human trafficking;
- “public authority” means a public authority within the meaning of section 6 of the Human Rights Act 1998; 20

“the Trafficking Convention” means the Council of Europe Convention on Action against Trafficking in Human Beings (done at Warsaw on 16 May 2005);

“victim of slavery” and “victim of human trafficking” have the meanings given in regulations made by the Secretary of State under section 69 of the Nationality and Borders Act 2022. 5

**22 Provisions relating to support: England and Wales** **10**

- (1) Subsection (2) applies in relation to a person if—
  - (a) the Secretary of State is required by section 2(1) to make arrangements for the removal of the person from the United Kingdom, 15
  - (b) a positive reasonable grounds decision has been made in relation to the person, and 20
  - (c) section 21(3) (cooperation with public authority) does not apply in relation to the person.

- (2) Any duty under section 50A of the Modern Slavery Act 2015 (assistance and support) to secure that any necessary assistance and support is available to the person does not apply in relation to the person. 5
- (3) In this section “positive reasonable grounds decision” has the same meaning as in section 21.

**23 Provisions relating to support: Scotland**

- (1) Subsection (2) applies in relation to a person if— 10
  - (a) the Secretary of State is required by section 2(1) to make arrangements for the removal of the person from the United Kingdom, and 15
  - (b) a competent authority has determined that there are reasonable grounds to believe that the person is a victim of slavery or human trafficking or is determining whether or not that is the case. 20

This is subject to subsections (3) to (5).



- (2) Where this subsection applies in relation to a person, the following do not apply in relation to the person—
- (a) any duty of the Scottish Ministers under section 9(1) of the Human Trafficking and Exploitation (Scotland) Act 2015 (asp 12) (human trafficking: support and assistance) to secure the provision of support and assistance for the person; 5  
10
  - (b) any power of the Scottish Ministers under section 9(3) of that Act to secure the provision of support and assistance for the person;
  - (c) any duty or power of the Scottish Ministers under regulations under section 10(1) of that Act (slavery etc: support and assistance) relating to the provision of support or assistance to the person. 15  
20
- (3) Subsection (2) does not apply in relation to a person if—
- (a) the Secretary of State is satisfied that the person is cooperating with a

public authority in connection with an investigation or criminal proceedings in respect of the relevant exploitation,

(b) the Secretary of State considers that it is necessary for the person to be present in the United Kingdom to provide that cooperation, and 5

(c) the Secretary of State does not consider that the public interest in the person providing that cooperation is outweighed by any significant risk of serious harm to members of the public which is posed by the person. 10

(4) In subsection (3)—

(a) the reference to a person cooperating with a public authority in connection with an investigation or criminal proceedings is to the person doing so to the extent that is reasonable having regard to the person’s circumstances, and 15 20

(b) “the relevant exploitation” means—

- (i) the conduct or alleged conduct on the basis of which a competent authority has made or is making the determination mentioned in subsection (1)(b), and 5
  - (ii) where a conclusive determination has been made that the person is a victim of slavery or human trafficking, any other conduct resulting in that decision. 10
  
- (5) The Secretary of State may by regulations make provision about the circumstances in which it is necessary for a person to be present in the United Kingdom to provide cooperation of the kind mentioned in subsection (3)(a). 15
  
- (6) For the purposes of this section—
  - (a) a person is a victim of slavery if they are a victim of an offence under section 4 of the Human Trafficking and Exploitation (Scotland) Act 2015; 20
  - (b) there is a conclusive determination that a person is a victim of slavery

when a competent authority concludes that the person is such a victim;

(c) a person is a victim of human trafficking if they are a victim of an offence under section 1 of the Human Trafficking and Exploitation (Scotland) Act 2015;

5

(d) there is a conclusive determination that a person is a victim of human trafficking when, on completion of the identification process required by Article 10 of the Trafficking Convention, a competent authority concludes that the person is such a victim.

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(7) In this section the following expressions have the same meaning as in section 21—

15

“competent authority”;

“public authority”;

“the Trafficking Convention”.

(8) The Secretary of State may by regulations amend this section in consequence of regulations made by the Scottish Ministers under—

20

- (a) section 9(8) of the Human Trafficking and Exploitation (Scotland) Act 2015 (power to modify section 9), or
- (b) section 10(1) of that Act (slavery etc: support and assistance).

5

## **24 Provisions relating to support: Northern Ireland**

(1) Subsection (2) applies in relation to a person if—

(a) the Secretary of State is required by section 2(1) to make arrangements for the removal of the person from the United Kingdom, and

10

(b) a reference relating to the person has been, or is about to be, made to a competent authority for a determination whether there are reasonable grounds to believe that the person is a victim of slavery or trafficking in human beings.

15

This is subject to subsections (3) to (5).

20

- (2) Where this subsection applies in relation to a person, the following do not apply in relation to the person—
- (a) any duty of the Department of Justice in Northern Ireland under section 18 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.)) (human trafficking and slavery etc: assistance and support) to ensure the provision of assistance and support to the person; 5 10
  - (b) any power under section 18(8) of that Act to continue the provision of assistance and support to the person; 15
  - (c) any power of the Department of Justice in Northern Ireland under section 18(9) of that Act to ensure the provision of assistance and support to the person.
- (3) Subsection (2) does not apply in relation to a person if— 20
- (a) the Secretary of State is satisfied that the person is cooperating with a public authority in connection with an

investigation or criminal proceedings  
in respect of the relevant exploitation,

- (b) the Secretary of State considers  
that it is necessary for the person to  
be present in the United Kingdom 5  
to provide that cooperation, and
  - (c) the Secretary of State does not  
consider that the public interest in  
the person providing that cooperation 10  
is outweighed by any significant risk  
of serious harm to members of the  
public which is posed by the person.
- (4) In subsection (3)—
- (a) the reference to a person  
cooperating with a public authority 15  
in connection with an investigation  
or criminal proceedings is to the  
person doing so to the extent that  
is reasonable having regard to the  
person’s circumstances, and 20
  - (b) “the relevant exploitation” means—
    - (i) the conduct or alleged conduct on  
the basis of which the reference

mentioned in subsection (1)(b) has been, or is about to be, made, and

- (ii) where a conclusive determination has been made that the person is a victim of slavery or trafficking in human beings, any other conduct resulting in that decision. 5

- (5) The Secretary of State may by regulations make provision about the circumstances in which it is necessary for a person to be present in the United Kingdom to provide cooperation of the kind mentioned in subsection (3)(a). 10

- (6) For the purposes of this section—
  - (a) a person is a victim of slavery if they are a victim of— 15

- (i) slavery or servitude, or

- (ii) forced or compulsory labour,

within the meaning of Part 3 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (see section 17(1A) of that Act); 20



- (b) there is a conclusive determination that a person is a victim of slavery when, on completion of an identification process corresponding to one required by Article 10 of the Trafficking Convention, a competent authority concludes that the person is such a victim; 5
  - (c) “trafficking in human beings” has the same meaning as in Part 3 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (see section 17(2) of that Act); 10
  - (d) there is a conclusive determination that a person is a victim of trafficking in human beings when, on completion of the identification process required by Article 10 of the Trafficking Convention, a competent authority concludes that the person is such a victim. 15 20
- (7) In this section the following expressions have the same meaning as in section 21—
- “competent authority”;

“public authority”;

“the Trafficking Convention”.

## **25 Suspension and revival of sections 21 to 24**

- |     |   |    |
|-----|---|----|
| (1) | The operation of a provision of sections 21 to 24 (a “relevant provision”) is suspended at the end of the period of 2 years beginning with the coming into force of that provision. | 5  |
| (2) | Subsection (1) does not apply to section 23(8) (power to amend section 23 in consequence of regulations made by the Scottish Ministers).  | 10 |
| (3) | The Secretary of State may by regulations—  | 15 |
| (a) | provide for the operation of a relevant provision to be suspended before the time at which its operation would otherwise be suspended;  |    |
| (b) | provide that a relevant provision the operation of which would otherwise be   | 20 |

suspended is to continue to operate for a period specified in the regulations;

(c) where the operation of a relevant provision has been suspended, provide that the operation of the provision is to revive for a period specified in the regulations. 5

(4) A period specified in regulations under subsection (3)(b) must not exceed 12 months from the time at which the operation of the provision would otherwise be suspended. 10

(5) A period specified in regulations under subsection (3)(c) must not exceed 12 months. 15

(6) A power to make regulations under subsection (3) may be exercised more than once in relation to the same relevant provision.

(7) Section 16(1) of the Interpretation Act 1978 applies in relation to the suspension of the operation of a relevant provision 20

by or by virtue of this section as if the provision had been repealed by an Act.

- (8) The Secretary of State may by regulations make other transitional or saving provision in connection with the suspension of the operation of a relevant provision. 5
  
- (9) A reference in this section to a relevant provision the operation of which would be, or has been, suspended is to a relevant provision the operation of which would be, or has been, suspended— 10
  - (a) by subsection (1),
  - (b) by regulations under subsection (3)(a), or
  - (c) on the expiry of the period specified in regulations under subsection (3)(b) or (c). 15

**26 Procedure for certain regulations under section 25**

- (1) A statutory instrument containing (whether alone or with other provision) regulations under section 25(3)(c) may not be made 20

unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

- (2) Subsection (1) does not apply to regulations that contain a statement that the Secretary of State considers that there is an urgent need to make the regulations without the approval required by that subsection. 5
- (3) A statutory instrument containing regulations that contain such a statement must be laid before Parliament after being made. 10
- (4) Regulations contained in a statutory instrument laid before Parliament under subsection (3) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament. 15
- (5) In calculating the period of 28 days, no account is to be taken of any whole days that fall within a period during which— 20

- (a) Parliament is dissolved or prorogued, or
  - (b) either House of Parliament is adjourned for more than four days.
- (6) If regulations cease to have effect as a result of subsection (4) that does not— 5
- (a) affect the validity of anything previously done under the regulations, or
  - (b) prevent the making of new regulations.

**27 Amendments relating to sections 21 to 24**

- (1) In section 50A of the Modern Slavery Act 2015 (identified potential victims of slavery or human trafficking: assistance and support) (as inserted by section 64 of the Nationality and Borders Act 2022), after subsection (5) insert— 10
- “(5A) This section is subject to section 22 of the Illegal Migration Act 2023 (provisions relating to support: England and Wales).” 15
- (2) The Human Trafficking and Exploitation (Scotland) Act 2015 (asp 12) is amended in accordance with subsections (3) and (4). 20

(3) In section 9 (human trafficking: support and assistance), after subsection (9) insert—

“(10) This section is subject to section 23 of the Illegal Migration Act 2023 (provisions relating to support: Scotland).” 5

(4) In section 10 (slavery etc: support and assistance), after subsection (2) insert—

“(3) This section is subject to section 23 of the Illegal Migration Act 2023 (provisions relating to support: Scotland).” 10

(5) In section 18 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.)) (human trafficking and slavery etc: assistance and support), after subsection (10) insert— 15

“(10A) This section is subject to section 24 of the Illegal Migration Act 2023 (provisions relating to support: Northern Ireland).” 20

- (6) The Nationality and Borders Act 2022 is amended in accordance with subsections (7) to (12).
- (7) In section 61(2) (identified potential victims of slavery or human trafficking: recovery period), after “section 63(2)” insert “and section 21 of the Illegal Migration Act 2023 (provisions relating to removal and leave)”. 5
- (8) In section 62(2) (identified potential victims of slavery or human trafficking: additional recovery period), after “section 63(2)” insert “and section 21 of the Illegal Migration Act 2023 (provisions relating to removal and leave)”. 10
- (9) In section 63 (identified potential victims of slavery or human trafficking: disqualification from protection), after subsection (7) insert— 15
  - “(8) See also section 21 of the Illegal Migration Act 2023 (provisions relating to removal and leave).” 20



(10) Section 65 (leave to remain for victims of slavery or human trafficking) is amended in accordance with subsections (11) and (12).

(11) In subsection (3), after “section 63(2)” insert “and section 21 of the Illegal Migration Act 2023 (provisions relating to removal and leave)”. 5

(12) After subsection (8) insert—

“(8A) Section 21 of the Illegal Migration Act 2023 also makes provision about the revocation of leave granted under subsection (2).” 10

## **28 Disapplication of modern slavery provisions: persons liable to deportation**

(1) In section 63(3) of the Nationality and Borders Act 2022 (identified potential victims of slavery or human trafficking: disqualification from protection), after paragraph (f) insert— 15

“(fa) the person is liable to deportation from the United Kingdom under section 3(5) 20”

or (6) of the Immigration Act 1971 (deportation for the public good etc or as a result of recommendation following conviction);

5

(fb) the person is liable to deportation from the United Kingdom under any provision of, or made under, any other enactment that provides for such deportation;”.

10

(2) The amendment made by subsection (1) applies in relation to a person whether a positive reasonable grounds decision or a positive conclusive grounds decision within the meaning of Part 5 of the Nationality and Borders Act 2022 was made in relation to the person before or after the coming into force of this section.

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(3) The Secretary of State may by regulations make provision about the operation of section 63 of the Nationality and Borders Act 2022 in relation to foreign criminals (within the meaning given

20

by section 32(1) of the UK Borders Act 2007) and other persons liable to deportation from the United Kingdom.

- (4) Regulations under subsection (3) may amend section 63 of the Nationality and Borders Act 2022. 5

*Entry, settlement and citizenship*

**29 Entry into and settlement in the United Kingdom**

- (1) The Immigration Act 1971 is amended as follows. 10
- (2) In section 8(1) (exceptions for seamen, aircrews and other special cases), at the end of paragraph (c) insert “or
  - (d) the person has ever met the four conditions in section 2 of the Illegal Migration Act 2023 (conditions relating to removal from the United Kingdom); or 15
  - (e) the person— 20

- (i) is a member of the family of a person who has ever met those four conditions, and
- (ii) meets the three conditions in section 8 of that Act (removal of family members);” . 5

(3) After section 8A, insert—

**“8AA Persons ineligible for leave to enter and remain, entry clearance and ETA 10**

- (1) This section applies in relation to—
  - (a) a person who has ever met the four conditions in section 2 of the Illegal Migration Act 2023 (conditions relating to removal from the United Kingdom), and 15
  - (b) a person who—
    - (i) is a member of the family of a person who 20

- has ever met those  
four conditions, and
      - (ii) meets the three  
conditions in section  
8 of that Act (removal  
of family members). 5
- (2) Subject to subsections (3)  
to (5), the person—
  - (a) must not be given leave to  
enter or leave to remain in the  
United Kingdom, unless it is— 10
    - (i) limited leave given  
under the immigration  
rules to a person within  
section 3(1) of that  
Act (unaccompanied  
children), or 15
    - (ii) limited leave to remain  
given under section 65  
of the Nationality and  
Borders Act 2022 (leave  
to remain for victims  
of slavery or human  
trafficking) as it has effect 20

by virtue of section 21  
of the Illegal Migration  
Act 2023 (disapplication  
of modern slavery  
provisions: general),

5

(b) must not be granted an  
entry clearance, and

(c) must not be granted an ETA.

(3) Where the person has left or been  
removed from the United Kingdom,  
the Secretary of State may give  
the person limited leave to enter  
the United Kingdom, or grant to  
the person an entry clearance  
or an ETA, if the Secretary  
of State considers that—

10

15

(a) it is necessary to do so in  
order to comply with the United  
Kingdom’s obligations under—

(i) the Human Rights  
Convention, or

20

(ii) another international  
agreement to which

the United Kingdom  
is a party, or

(b) there are compelling  
circumstances which  
apply in relation to the  
person which mean that it  
is appropriate to do so. 5

(4) The Secretary of State may give  
the person limited leave to remain  
in the United Kingdom if the  
Secretary of State considers that— 10

(a) giving such leave is  
necessary in order to comply  
with the United Kingdom’s  
obligations under— 15

(i) the Human Rights  
Convention, or  
(ii) another international  
agreement to which  
the United Kingdom  
is a party, or 20

(b) there are compelling  
circumstances which

apply in relation to the person which mean that it is appropriate to do so.

- (5) The Secretary of State may give the person indefinite leave to remain in the United Kingdom if the Secretary of State considers that giving such leave is necessary in order to comply with the United Kingdom’s obligations under— 5  
10
- (a) the Human Rights Convention, or
  - (b) another international agreement to which the United Kingdom is a party. 15
- (6) Accordingly, the immigration rules must secure that any application made by or on behalf of the person for leave prohibited under subsection (2)(a), for an entry clearance or for an ETA is void and is not to be considered, unless— 20



- (a) the application is for limited leave to enter the United Kingdom, an entry clearance or an ETA and it sets out the grounds mentioned in subsection (3)(a) or (b), 5
  - (b) the application is for limited leave to remain in the United Kingdom and it sets out the grounds mentioned in subsection (4)(a) or (b), or 10
  - (c) the application is for indefinite leave to remain in the United Kingdom and it sets out the grounds mentioned in subsection (5). 15
- (7) In this section, “the Human Rights Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms, 20  
 agreed by the Council of Europe at Rome on 4th November 1950 as it has effect for the time being in relation to the United Kingdom.”

### **30 Persons prevented from obtaining British citizenship etc**

- (1) Sections 31 to 34 (ineligibility for routes to British citizenship, British overseas territories citizenship, British overseas citizenship and status as a British subject) apply in relation to a person who falls within subsection (3) or (4), read with the modifications in subsections (5) to (7). 5
- (2) Such a person is referred to in sections 31 to 34 as an “ineligible person”. 10
- (3) A person falls within this subsection if the person has ever met the four conditions in section 2 (conditions relating to removal from the United Kingdom). 15
- (4) A person (“P”) falls within this subsection if P was born in the United Kingdom on or after 7 March 2023, and either of P’s parents has ever (whether before or after P’s birth) met the four conditions in section 2. 20
- (5) For the purposes of this section, references to the United Kingdom in section 2

and this section are to be read as if they included references to the Islands and the British overseas territories.

- (6) For the purposes of this section as it has effect by virtue of subsection (5) in relation to any of the Islands—
  - (a) references in section 2 to provisions of the Immigration Act 1971 are to be read as if they included references to the provisions of that Act as extended to that Island under section 36 of that Act, and 5
  - (b) terms used in the four conditions in section 2 are to be interpreted in accordance with that Act as extended to that Island under section 36 of that Act. 10
  
- (7) For the purposes of this section as it has effect by virtue of subsection (5) in relation to any of the British overseas territories— 15
  - (a) the references in section 2 to “leave to enter”, “leave to remain”, and “limited leave to enter or remain” 20

are to be construed as references to any status formally granted under the immigration laws in force in that territory which is broadly equivalent to the status in question under the Immigration Act 1971, 5

(b) the references in section 2 to “deportation order”, “entry clearance” and “electronic travel authorisation” are to be construed as references to any order, clearance or authorisation made or given under the immigration laws in force in that territory which is broadly equivalent to the order, clearance or authorisation in question under that Act, and 10 15

(c) the references in section 2 to “entering”, “arriving” or to a document being “valid” are to be construed as references to any concept under the immigration laws in force in that territory which is broadly equivalent to the concept in question under that Act. 20

(8) In subsection (4), the reference to “parents” of P is to be construed in accordance with section 50(9) to (9C) of the British Nationality Act 1981.

(9) In this section, “the Islands” means the Channel Islands and the Isle of Man. 5

(10) This section is subject to section 35 (disapplication of sections 31 to 34).

### **31 British citizenship**

(1) An ineligible person is not entitled to be registered as a British citizen under any of the following provisions— 10

(a) section 1(3) or (4) of the British Nationality Act 1981 (registration of minor as British citizen); 15

(b) section 3(2) or (5) of that Act (acquisition of British citizenship by registration: minors);

(c) section 4(2) of that Act (acquisition of British citizenship by registration: British overseas territories citizens etc); 20

- (d) section 5 of that Act (acquisition of British citizenship by registration: British overseas territories citizens having connection with Gibraltar);
  - (e) section 10(1) of that Act (registration as British citizen following renunciation of citizenship of UK etc); 5
  - (f) section 13(1) of that Act (resumption of British citizenship).
- (2) In relation to an application for British citizenship made by or in relation to an ineligible person, the Secretary of State may not— 10
- (a) cause the person to be registered as a British citizen under any of the following provisions— 15
    - (i) section 3(1) of the British Nationality Act 1981 (acquisition of British citizenship by registration: minors); 20
    - (ii) section 4A of that Act (acquisition of British citizenship by registration:



- overseas territories citizenship by registration: minors);
    - (c) section 22(1) of that Act (right to registration as British overseas territories citizen replacing right to resume citizenship of UK etc); 5
    - (d) section 13(1) of that Act as applied by section 24 of that Act (resumption of British overseas territories citizenship).
  - (2) In relation to an application made by or in relation to an ineligible person, the Secretary of State may not— 10
    - (a) cause the person to be registered as a British overseas territories citizen under any of the following provisions— 15
      - (i) section 17(1) of the British Nationality Act 1981 (acquisition of British overseas territories citizenship by registration: minors);
      - (ii) section 22(2) of that Act (right to registration as British overseas territories citizen replacing right to resume citizenship of UK etc); 20



(iii) section 13(3) of that Act as applied by section 24 of that Act (resumption of British overseas territories citizenship);

(b) grant to the person a certificate of naturalisation as a British overseas territories citizen under section 18 of that Act (acquisition of British overseas territories citizenship by naturalisation). 5

**33 British overseas citizenship 10**

The Secretary of State may not cause an ineligible person to be registered as a British overseas citizen under section 27(1) of the British Nationality Act 1981 (registration of minors as British overseas citizens). 15

**34 British subjects**

The Secretary of State may not cause an ineligible person to be registered as a British subject under section 32 of the British Nationality Act 1981 (registration of minors as British subjects). 20

### **35 Disapplication of sections 31 to 34**

- (1) This section applies in relation to a person who would otherwise be an ineligible person for the purposes of sections 31 to 34 (see section 30). 5
  
- (2) The Secretary of State may determine that the person is not to be an “ineligible person” for the purposes of sections 31 to 34 if the Secretary of State considers that excepting the person from any of those sections 10
  - is necessary in order to comply with the United Kingdom’s obligations under—
  - (a) the Human Rights Convention, or
  - (b) another international agreement to which the United Kingdom is a party. 15

### **36 Amendments relating to sections 31 to 35**

- (1) The British Nationality Act 1981 is amended as follows.
  
- (2) In section 1 (acquisition by birth or adoption)— 20
  - (a) in subsection (3), at the beginning insert “Subject to sections 30, 31

and 35 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc),”;

(b) in subsection (4), at the beginning insert “Subject to sections 30, 31 and 35 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc),”.

(3) In section 3 (acquisition of British citizenship by registration: minors), after subsection (6) insert—

“(7) This section is subject to sections 30, 31 and 35 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc).”

(4) In section 4 (acquisition of British citizenship by registration: British overseas territories citizens etc), after subsection (6) insert—

“(7) This section is subject to sections 30, 31 and 35 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc).”

- (5) In section 4A (acquisition of British citizenship by registration: further provision for British overseas territories citizens), after subsection (2) insert—
- “(3) This section is subject to sections 30, 31 and 35 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc).” 5
- (6) In section 5 (acquisition of British citizenship by registration: British overseas territories citizens having connection with Gibraltar), at the beginning insert
- “Subject to sections 30, 31 and 35 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc),”. 10 15
- (7) In section 6 (acquisition of British citizenship by naturalisation), after subsection (2) insert—
- “(3) This section is subject to sections 30, 31 and 35 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc).” 20

- (8) In section 10 (registration as British citizen following renunciation of citizenship of UK etc), after subsection (4) insert—
- “(5) This section is subject to sections 30, 31 and 35 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc).” 5
- (9) In section 13 (resumption of British citizenship), after subsection (3) insert—
- “(4) This section is subject to sections 30, 31 and 35 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc).” 10
- (10) In section 15 (acquisition of British overseas territories citizenship by birth or adoption)— 15
- (a) in subsection (3), at the beginning insert “Subject to sections 30, 32 and 35 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc),”; 20
- (b) in subsection (4), at the beginning insert “Subject to sections 30, 32 and 35 of the Illegal Migration

Act 2023 (restriction of eligibility for citizenship etc),”.

- (11) In section 17 (acquisition of British overseas territories citizenship by registration: minors), after subsection (6) insert— 5
- “(7) This section is subject to sections 30, 32 and 35 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc).”
- (12) In section 18 (acquisition of British overseas territories citizenship by naturalisation), after subsection (3) insert— 10
- “(4) This section is subject to sections 30, 32 and 35 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc).” 15
- (13) In section 22 (right to registration as British overseas territories citizen replacing right to resume citizenship of UK etc), after subsection (4) insert— 20
- “(5) This section is subject to sections 30, 32 and 35 of the Illegal

Migration Act 2023 (restriction of eligibility for citizenship etc).”

- (14) In section 24 (renunciation and resumption of British overseas territories citizenship), at the beginning insert “Subject to sections 30, 32 and 35 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc),”. 5
- (15) In section 27(1) (registration of minors as British overseas citizens), at the beginning insert “Subject to sections 30, 33 and 35 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc),”. 10
- (16) In section 32 (registration of minors as British subjects), at the beginning insert “Subject to sections 30, 34 and 35 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc),”. 15

*Legal proceedings*

**37 Suspensive claims: interpretation**

- (1) The definitions in subsections (2) to (10) have effect for the purposes of this section and sections 38 to 48. 20

- (2) “Suspensive claim” means—
  - (a) a serious harm suspensive claim, or
  - (b) a factual suspensive claim.
  
- (3) “Serious harm suspensive claim” means a claim by a person who has been given a third country removal notice that they would, before the end of the relevant period, face a real risk of serious and irreversible harm if removed from the United Kingdom under this Act to the country or territory specified in the notice.
 

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- (4) “Factual suspensive claim” means a claim by a person who has been given a removal notice that the Secretary of State or an immigration officer made a mistake of fact in deciding that the person met the removal conditions.
 

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- (5) “Removal notice” means a notice of removal given to a person under section 7(2)(a) (further provisions about removal) (including a notice of removal mentioned in section 8(1) (family members)).
 

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- (6) “Third country removal notice” means a removal notice under which a person is to be removed to a third country.
- (7) “Third country”, in relation to a person, means a country or territory other than— 5
  - (a) a country of which the person is a national or citizen, or
  - (b) a country or territory in which the person has obtained a passport or other document of identity. 10
- (8) “Removal conditions” means—
  - (a) the four conditions in section 2 (duty to make arrangements for removal), or
  - (b) where a person is given a removal notice mentioned in subsection (1) of section 8 (family members), the three conditions in that section. 15
- (9) “Relevant period” means the total period of time that it would take—
  - (a) for a person to make a human rights claim in relation to their removal from the United Kingdom under this 20

Act (see section 39 (relationship with other proceedings)),

(b) for the claim to be decided by the Secretary of State, and

(c) for any application for judicial review in relation to a decision of the Secretary of State to refuse the claim to be exhausted. 5

(10) “Working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom. 10

(11) The Secretary of State may by regulations amend the definition of “working day” in subsection (10). 15

(12) Regulations under subsection (11) may make consequential amendments to this Act.

(13) Where a removal notice specifies part of a country or territory, references in this section and sections 38 to 48 to the country or territory specified in the 20

removal notice are to the part of the country or territory so specified.

### **38 Meaning of “serious and irreversible harm”**

- (1) The Secretary of State may by regulations amend section 37 to make provision about the meaning of “serious and irreversible harm” for the purposes of this Act. 5
- (2) Regulations under subsection (1) may in particular— 10
  - (a) define any aspect of serious and irreversible harm;
  - (b) give examples of what is or is not to be treated as serious and irreversible harm. 15
- (3) Regulations under subsection (1) may make consequential amendments to this Act.

### **39 Relationship with other proceedings**

- (1) A “serious harm suspensive claim” made under this Act is not a “human rights claim” for the purposes of the Nationality, 20

Immigration and Asylum Act 2002 or the Nationality and Borders Act 2022.

- (2) Accordingly no right of appeal under section 82(1)(a) or (b) of the Nationality, Immigration and Asylum Act 2002 (appeal against refusal of protection claim or human rights claim) arises in relation to any decision of the Secretary of State made under section 40 (serious harm suspensive claim), 44 (out of time claims) or 46 (new matters) of this Act in respect of a serious harm suspensive claim. 5  
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- (3) The making of a serious harm suspensive claim by a person (or the possibility of a person making such a claim) does not affect any ability of the person to make a human rights claim in relation to their removal from the United Kingdom to a third country under this Act. 15
- (4) Where— 20

  - (a) a person subject to removal to a third country under this Act makes a human rights claim in relation to their removal to that third country, and

(b) the Secretary of State decides to refuse the claim,

there is no right of appeal under section 82(1)(a) or (b) of the Nationality, Immigration and Asylum Act 2002 in relation to that decision.

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(5) Subsection (4) does not affect any ability of the person to make an application for judicial review in relation to a decision of the Secretary of State to refuse the claim (but section 4(1)(d) (disregard of application for judicial review) applies in relation to any such application).

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(6) In section 82(3) of the Nationality, Immigration and Asylum Act 2002, after "Part" insert "and in section 39(4) of the Illegal Migration Act 2023 (relationship with other proceedings)".

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#### **40 Serious harm suspensive claims**

(1) This section applies where, within the claim period, a person makes a serious harm suspensive claim to the Secretary of State.

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- (2) The Secretary of State must, before the end of the decision period, consider the claim and make one of the following decisions—
  - (a) that the person would, before the end of the relevant period, face a real risk of serious and irreversible harm if removed from the United Kingdom under this Act to the country or territory specified in the removal notice, or 5
  - (b) that the person would not, before the end of the relevant period, face a real risk of serious and irreversible harm if so removed. 10
- (3) If the Secretary of State makes a decision under subsection (2)(b), the Secretary of State may also certify that the claim is clearly unfounded (see sections 42(1)(c) and 43 (appeals)). 15
- (4) In considering a serious harm suspensive claim, the Secretary of State must take into account the following factors— 20

- (a) any assurances given by the government of the country or territory specified in the removal notice;
  - (b) any support and services (including in particular medical services) provided by that government; 5
  - (c) in circumstances where it is reasonable to expect a person to have provided certain evidence and they have not done so, the fact that the person has not provided such evidence. 10
- (5) A claim under subsection (1) must—
- (a) contain compelling evidence that the person would, before the end of the relevant period, face a real risk of serious and irreversible harm if removed from the United Kingdom under this Act to the country or territory specified in the removal notice, 15
  - (b) contain the prescribed information, and 20
  - (c) be made in the prescribed form and manner.

In this subsection “prescribed” means prescribed in regulations made by the Secretary of State.

(6) Before the end of the claim period or the decision period in relation to a serious harm suspensive claim, the Secretary of State may, by notice to the person concerned, extend the period where the Secretary of State considers it appropriate to do so. 5

(7) In this section— 10

“claim period” means the period of 8 days beginning with the day on which the person is given the third country removal notice;

“decision period” means the period of 4 days beginning with— 15

(a) the day on which the person makes the serious harm suspensive claim, or

(b) where section 44(3) or (6) (out of time claims) applies, the day on which the Secretary of State makes the decision mentioned in 20



section 44(3) or is given notice of the determination of the Upper Tribunal mentioned in section 44(6) (as the case may be).

**41 Factual suspensive claims** 5

- (1) This section applies where, within the claim period, a person makes a factual suspensive claim to the Secretary of State.
- (2) The Secretary of State must, before the end of the decision period, consider the claim and make one of the following decisions—
  - (a) that a mistake of fact was made in deciding that the person met the removal conditions, or
  - (b) that a mistake of fact was not made in deciding that the person met such conditions. 15
- (3) If the Secretary of State makes a decision under subsection (2)(b), the Secretary of State may also certify that the claim is clearly unfounded (see sections 42(1)(c) and 43 (appeals)). 20

- (4) In considering a factual suspensive claim in circumstances where it is reasonable to expect a person to have provided certain evidence and they have not done so, the Secretary of State must take into account the fact that the person has not provided such evidence. 5
- (5) A claim under subsection (1) must—

  - (a) contain compelling evidence that the Secretary of State or an immigration officer made a mistake of fact in deciding that the person met the removal conditions, 10
  - (b) contain the prescribed information, and
  - (c) be made in the prescribed form and manner. 15

In this subsection “prescribed” means prescribed in regulations made by the Secretary of State.
- (6) Before the end of the claim period or the decision period in relation to a factual suspensive claim, the Secretary of State may, by notice to the person concerned, 20

extend the period where the Secretary of State considers it appropriate to do so.

(7) In this section—

“claim period” means the period of 8 days beginning with the day on which the person is given the removal notice;

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“decision period” means the period of 4 days beginning with—

(a) the day on which the person makes the factual suspensive claim, or

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(b) where section 44(3) or (6) (out of time claims) applies, the day on which the Secretary of State makes the decision mentioned in section 44(3) or is given notice of the determination of the Upper Tribunal mentioned in section 44(6) (as the case may be).

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## **42 Appeals in relation to suspensive claims**

(1) This section applies if—

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(a) a person makes a suspensive claim,

- (b) the Secretary of State makes a decision under section 40(2)(b) or 41(2)(b) (refusal of suspensive claim) in relation to the claim, and
  - (c) the Secretary of State has not certified the claim as clearly unfounded under section 40(3) or (as the case may be) 41(3). 5
- (2) The person may appeal to the Upper Tribunal against the decision mentioned in subsection (1)(b). 10
- (3) An appeal under subsection (2) must be brought on the ground that—
  - (a) in the case of a serious harm suspensive claim, the person would, before the end of the relevant period, face a real risk of serious and irreversible harm if removed from the United Kingdom under this Act to the country or territory specified in the removal notice; 15
  - (b) in the case of a factual suspensive claim, the Secretary of State or an 20

immigration officer made a mistake of fact in deciding that the person met the removal conditions,

and the notice of appeal must contain compelling evidence of such ground.

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(4) In considering an appeal in relation to a serious harm suspensive claim, the Upper Tribunal must take into account the factors mentioned in section 40(4).

(5) In considering an appeal in relation to a factual suspensive claim in circumstances where it is reasonable to expect a person to have provided certain evidence and they have not done so, the Upper Tribunal must take into account the fact that the person has not provided such evidence.

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(6) Where an appeal is brought under subsection (2), the Upper Tribunal must decide—

(a) in relation to a serious harm suspensive claim, whether the person would, before the end of the relevant period, face a real risk of serious

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and irreversible harm if removed from the United Kingdom under this Act to the country or territory specified in the removal notice;

(b) in relation to a factual suspensive claim, whether the Secretary of State or an immigration officer made a mistake of fact in deciding that the person met the removal conditions. 5

(7) See section 13 of the Tribunals, Courts and Enforcement Act 2007 (right of appeal to Court of Appeal etc) for provision about the only right of appeal against a decision of the Upper Tribunal under this section. 10

**43 Permission to appeal in relation to suspensive claims certified as clearly unfounded** 15

(1) This section applies if—

(a) a person makes a suspensive claim,

(b) the Secretary of State makes a decision under section 40(2)(b) or 41(2)(b) (refusal of suspensive claim) in relation to the claim, and 20

- (c) the Secretary of State has certified the claim as clearly unfounded under section 40(3) or (as the case may be) 41(3).
- (2) The person may not appeal to the Upper Tribunal against the decision mentioned in subsection (1)(b), but they may apply to the Upper Tribunal for permission to appeal to the Upper Tribunal against the decision. 5
- (3) In relation to a serious harm suspensive claim, the Upper Tribunal may grant permission to appeal in response to a person’s application under subsection (2) only if it considers that there is compelling evidence that the person would, before the end of the relevant period, face an obvious and real risk of serious and irreversible harm if removed from the United Kingdom under this Act to the country or territory specified in the removal notice. 10  
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- (4) In relation to a factual suspensive claim, the Upper Tribunal may grant permission to appeal in response to a person’s application under subsection (2) only if it considers

that there is compelling evidence that the Secretary of State or an immigration officer made a mistake of fact in deciding that the person met the removal conditions.

- (5) Unless the Upper Tribunal considers that an oral hearing is necessary to secure that justice is done in a particular case, an application under subsection (2) is to be determined by the Upper Tribunal only on the basis of written submissions and evidence. 5  
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- (6) If the Upper Tribunal grants permission to appeal, the person may appeal to the Upper Tribunal under section 42(2) against the decision mentioned in subsection (1)(b). 15
- (7) There is no right of appeal under section 13 of the Tribunals, Courts and Enforcement Act 2007 (right of appeal to Court of Appeal etc) in relation to a decision of the Upper Tribunal on an application under this section. 20
- (8) See also section 48 (finality of certain decisions by the Upper Tribunal).



## 44 Suspensive claims out of time

- (1) This section applies if—
- (a) a person makes a suspensive claim after the end of the claim period (see sections 40(7) and 41(7)) but before the person is removed from the United Kingdom under this Act, and 5
  - (b) the person has not—
    - (i) in the case of a serious harm suspensive claim, made a previous serious harm suspensive claim in relation to the same removal notice, or 10
    - (ii) in the case of a factual suspensive claim, made a previous factual suspensive claim in relation to the same removal notice. 15
- (2) The Secretary of State must, before the end of the decision period, consider whether there were compelling reasons for the person not to make the claim within the claim period. 20

- (3) If the Secretary of State decides that there were compelling reasons for the person not to make the claim within the claim period, the Secretary of State must consider the claim under section 40(2) (serious risk of serious and irreversible harm) or (as the case may be) 41(2) (mistake of fact). 5
- (4) If the Secretary of State decides that there were not compelling reasons for the person not to make the claim within the claim period, the person may apply for a declaration from the Upper Tribunal that there were compelling reasons for the person not to make the claim within the claim period. 10
- (5) An application under subsection (4) must— 15

  - (a) contain compelling evidence that there were compelling reasons for the person not to make the claim within the claim period, and 20
  - (b) be determined by the Upper Tribunal only on the basis of written submissions and evidence.

- (6) If the Upper Tribunal grants a declaration on an application under subsection (4), the Secretary of State must consider the claim under section 40(2) or (as the case may be) 41(2). 5
- (7) There is no right of appeal under section 13 of the Tribunals, Courts and Enforcement Act 2007 (right of appeal to Court of Appeal etc) in relation to a decision of the Upper Tribunal on an application under subsection (4). 10
- (8) See also section 48 (finality of certain decisions by the Upper Tribunal).
- (9) Before the end of the decision period in relation to a suspensive claim mentioned in subsection (1)(a), the Secretary of State may, by notice to the person concerned, extend the period where the Secretary of State considers it appropriate to do so. 15
- (10) In this section “decision period” means the period of 4 days beginning with the day on which the person makes the suspensive claim. 20

## 45 Suspensive claims: duty to remove

- (1) A person who has been given a removal notice may not be removed from the United Kingdom under this Act to the country or territory specified in the removal notice during any of the following periods— 5
- (a) where the person makes a suspensive claim before the end of the claim period, before the Secretary of State makes a decision under section 40(2) (serious harm suspensive claim) or (as the case may be) 41(2) (factual suspensive claim) in relation to the claim; 10
- (b) where section 44 (out of time claims) applies in relation to a suspensive claim made by the person, before the Secretary of State makes a decision under section 44(3) or (4) in relation to the claim; 15
- (c) where the Secretary of State makes a decision under section 44(4) in relation to a suspensive claim made by the person, before the 20

process for making an application to the Upper Tribunal under section 44(4) has been exhausted;

- (d) where the Secretary of State is required by section 44(3) or (6) (out of time claims) to consider a suspensive claim made by the person, before the Secretary of State makes a decision under section 40(2) or (as the case may be) 41(2) in relation to the claim; 5 10
- (e) where the Secretary of State makes a decision under section 40(2)(b) or 41(2)(b) (refusal of suspensive claim) in relation to a suspensive claim made by the person, before the appeals process in relation to the decision has been exhausted. 15

(2) Where—

- (a) the Secretary of State makes a decision under section 40(2)(a) or 41(2)(a) (acceptance of suspensive claim) in relation to a suspensive claim made by a person, or 20

(b) a person successfully appeals under section 42 (appeals) or section 2AA of the Special Immigration Appeals Commission Act 1997 (appeals in relation to the Illegal Migration Act 2023) against a decision of the Secretary of State under section 40(2)(b) or 41(2) (b) (refusal of suspensive claim),

the person may not be removed from the United Kingdom under this Act to the country or territory specified in the removal notice.

(3) But if at any time it appears to the Secretary of State that there has been a change of circumstances in relation to the person—

(a) in a case within subsection (2)(a), the Secretary of State may revise the decision and instead make a decision under section 40(2) (b) or (as the case may be) 41(2) (b) in relation to the claim;

(b) in a case within subsection (2)(b), the Secretary of State or an immigration

officer may give a new removal notice to the person (and accordingly a new claim period begins in relation to the making of a further suspensive claim).

- (4) In subsection (3) the reference to a change of circumstances in relation to a person includes in particular where any—
  - (a) human rights claim, or
  - (b) application for judicial review,
 made by the person in relation to their removal from the United Kingdom is not successful.
  
- (5) Where the Secretary of State makes a decision under section 40(2)(b) or 41(2)(b) in relation to a suspensive claim, the person may, subject to any appeal (see sections 42, 43 and 50), be removed from the United Kingdom under this Act to the country or territory specified in the removal notice.

## 46 Upper Tribunal consideration of new matters

- (1) This section applies where the Upper Tribunal is considering—
- (a) an appeal by a person under section 42(2) (appeals in relation to suspensive claims), or 5
  - (b) an application by a person under section 43(2) (permission to appeal: claims certified as clearly unfounded), 10
- in relation to a decision of the Secretary of State under section 40(2)(b) or 41(2)(b) (refusal of suspensive claim).
- (2) The Upper Tribunal may consider any matter which it considers relevant to the substance of the decision. 15
- (3) But the Upper Tribunal must not consider a new matter unless the Secretary of State has given the Upper Tribunal consent to do so. 20
- (4) A matter is a “new matter” if—



- (a) it is raised by the person in the course of the appeal or application, and
  - (b) the person did not provide details of the matter to the Secretary of State before the end of the claim period for the suspensive claim (see sections 40(7) and 41(7)).
  
- (5) The Secretary of State may provide consent under subsection (3) only if the Secretary of State considers that there were compelling reasons for the person not to have provided details of the matter before the end of the claim period.
  
- (6) If the Secretary of State does not provide consent under subsection (3)—
  - (a) the Secretary of State must notify the person, and
  - (b) the person may apply for a declaration from the Upper Tribunal that there were compelling reasons for the person not to have provided details of the matter to the Secretary of State before the end of the claim period.

- (7) An application under subsection (6) must—
  - (a) contain compelling evidence that there were compelling reasons for the person not to have provided details of the matter to the Secretary of State before the end of the claim period, and 5
  - (b) be determined by the Upper Tribunal only on the basis of written submissions and evidence.
- (8) If the Upper Tribunal grants a declaration on an application under subsection (6), the Secretary of State must provide consent under subsection (3). 10
- (9) There is no right of appeal under section 13 of the Tribunals, Courts and Enforcement Act 2007 (right of appeal to Court of Appeal etc) in relation to a decision of the Upper Tribunal on an application under subsection (6). 15
- (10) See also section 48 (finality of certain decisions by the Upper Tribunal). 20

**47 Appeals in relation to suspensive claims:  
timing**

- (1) Tribunal Procedure Rules must secure that in relation to an appeal under section 42(2) (appeal against decision to refuse suspensive claim)— 5
  - (a) the notice of appeal must be given to the Upper Tribunal within the period of 7 working days beginning with—
    - (i) the day on which the appellant was given notice of the decision against which the appeal is brought, or 10
    - (ii) where permission to appeal has been granted under section 43(2), the day on which the appellant was given notice of the Upper Tribunal’s decision to grant such permission; 15
  - (b) the Upper Tribunal must make a decision on the appeal, and give notice of that decision to the parties, within the period of 23 working 20

days beginning with the day on which the appellant gave notice of appeal to the Upper Tribunal.

- (2) Tribunal Procedure Rules must secure that in relation to an application for permission to appeal under section 43(2) (permission to appeal: claims certified as clearly unfounded)—

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- (a) the application must be made to the Upper Tribunal within the period of 7 working days beginning with the day on which the applicant was given notice that the Secretary of State had certified the person’s suspensive claim as clearly unfounded;

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- (b) the Upper Tribunal must determine the application, and give notice of that determination to the parties, within the period of 7 working days beginning with the day on which the application was made to the Upper Tribunal.

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- (3) Tribunal Procedure Rules must secure that in relation to an application for a declaration

under section 44(4) (out of time claims) or 46(6) (consideration of new matters)—

(a) the application must be made to the Upper Tribunal within the period of 7 working days beginning with the day on which the applicant was given notice of the decision in relation to which the application is brought; 5

(b) the Upper Tribunal must determine the application, and give notice of that determination to the parties, within the period of 7 working days beginning with the day on which the application was made to the Upper Tribunal. 10

(4) But Tribunal Procedure Rules must secure that the Upper Tribunal may, if it is satisfied that it is the only way to secure that justice is done in a particular case, order that any period of time mentioned in subsection (1), (2) or (3) is to be extended to such period as the Upper Tribunal may order. 15  
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## 48 Finality of certain decisions by the Upper Tribunal

- (1) Subsections (2) and (3) apply in relation to a decision by the Upper Tribunal to—
- (a) grant or refuse permission to appeal in response to an application under section 43(2) (permission to appeal: claims certified as clearly unfounded), or 5
  - (b) grant or refuse an application for a declaration under section 44(4) (out of time claims) or 46(6) (consideration of new matters). 10
- (2) The decision is final, and not liable to be questioned or set aside in any other court. 15
- (3) In particular—
- (a) the Upper Tribunal is not to be regarded as having exceeded its powers by reason of any error made in reaching the decision; 20
  - (b) the supervisory jurisdiction does not extend to, and no application or petition

for judicial review may be made or brought in relation to, the decision.

- (4) Subsections (2) and (3) do not apply so far as the decision involves or gives rise to any question as to whether— 5
  - (a) the Upper Tribunal has or had a valid application before it under section 43(2), 44(4) or 46(6),
  - (b) the Upper Tribunal is or was properly constituted for the purpose of dealing with the application, or 10
  - (c) the Upper Tribunal is acting or has acted—
    - (i) in bad faith, or
    - (ii) in such a procedurally defective way as amounts to a fundamental breach of the principles of natural justice. 15
  
- (5) In this section— 20
  - “decision” includes any purported decision;
  - “the supervisory jurisdiction” means the supervisory jurisdiction of—

- (a) the High Court, in England and Wales or Northern Ireland, or
- (b) the Court of Session, in Scotland.

**49 Judges of First-tier Tribunal and Upper Tribunal**

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In section 5(1) of the Tribunals, Courts and Enforcement Act 2007 (judges and other members of the Upper Tribunal), after paragraph (c) insert—

“(ca) is a judge of the First-tier Tribunal,”.

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**50 Special Immigration Appeals Commission**

(1) This section applies where the Secretary of State makes a decision under section 40(2)(b) or 41(2)(b) (refusal of suspensive claim) in relation to a suspensive claim.

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(2) An appeal under section 42, or an application for permission to appeal under section 43, in relation to the decision may not be brought or continued if the Secretary of State acting in person certifies that the decision was made

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wholly or partly in reliance on information which, in the opinion of the Secretary of State, should not be made public—

(a) in the interests of national security,

(b) in the interests of the relationship between the United Kingdom and another country, or

(c) otherwise in the public interest.

(3) Where a certificate is issued under subsection (2), any pending appeal, or application for permission to appeal, in relation to the decision lapses. 10

(4) The Special Immigration Appeals Commission Act 1997 is amended as follows. 15

(5) After section 2 insert—

**“2AA Jurisdiction: appeals in relation to the Illegal Migration Act 2023**

(1) A person may appeal to the Special Immigration Appeals Commission against a refusal decision if— 20

- (a) the person would, but for a certificate of the Secretary of State under section 50 of the Illegal Migration Act 2023 (Special Immigration Appeals Commission), be able to—
    - (i) appeal against the decision under section 42 of that Act, or
    - (ii) apply for permission to appeal against the decision under section 43 of that Act, or
  - (b) an appeal against the decision under section 42 of that Act, or an application for permission to appeal against the decision under section 43 of that Act, lapsed under section 50 of that Act by virtue of a certificate of the Secretary of State under that section.
- (2) Sections 42(3) to (6) and 46(2) to (8) of the Illegal Migration Act 2023 apply,

with the modification in subsection (3), in relation to an appeal under this section as they apply in relation to an appeal under section 42 of that Act.

(3) The modification is that references to the Upper Tribunal are to be read as references to the Special Immigration Appeals Commission. 5

(4) In this section “refusal decision” means a decision of the Secretary State under section 40(2)(b) or 41(2)(b) of the Illegal Migration Act 2023 (refusal of suspensive claim). 10

**2AB Finality of certain decisions by the Special Immigration Appeals Commission** 15

(1) Subsections (2) and (3) apply in relation to a decision by the Special Immigration Appeals Commission to grant or refuse an application for a declaration under section 46(6) of the Illegal Migration Act 2023 20

(consideration of new matters), as applied by section 2AA(2) of this Act.

- (2) The decision is final, and not liable to be questioned or set aside in any other court. 5
  
- (3) In particular—
  - (a) the Special Immigration Appeals Commission is not to be regarded as having exceeded its powers by reason of any error made in reaching the decision; 10
  
  - (b) the supervisory jurisdiction does not extend to, and no application or petition for judicial review may be made or brought in relation to, the decision. 15
  
- (4) Subsections (2) and (3) do not apply so far as the decision involves or gives rise to any question as to whether— 20
  - (a) the Special Immigration Appeals Commission has

or had a valid application before it under section 46(6) of the Illegal Migration Act 2023, as applied by section 2AA(2) of this Act,

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(b) the Special Immigration Appeals Commission is or was properly constituted for the purpose of dealing with the application, or

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(c) the Special Immigration Appeals Commission is acting or has acted—

(i) in bad faith, or

(ii) in such a procedurally defective way as amounts to a fundamental breach of the principles of natural justice.

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(5) In this section—

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“decision” includes any purported decision;

“the supervisory jurisdiction” means  
the supervisory jurisdiction of—

(a) the High Court, in England and  
Wales or Northern Ireland, or

(b) the Court of Session,  
in Scotland.” 5

(6) In the following provisions, for “2 or  
2B” substitute “2, 2AA or 2B”—

(a) section 5(1)(a) and (b);

(b) section 5(2); 10

(c) section 6A(1);

(d) section 6A(2)(a).

(7) In section 5 (procedure in relation to  
jurisdiction under sections 2 and 3), in  
the heading, after “2” insert “, 2AA”. 15

## **51 Interim measures of the European Court of Human Rights**

(1) The Secretary of State may by  
regulations make provision about interim  
measures indicated by the European  
Court of Human Rights as they relate 20

to the removal of persons from the United Kingdom under this Act.

- (2) Regulations under subsection (1) may in particular make provision about the effects of such measures in relation to— 5
  - (a) the duty in section 2 to make arrangements for the removal of a person from the United Kingdom;
  - (b) the power in section 3 to make arrangements for the removal of a person from the United Kingdom; 10
  - (c) the removal of a member of the family of a person mentioned in paragraph (a) or (b) from the United Kingdom in accordance with section 8; 15
  - (d) any claim made by a person in relation to their removal from the United Kingdom under this Act.
  
- (3) In this section “claim” includes any claim or application mentioned in section 4(1) (disregard of certain claims, applications etc). 20

*Inadmissibility of certain asylum and human rights claims*

**52 Inadmissibility of certain asylum and human rights claims**

- (1) Part 4A of the Nationality, Immigration and Asylum Act 2002 (inadmissible asylum claims) is amended as follows. 5
- (2) In section 80A (asylum claims by EU nationals)—
  - (a) in subsection (1)— 10
    - (i) after “claim” insert “or a human rights claim”;
    - (ii) for “member State” substitute “State listed in section 80AA(1)”;
  - (b) in subsection (2), for “An asylum” substitute “A”; 15
  - (c) in subsection (3)—
    - (i) for “an asylum” substitute “a”;
    - (ii) after “82(1)(a)” insert “or (b)”;
    - (iii) after “protection claim” insert “or human rights claim”; 20



- (d) in subsection (5)—
    - (i) in the words before paragraph (a), omit from “where” to “national”;
    - (ii) in paragraph (a), at the beginning insert “in a case where the claimant is a national of a State that is a signatory to the Human Rights Convention, where that State”; 5
    - (iii) in paragraph (b), at the beginning insert “in a case where the claimant is a national of a member State, where that State”; 10
  - (e) in subsection (6)—
    - (i) after “this section” insert “and section 80AA”; 15
    - (ii) after “claim”, insert ““human rights claim”, ”;
  - (f) for the heading, substitute “Claims by nationals of listed safe States”. 20
- (3) After section 80A insert—

**“80AA Safe States for the purposes of section 80A**

(1) The States are—

- (a) Albania,
- (b) Austria, 5
- (c) Belgium,
- (d) Bulgaria,
- (e) Republic of Croatia,
- (f) Republic of Cyprus,
- (g) Czech Republic, 10
- (h) Denmark,
- (i) Estonia,
- (j) Finland,
- (k) France,
- (l) Germany, 15
- (m) Greece,
- (n) Hungary,
- (o) Iceland,

- (p) Republic of Ireland,
- (q) Italy,
- (r) Latvia,
- (s) Principality of Liechtenstein,
- (t) Lithuania, 5
- (u) Luxembourg,
- (v) Malta,
- (w) Netherlands,
- (x) Norway,
- (y) Poland, 10
- (z) Portugal,
- (z1) Romania,
- (z2) Slovak Republic,
- (z3) Slovenia,
- (z4) Spain, 15
- (z5) Sweden,
- (z6) Switzerland.

(2) The Secretary of State may

by regulations amend the list in subsection (1) so as to add or remove a State.

- (3) The Secretary of State may add a State to the list only if satisfied that— 5
  - (a) there is in general in that State no serious risk of persecution of nationals of that State, and
  - (b) removal to that State of nationals of that State will not in general contravene the United Kingdom’s obligations under the Human Rights Convention. 10
  
- (4) In deciding whether the statements in subsection (3)(a) and (b) are true of a State, the Secretary of State— 15
  - (a) must have regard to all the circumstances of the State (including its laws and how they are applied), and 20
  - (b) must have regard to information from any appropriate source

(including member States and international organisations).

- (5) Regulations under this section—
  - (a) must be made by statutory instrument; 5
  - (b) may include transitional or saving provision.
  
- (6) A statutory instrument containing—
  - (a) regulations which add a State to the list in subsection (1), or 10
  - (b) regulations which both add a State to, and remove a State from, that list,

may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 15
  
- (7) A statutory instrument containing regulations under this section, other than one to which subsection (6) applies, is subject to annulment 20

in pursuance of a resolution of either House of Parliament.”

- (4) In the heading to Part 4A, after “Asylum” insert “and Human Rights”.

*Annual number of entrants using safe and legal routes* 5

**53 Cap on number of entrants using safe and legal routes**

- (1) The Secretary of State must make regulations specifying the maximum number of persons who may enter the United Kingdom annually using safe and legal routes (see subsection (6)). 10

- (2) Before making the regulations the Secretary of State must consult— 15

- (a) such representatives of local authorities, and

- (b) such other persons or bodies,

as the Secretary of State considers appropriate. 20

- (3) But the duty to consult does not apply where the Secretary of State considers that the number needs to be changed as a matter of urgency.
- (4) If in any year the number of persons who enter the United Kingdom using safe and legal routes exceeds the number specified in the regulations, the Secretary of State must lay a statement before Parliament—
  - (a) setting out the number of persons who have, in that year, entered the United Kingdom using safe and legal routes, and
  - (b) explaining why the number exceeds that specified in the regulations.
- (5) The statement must be laid before Parliament before the end of the period of six months beginning with the day after the last day of the year to which the statement relates.
- (6) In this section—
  - “local authority” means—
    - (a) in England and Wales, a county

council, a county borough council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly,

5

(b) in Scotland, a council constituted under section 2 of the Local Government etc (Scotland) Act 1994, and

(c) in Northern Ireland, a district council;

10

“safe and legal route” means a route specified in regulations made by the Secretary of State.

*General*

**54 Financial provision**

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There is to be paid out of money provided by Parliament—

(a) any expenditure incurred under or by virtue of this Act by a Minister of the Crown, and

20



- (b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

## **55 Consequential and minor provision**

- (1) The Secretary of State may by regulations make provision that is consequential on this Act. 5
- (2) Regulations under subsection (1) may, in particular, amend, repeal or revoke any enactment passed or made before, or in the same Session as, this Act. 10
- (3) In subsection (2) “enactment” includes—
  - (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978; 15
  - (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
  - (c) an enactment contained in, or in an instrument made under, a Measure or Act of Senedd Cymru; 20

- (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation.
- (4) In section 61(2) of the UK Borders Act 2007 (meaning of “the Immigration Acts”)— 5
  - (a) omit the “and” at the end of paragraph (l), and
  - (b) after paragraph (m) insert “, and
    - (n) the Illegal Migration Act 2023.”
- (5) In Schedule 5 to the Nationality and Borders Act 2022, in paragraph 8, omit sub-paragraph (2). 10

## 56 Regulations

- (1) A power to make regulations under this Act is exercisable by statutory instrument. 15
- (2) Regulations under this Act may make—
  - (a) consequential, supplementary, incidental, transitional or saving provision;
  - (b) different provision for different purposes. 20

- (3) Subsection (2) does not apply to regulations under section 59 (commencement).
- (4) A statutory instrument containing (whether alone or with other provision)—
  - (a) regulations under section 6(1) (powers to amend Schedule), 5
  - (b) regulations under section 19(1) (extension to Wales, Scotland and Northern Ireland),
  - (c) regulations under section 21(5) (necessity for person to be present in the United Kingdom), 10
  - (d) regulations under section 23(5) (necessity for person to be present in the United Kingdom), 15
  - (e) regulations under section 23(8) (amendments in consequence of regulations made by the Scottish Ministers),
  - (f) regulations under section 24(5) (necessity for person to be present in the United Kingdom), 20

- (g) regulations under section 25(3)  
(b) (continuation of operation of modern slavery provisions),
  - (h) regulations under section 28(3)  
(disapplication of modern slavery provisions in relation to persons subject to deportation), 5
  - (i) regulations under section 38 (meaning of “serious and irreversible harm”),
  - (j) regulations under section 51  
(interim measures of the European Court of Human Rights), 10
  - (k) regulations under section 53  
(cap on number of entrants using safe and legal routes), or 15
  - (l) regulations under section 55(1)  
(consequential provision) which amend, repeal or revoke primary legislation,
- may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 20

- (5) Any other statutory instrument containing regulations under this Act for which no Parliamentary procedure is otherwise specified by this Act is subject to annulment in pursuance of a resolution of either House of Parliament. 5
  
- (6) Subsection (5) does not apply to a statutory instrument containing only regulations under—
  - (a) section 25(8) (transitional etc provision in connection with suspension of operation of modern slavery provisions); 10
  - (b) section 59 (commencement).
  
- (7) In this section “primary legislation” means— 15
  - (a) an Act of Parliament,
  - (b) an Act of the Scottish Parliament,
  - (c) a Measure or Act of Senedd Cymru, or
  - (d) Northern Ireland legislation.

**57 Defined expressions** 20

In this Act an expression listed in

the first column of the following table has the meaning given by, or is to be interpreted in accordance with, the corresponding provision listed in the second column of that table.

5

<i>Expression</i>	<i>Provision</i>
application for judicial review	section 4(6)
human rights claim	section 4(6)
the Human Rights Convention	section 5(13)
immigration officer	section 7(13)
immigration rules	section 2(9)
protection claim	section 4(6)
unaccompanied child	section 3(3)

10

15

**58 Extent**

- (1) This Act extends to England and Wales, Scotland and Northern Ireland, subject as follows.
- (2) Section 22 extends to England and Wales only.
- (3) Section 23 extends to Scotland only.
- (4) Section 24 extends to Northern Ireland only.

20

- (5) Subsections (5) to (7) of section 3 (and section 56 so far as applying to those subsections) also extend to the Channel Islands and the Isle of Man and the British overseas territories, but only so as to enable regulations under subsection (5) of section 3 to make provision for any of sections 30 to 35 to have effect with modifications in relation to a person to whom regulations under that subsection apply. 5
- (6) Sections 30 to 36 also extend to the Channel Islands and the Isle of Man and the British overseas territories. 10
- (7) Any amendment, repeal or revocation made by this Act has the same extent within the United Kingdom as the provision to which it relates. 15

## 59 Commencement

- (1) Subject to subsections (3) and (4), this Act comes into force on such day as the Secretary of State may by regulations appoint. 20

- (2) Regulations under subsection (1) may appoint different days for different purposes.
- (3) The following provisions come into force on the day on which this Act is passed—
  - (a) section 49; 5
  - (b) sections 54 to 58;
  - (c) this section;
  - (d) section 60.
- (4) The following provisions come into force on the day on which this Act is passed for the purposes of making regulations— 10
  - (a) section 3 (exceptions to duty to make arrangements for removal);
  - (b) section 6 (powers to amend Schedule);
  - (c) section 17 (duty of local authority to provide information to Secretary of State); 15
  - (d) section 19 (extension of provisions relating to unaccompanied children to Wales, Scotland and Northern Ireland); 20



- (e) section 21 (modern slavery: removal and leave);
  - (f) section 23 (modern slavery: support in Scotland);
  - (g) section 24 (modern slavery: support in Northern Ireland); 5
  - (h) section 28 (disapplication of modern slavery provisions in relation to persons subject to deportation);
  - (i) section 37 (suspensive claims: interpretation); 10
  - (j) section 38 (meaning of “serious and irreversible harm”);
  - (k) section 40 (serious harm suspensive claims); 15
  - (l) section 41 (factual suspensive claims);
  - (m) section 51 (interim measures of the European Court of Human Rights);
  - (n) section 53(6) (definition of safe and legal routes). 20
- (5) The Secretary of State may by regulations make transitional or saving provision

in connection with the coming into force of any provision of this Act.

- (6) No regulations may be made under subsection (1) bringing into force section 2 (duty to make arrangements for removal) unless regulations under section 51 (interim measures of the European Court of Human Rights) are in force. 5

**60 Short title**

This Act may be cited as the Illegal Migration Act 2023. 10

SCHEDULE

SECTION 5

COUNTRIES OR TERRITORIES TO WHICH A PERSON MAY BE REMOVED

- 1 Republic of Albania. 15
- 2 Austria.
- 3 Belgium.
- 4 Bolivia.
- 5 Bosnia and Herzegovina.
- 6 Brazil. 20

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7	Bulgaria.	
8	Republic of Croatia.	
9	Republic of Cyprus.	
10	Czech Republic.	
11	Denmark.	5
12	Ecuador.	
13	Estonia.	
14	Finland.	
15	France.	
16	Gambia (in respect of men).	10
17	Germany.	
18	Ghana (in respect of men).	
19	Greece.	
20	Hungary.	
21	Iceland.	15
22	India.	
23	Republic of Ireland.	
24	Italy.	

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25	Jamaica.	
26	Kenya (in respect of men).	
27	Kosovo.	
28	Latvia.	
29	Liberia (in respect of men).	5
30	Principality of Liechtenstein.	
31	Lithuania.	
32	Luxembourg.	
33	Malawi (in respect of men).	
34	Mali (in respect of men).	10
35	Malta.	
36	Mauritius.	
37	The Republic of Moldova.	
38	Mongolia.	
39	Montenegro.	15
40	Netherlands.	
41	Nigeria (in respect of men).	
42	North Macedonia.	

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43	Norway.	
44	Peru.	
45	Poland.	
46	Portugal.	
47	Romania.	5
48	Republic of Rwanda.	
49	Serbia.	
50	Sierra Leone (in respect of men).	
51	Slovak Republic.	
52	Slovenia.	10
53	South Africa.	
54	South Korea.	
55	Spain.	
56	Sweden.	
57	Switzerland.	15

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# Illegal Migration Bill

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[AS AMENDED IN COMMITTEE]

A

**BILL**

TO

Make provision for and in connection with the removal from the United Kingdom of persons who have entered or arrived in breach of immigration control; to make provision about detention for immigration purposes; to make provision about unaccompanied children; to make provision about victims of slavery or human trafficking; to make provision about leave to enter or remain in the United Kingdom; to make provision about citizenship; to make provision about the inadmissibility of certain protection and certain human rights claims relating to immigration; to make provision about the maximum number of persons entering the United Kingdom annually using safe and legal routes; and for connected purposes.

*Presented by Secretary Suella Braverman  
supported by The Prime Minister, Secretary  
Dominic Raab, The Chancellor of the Exchequer,  
Secretary James Cleverly, Secretary Gillian  
Keegan and Robert Jenrick*

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