

Economic Note	Number: HOEN 0036
Title of regulatory proposal	Safety of Rwanda (Asylum and Immigration) Bill 2023
Lead Department/Agency	Home Office
Expected date of implementation	TBC dependent on Royal Assent
Origin	Domestic
Date	11/12/2023
Lead Departmental Contact	
Departmental Assessment	GREEN

Rationale for intervention, objectives and intended effects

The Safety of Rwanda (Asylum and Immigration) Bill 2023 (The Bill) seeks to address the Supreme Court's judgement on the lawfulness of relocations to Rwanda, which currently prevents relocations to Rwanda of persons who arrive in the UK under the Illegal Migration Act 2023 (IMA 2023) and the Nationality and Borders Act 2022 (NABA 2022), and reduce the risk of further successful legal challenge disrupting operationalisation of the government's policy to relocate individuals to Rwanda. This Bill forms part of a wider strategy to stop illegal migration and confirms that the Government of the Republic of Rwanda will fulfil its obligations under the Treaty between the Governments of Rwanda and the UK.

Policy options (including alternatives to regulation)

Option 1: 'Do nothing': The operationalisation of relocations of persons to Rwanda, who arrive in the UK under the Immigration Acts (IMA 2023 and NABA 2022), would remain paused despite the Rwanda Treaty. This does not meet the Government's objectives.

Option 2: Enact the Safety of Rwanda (Asylum and Immigration) Bill 2023, addressing the Supreme Court's ruling on 15 November 2023, mitigating the risk of further legal challenge to the Government and enabling relocations to Rwanda. **This is the Government's preferred option as it meets the strategic and policy objectives.**

Costs and benefit summary

There are no monetised costs or benefits. This legislation does not materially impact the appraisal of the IMA 2023, as set out in the Illegal Migration Bill Impact Assessment.

Risks

This legislation seeks to address the Supreme Court's judgement of 15 November 2023 on the lawfulness of relocations to Rwanda. Measures in the Bill also seek to reduce the risk of further legal challenge to the relocation process. Additional legal challenge could cause further delay to the full implementation of the IMA 2023, preventing relocations and reducing the deterrent impact which operationalisation of the IMA 2023 provisions might have on migrant behaviour.

Total Cost £m PV	Transition Cost £m	Cost to Business £m	Total Benefit £m PV
N/A	N/A	£0	N/A
NPSV (£m)	BNPV (£m)	EANDCB (£m)	BIT Score (£m)
N/A	N/A	N/A	N/A
Price Base Year	PV Base Year	Appraisal period	Transition period
N/A	N/A	N/A	N/A

Departmental sign-off (SCS): Kristian Armstrong Date: 11/12/2023

Chief Economist sign-off: Tim Laken Date: 06/12/2023

Better Regulation Unit sign-off: Jon Bray Date: 07/12/2023

Evidence Base

1. Background

1. This Bill seeks to prevent and deter unlawful migration, in particular by unsafe and illegal routes, by enabling under the Immigration Acts¹, the removal of persons who arrive in the UK to the Republic of Rwanda.
2. This Bill builds upon previous Immigration Acts and responds to the Supreme Court ruling of 15 November 2023².

2. The policy issue and rationale for Government intervention

3. The Supreme Court ruling of 15 November 2023 has paused the operationalisation of provisions to remove persons who arrive in the UK illegally to Rwanda. Government action is necessary to address this and reduce the risk of further legal challenge preventing the relocation of persons to the Republic of Rwanda.

3. Policy objectives and intended effects

4. The overarching purpose of this Bill is to deter dangerous and illegal journeys to the United Kingdom, which are putting people's lives at risk, and to disrupt the business model of people smugglers.
5. The Bill seeks to confirm the safety of the Republic of Rwanda as a safe third country, thereby enabling the swift removal of persons who arrive in the United Kingdom under the Immigration Acts. This Bill builds on the objectives set out in IMA 2023 and NABA 2022. This Bill forms part of a wider strategy to stop illegal migration and confirms that the Government of the Republic of Rwanda will fulfil its obligations under the Treaty between the Governments of Rwanda and the UK. The Bill will:
 - a) Confirm that the Republic of Rwanda is a safe third country for the purposes of removal.
 - b) Confirm that the Government of the Republic of Rwanda will fulfil its obligations under the Treaty between the United Kingdom and the Republic of Rwanda³.
 - c) Ensure that any court or tribunal conclusively treats Rwanda as a safe for the purposes of asylum and removal.

¹ Illegal Migration Act 2023 (IMA 2023) and the Nationality and Borders Act 2022 (NABA 2022)

² Supreme Court Judgement of 15 November 2023: <https://www.supremecourt.uk/cases/docs/uksc-2023-0093-etc-judgment.pdf>

³UK-Rwanda Treaty <https://www.gov.uk/government/publications/uk-rwanda-treaty-provision-of-an-asylum-partnership>

4. Policy options considered, including alternative to regulation

6. Two options have been considered:

- **Option 1: ‘Do nothing’:** The operationalisation of relocations of persons to Rwanda, who arrive in the UK under the Immigration Acts⁴, would remain on pause despite the Treaty. This does not meet the Government’s objectives.
- **Option 2: Introduce the Safety of Rwanda (Asylum and Immigration) Bill 2023,** addressing the Supreme Court’s ruling on 15 November 2023, mitigating the risk of further legal challenge to the Government and enabling relocations to Rwanda.

7. **Option 2 is the Government’s preferred option as it meets the strategic and policy objectives.**

Do nothing

8. Not enacting this legislation would mean that operationalisation of relocations to Rwanda would remain on pause. In the absence of an agreement with another safe third country, other than Rwanda, relocations are likely to remain paused.
9. The Illegal Migration Bill Impact Assessment (IMBIA)⁵ explored some of the implications of not taking action, hypothetically noting that in the absence of a relocation policy, other measures to tackle inefficiencies in the asylum system, and with a continuation of trends observed to that point in time, costs to the taxpayer could rise.

‘If the level of illegal migration to the UK continues to rise, costs and the size of the supported population could increase further. If recent trends from 2020 onwards were to continue, the average per person per night support cost would rise to £126 in 2024, £152 in 2025, and £178 in 2026 (whole year averages). The size of the supported population would increase to 185,000 people by the end of 2026. The total costs of such a system to the taxpayer would be in excess of £32 million per day by the end of 2026.’⁶

Preferred option

10. The preferred option is to bring forward this legislation, addressing the Supreme Court’s ruling on 15 November 2023 to enable relocations to Rwanda at the earliest opportunity.
11. The legislation will allow, under the Immigration Acts, the removal of persons to the Republic of Rwanda by:
- a. Enabling Parliament to confirm that, with the new Treaty, Rwanda is safe.
 - b. Require decision makers and courts and tribunals to treat Rwanda as generally safe, when making decisions, or hearing claims about decisions relating to the removal of a person to Rwanda.
 - c. Prevent domestic courts and tribunals from granting interim remedies on matters relating only to general safety of Rwanda, and allow them to do so in individual cases only where the court or tribunal is satisfied that the person would otherwise face a real, imminent and foreseeable risk of serious and irreversible harm if removed.
 - d. Disapplying sections 2 of the Human Rights Act 1998 (HRA 1998)⁷, in relation to any systemic challenges to Parliament’s settled view that Rwanda is safe, section 3 of the HRA 1998 in relation to the whole Bill and sections 6 to 9 of the HRA 1998, where the

⁴ Illegal Migration Act 2023 (IMA 2023) and the Nationality and Borders Act 2022 (NABA 2022)

⁵ Illegal Migration Bill Impact Assessment: <https://bills.parliament.uk/publications/51897/documents/3699>

⁶ Illegal Migration Bill Impact Assessment, paragraph 8: <https://bills.parliament.uk/publications/51897/documents/3699>

⁷ Human Rights Act 1998: <https://www.legislation.gov.uk/ukpga/1998/42/contents>

Courts are considering whether Rwanda is safe and where the test that must be met before removal is whether it will result in serious and irreversible harm.

- e. Setting out that it is only ever for a Minister of the Crown to decide whether to comply with a Rule 39 interim measure of the European Court of Human Rights and that domestic courts and tribunals must not have regard to Rule 39 interim measures when considering domestic interim relief applications.

5. Appraisal

General assumptions and data

12. The Bill aims to address the Supreme Court's findings and reduce the risk of further successful legal challenge disrupting the operationalisation of the Government's policy to relocate individuals to Rwanda under NABA 2022 and IMA 2023 powers. While the Bill will apply to a limited number of individuals eligible for relocation under the NABA 2022 it will principally apply to the IMA 2023 cohorts. This appraisal therefore focusses on the latter.
13. The IMBIA was published on 26 June 2023. This contained an illustrative appraisal of the costs and benefits associated with the Illegal Migration Act 2023. Monetisation focused on an estimated unit, or incremental, cost of relocation, and the incremental benefit derived from not having to support a relocated or deterred individual within the asylum system in the UK. The IMBIA also qualitatively considered wider non-monetised impacts.
14. The objectives of that legislation and the process, as envisaged by the IMA 2023, are unchanged by this legislation and therefore the appraisal set out in the IMBIA is not being revisited.
15. Pertinent to this Bill, the IMBIA recognised the legal challenge risk to delivery of the IMA 2023 objectives, stating:

*'Legal challenges could cause a delay in the full implementation of the Bill, preventing relocations and reducing the deterrent impact the Bill might have on migrant behaviour, though there are measures under way to mitigate this risk. Any deterrence impact may be dependent not only on the introduction of the Bill, but on the process being implemented and being seen to be implemented.'*⁸
16. The risk of legal challenge arising has materialised since publication of the IMBIA, which has impacted the Government's ability to perform a relocation to Rwanda and therefore deliver on the objectives of IMA 2023.
17. The new legislation will confirm to the courts that Rwanda should be deemed safe and closes down routes to further legal challenge. As was the case for the IMBIA, it is still the case that it is not possible to make a monetised appraisal of the legal risk.

Costs

18. There are no monetised costs. As set out above the main objective of this legislation is to reduce the risk of future legal challenge and allow the operationalisation of IMA 2023 as intended. Commencing relocations will entail incremental costs for relocating an individual as set out in the IMBIA including:
 - a. third country return costs
 - b. Home Office resource costs
 - c. escorting costs

⁸ Illegal Migration Bill Impact Assessment, paragraph 60: <https://bills.parliament.uk/publications/51897/documents/3699>

- d. flight costs
 - e. detention run costs
 - f. costs on the justice system.
19. The litigation and subsequent Supreme Court judgement has delayed the earliest implementation of IMA 2023. The appraisal in the IMBIA did not include set-up costs of the system and did not forecast likely costs or benefits over an appraisal period – rather taking an incremental approach to costs and benefits. Delays to implementation have no impact on the appraisal in the IMBIA. It is the policy intention to commence the IMA as soon as possible.

Benefits

20. There are no monetised benefits. As set out above the main objective of this legislation is to reduce the risk of future legal challenge to the government allowing operationalisation of the IMA 2023 as intended. Operationalisation will deliver benefits as set out in the IMBIA and including:
- a. Benefits arising from asylum system cost savings achieved when individuals have either been returned to their home country, relocated to a safe third country, or have been deterred from entering the UK.
 - b. Dependent on the deterrent effect achieved, there could be fewer individuals undertaking hazardous and unnecessary journeys crossing the English Channel including in small boats from safe countries.
 - c. Reduced pressures on public services and other wider asylum system benefits from fewer migrants being supported in the system, including reduced pressure on modern slavery.

Value for money metrics

21. There are no monetised costs or benefits therefore no value for money metrics can be calculated. Please see the IMBIA⁹ for Value for Money analysis of the wider policy.

Small and Micro Business Assessment (SaMBA)

22. This legislation is expected to have no direct impacts on businesses.

6. Risks and unintended consequences

23. This legislation seeks to address the Supreme Court's judgement of 15 November 2023 on the lawfulness of relocations to Rwanda. Measures in the Bill also seek to reduce the risk of further legal challenge to the relocation process. Additional legal challenge could cause further delay to the full implementation of the IMA 2023, preventing relocations and reducing the deterrent impact which operationalisation of the IMA 2023 provisions might have on migrant behaviour.

⁹ Illegal Migration Bill Impact Assessment: <https://bills.parliament.uk/publications/51897/documents/3699>

7. Implementation, monitoring and evaluation

24. The Home Office will continue to monitor and evaluate the Illegal Migration Act 2023 as set out in the IMBIA, section J¹⁰.

Specific Impact Test Checklist

Mandatory specific impact test - Statutory Equalities Duties	Complete
<p>Statutory Equalities Duties</p> <p>This Bill will have the greatest impact on people who have arrived in, or seek to enter, the UK illegally as it supports the provisions of the Illegal Migration Act 2023 and the Migration and Economic Development Partnership with Rwanda. Consideration of the equalities impacts of those policies can be found in the published equalities impact assessments (EIAs).</p> <p>The EIA reflects this Bill as introduced to Parliament. It is a live document. It ensures that equalities are considered at an early stage, to inform decision making in relation to policies and operations which are necessary to support the Bill.</p> <p>In making an equalities impact assessment, there is more data about age, race (nationality) and sex which has enabled identification of potential disadvantages on these grounds, and to seek out mitigations of those impacts. However, it is more difficult to identify potential impacts on people who share other protected characteristics – for example, an absence of data about pregnancy and maternity makes it hard to identify potential impacts or any potential mitigations for this group.</p> <p>On the available evidence, the EIA concluded that this demonstrates compliance, where relevant, with section 149 of the Equality Act 2010 and that due regard has been made to the need to: eliminate unlawful discrimination; advance equality of opportunity; and foster good relations.</p> <p>The SRO has agreed these findings.</p>	

¹⁰ Illegal Migration Bill Impact Assessment, paragraph 148:
<https://bills.parliament.uk/publications/51897/documents/3699>