

SAFETY OF RWANDA (ASYLUM AND IMMIGRATION) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Safety of Rwanda (Asylum and Immigration) Bill 2023 introduced in the House of Commons on 07 December 2023 (Bill 38).

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

Table of Contents

Subject	Page of these Notes
Overview of the Bill	2
Policy background	3
Memorandum of Understanding with the Government of Rwanda	4
Treaty between UK and Government of the Republic of Rwanda	5
The Illegal Migration Act 2023	5
The Nationality and Borders Act 2022	6
Legal background	6
Territorial extent and application	7
Extent in the Channel Islands, Isle of Man and the British overseas territories	8
Commentary on provisions of Bill	8
Clause 1: Introduction	8
Clause 2: Safety of the Republic of Rwanda	9
Clause 3: Disapplication of Human Rights Act 1998	10
Clause 4: Decisions based on particular individual circumstances	11
Clause 5: Interim measures of the European Court of Human Rights	12
Clause 6: Consequential provision	12
Clause 7: Interpretation	12
Clause 8: Extent	13
Commencement	13
Environment Act 2021	13
Financial implications of the Bill	13
Compatibility with the European Convention on Human Rights	14
Related documents	14
Annex A - Territorial extent and application in the United Kingdom	16

Overview of the Bill

- 1 The purpose of this Bill is to prevent and deter unlawful migration, and in particular migration by unsafe and illegal routes, by enabling the removal of persons to the Republic of Rwanda under provision made by, or under, the Immigration Acts. The Bill seeks to confirm the safety of the Republic of Rwanda as a safe third country, thereby enabling the removal of persons who arrive in the UK under the Immigration Acts. This Bill builds on the objectives set out in the Illegal Migration Act 2023, Nationality and Borders Act 2022, and the measures set out in the New Plan for Immigration, as part of a wider strategy to tackle illegal migration. 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 Rwanda (Full title: *Agreement between the Government of the Republic of Rwanda and the Government of the United Kingdom of Great Britain and Northern Ireland for the Provision of an Asylum Partnership to strengthen shared international commitments on the protection of refugees and migrants*. In this document: the Rwanda Treaty).
 - c. Ensure that any court or tribunal conclusively treats Rwanda as a safe for the purposes of asylum and removal.
- 2 The Bill includes the following measures:
 - a. Clause 1 sets out the purpose of the Bill and provides an overview of its contents, as well as defining the terms “safe country” and “international law”. It also affirms the sovereignty of Parliament.
 - b. Clause 2 recognises the Republic of Rwanda as a safe country and that decision makers and courts and tribunals must treat the Republic of Rwanda as generally safe when making decisions, or for the purposes of appeals or reviews.
 - c. Clause 3 applies this Bill notwithstanding sections 2, 3 and 6 to 9 of the Human Rights Act 1998.
 - d. Clause 4 defines the particular individual circumstances that can be considered by a decision maker when deciding whether to remove a person to the Republic of Rwanda, including the narrow rights of suspensive appeal, and sets out the expectations to that route which the courts must not consider.
 - e. Clause 5 states that it is for a Minister of the Crown only to decide whether the UK will comply with an interim remedy from a court or tribunal that prevents or delays the removal of the person to the Republic of Rwanda.

- f. Clause 6 summarises consequential provisions for the UK Borders Act 2007 and Illegal Migration Act 2023.
- g. Clauses 7 to 10 make general provision, including in respect of the Bill's territorial extent, interpretation, and commencement.

Policy background

- 3 The UK has offered sanctuary to refugees from across the world through a number of safe and legal routes, including our global routes and in recent years country-specific routes for Syria, Hong Kong, Afghanistan and Ukraine. The Government has offered over half a million people a safe and legal route to the UK since 2015, including 271,389 Ukrainian Visa and Extension Schemes grants and 184,700 Hong Kong BN(O) visa grants (since the route launched on 31 January 2021) (note that route offered is not the same as arrivals in the UK – not everyone granted a visa arrives). This also includes 28,780 individuals that have been resettled through the Government's established UNHCR resettlement schemes and 21,673 that have been relocated or resettled through the Government's Afghan schemes (ACRS and ARAP).
- 4 In 2022, over 45,700 illegal entrants entered the UK having crossed the English Channel in small boats; this compares to some 28,500 in 2021 and 8,500 in 2020. In 2022, many of the illegal entrants originated from safe countries, such as Albania (28% of the total), and all travelled through safe countries, such as France or other safe European countries. This year (to 2nd December 2023), 28,972 people have arrived in the UK by small boat. This compares to just around 44,200 at the same point in 2022 - a fall of around a third.
- 5 This Bill seeks to prevent and deter illegal migration, in particular by unsafe and illegal routes including people arriving from safe countries, by enabling under the Immigration Acts, the removal of persons to the Republic of Rwanda. To enable the Government to focus support on those who need it most, this Bill will tackle illegal migration facilitated by people smugglers by taking away the incentive to make dangerous Channel crossings in the first place.
- 6 The scheme provided for in the Bill is part of a wider strategy to tackle illegal migration. The Government is working with partners in Europe, especially France, to prevent migrants attempting to make their way illegally to the UK. The Government's joint work with the French has seen over 22,000 illegal crossing attempts being prevented this year. The Government has returns cooperation with countries across the globe and continuing to build on this cooperation is at the heart of the Government's diplomatic engagement. There are returns agreements with a number of countries, including Albania and Vietnam - high volume countries for small boat arrivals.
- 7 In August 2023, the Government announced an enhanced partnership with Turkey to tackle illegal migration and disrupt the small boats supply chain, including a new Turkish National Police Operations and Intelligence Coordination Centre based in Turkey to tackle Organised Immigration Crime. The Government has also doubled funding given to the National Crime

Agency for tackling organised immigration crime. The Government intends to continue working with these partners and all operational partners and agencies to tackle the upstream causes of illegal immigration.

Memorandum of Understanding with the Government of Rwanda

- 8 In April 2022, the UK Government and the Government of the Republic of Rwanda signed a Memorandum of Understanding for the provision of the Migration and Economic Development Partnership (MEDP) between the two countries. The purpose of the MEDP arrangement is to provide a mechanism for the relocation of any individual who arrived in the UK through dangerous, illegal and unnecessary methods since 1 January 2022 to the Republic of Rwanda, where they will have their claim for protection considered.
- 9 On 29 June 2023, the Court of Appeal handed down its judgment in its Judicial Review of the partnership. The Court found the deficiencies in the Republic of Rwanda's asylum system were such that there were substantial grounds for believing that asylum seekers removed to the Republic of Rwanda face a real risk of being returned to countries where they faced persecution or other inhumane treatment. However, the Court found that the policy of relocating asylum seekers to safe third countries is, in principle, compliant with the Refugee Convention.
- 10 On 15 November 2023 a judgment was handed down by the Supreme Court which upheld the Court of Appeal's decision. The principal issue the Supreme Court had to consider was whether, given the asylum system to be operated in the Republic of Rwanda under the MEDP, there were substantial grounds for believing that asylum seekers would face a real risk of 'refoulement' (i.e. of being returned to their country of origin or a third country) where they may face ill-treatment. In summary, the Court decided that:
 - a. The Court of Appeal was entitled to consider the refoulement issue for itself – because the Divisional Court erred in its approach to the evaluation of the evidence;
 - b. The Court of Appeal was entitled to conclude that there were substantial grounds for believing that asylum seekers would be at real risk of refoulement if they were removed to the Republic of Rwanda, and that the Court of Appeal was right to do so. The key points made by the Supreme Court concerned:
 - i. The Republic of Rwanda's human rights record,
 - ii. UNHCR's evidence of serious and systematic defects in the Republic of Rwanda's procedures and institutions for processing asylum claims, and that
 - iii. The Republic of Rwanda failed to comply with an explicit undertaking to the Government of Israel to comply with the principle of non-refoulement.
- 11 The Supreme Court accepted that the Republic of Rwanda's Government entered into the MEDP in good faith, that it has incentives to ensure that it is adhered to, and that monitoring arrangements provide a further safeguard. The Supreme Court suggested that changes could

be made in the future to build up the Republic of Rwanda's system and capacity which could address the refoulement risk but that there was a real risk of refoulement based on the evidence submitted to the High Court in advance of the hearing in September 2022. As the Court of Appeal and Supreme Court were hearing appeals from the High Court, they could not consider evidence submitted after this date.

Treaty between UK and Government of the Republic of Rwanda

12 The Treaty responds to the Supreme Court judgment by:

- a. Establishing a non-refoulement commitment – the Treaty includes a provision which explicitly rules out any Relocated Individual from being removed from the Republic Rwanda, except to the UK.
- b. Ensuring equivalence of treatment of all Relocated Individuals – all Relocated Individuals, regardless of whether their asylum or protection claim is granted or refused, will be able to stay in the Republic of Rwanda permanently and given the same levels of practical support (accommodation, medical care etc) and integration support.
- c. Creating a mechanism for the UK to require the return of a Relocated Individual.
- d. Strengthening monitoring arrangements – the Treaty creates an enhanced mechanism of monitoring; this includes an enhanced real-time monitoring process involving the Monitoring Committee during the first 3 months of operation of the Treaty.
- e. Strengthening the Republic of Rwanda's end-to-end asylum process – this includes creating a new First Instance Body which will take the initial decisions (which will be assisted by independent experts in the first 6 months) and a new specialist asylum Appeals Body to hear cases afresh. The Appeal Body will be made up of judges of a mix of nationalities. During the first 5 years of operation (extendable) the Appeal Body will be chaired by one Republic of Rwanda and one Commonwealth co-president. For the first 12 months an independent expert will provide advice to the Appeals Body before any appeal is determined. The Appeal Body will also have jurisdiction to hear an appeal against a material alteration of the status of a Relocated Individual, for example, if there was a revocation of refugee status.

The Illegal Migration Act 2023

13 The Illegal Migration Act 2023 creates a system in which anyone arriving illegally in the UK will not have their asylum claim, human rights claim or modern slavery referral considered

while they are in the UK, but they will instead be promptly removed either to their home country, where it is safe to do so, or to a safe third country to have their protection claims processed there.

- 14 Parts of the Illegal Migration Act 2023 are already in operation. This includes:
 - a. updated criteria for caseworkers assessing the credibility of claims by explicitly setting out that factors such as the destruction of, or failure to produce an identity document, as well as refusal to disclose information required to access an electronic device like a phone passcode when asked, should be considered when assessing claims;
 - b. strengthened detention considerations to determine what constitutes a reasonable time-period to detain a person for immigration purposes; and
 - c. the launch of a consultation on safe and legal routes for refugees in October 2023 with local authorities across England, Scotland, Wales and Northern Ireland on safe and legal routes, with a report being laid before Parliament in January 2024.

The Nationality and Borders Act 2022

- 15 The Nationality and Borders Act 2022 introduced new measures to protect and support those in need of asylum, to deter illegal entry into the UK and to remove more easily from the UK those with no right to be in the UK. The intended cumulative impact of these measures is to dissuade migrants from considering using criminal smugglers to facilitate dangerous and illegal journeys to the UK and therefore to reduce the number of dangerous journeys from safe countries.
- 16 Following the end of the EU Transition period (on 31 December 2020), changes to the Immigration Rules were brought into effect which amended legal powers to treat cases as inadmissible (that is, the UK does not take responsibility for assessing the asylum claim) where individuals have passed through safe countries or have connections to a safe country where they could have made a claim for asylum. Through the Nationality and Borders Act 2022, inadmissibility rules were clarified and placed into primary legislation. This was aimed at encouraging asylum seekers to claim asylum in the first safe country they reach and to deter onward travel to the UK.
- 17 The Nationality and Borders Act 2022 also enhanced the enforcement capability of the Home Office by enabling the Department to exclude serious offenders from the National Referral Mechanism (the system for identifying and supporting victims of modern slavery) on public order grounds. It also introduced expedited appeals processes. A number of provisions of the Nationality and Borders Act 2022 came into force on 28 June 2022 and 30 January 2023.

Legal background

- 18 The requirement in Clause 2(1) of the Bill for decision-makers (as defined in that provision) to

conclusively treat the Republic of Rwanda as a safe country, refers to decisions relating to the removal of a person to the Republic of Rwanda under any provision of, or made under, the Immigration Acts. Section 61(2) of the UK Borders Act 2007 provides that a reference to “the Immigration Acts” in any enactment means the legislation listed in that section.

19 The Bill amends the following legislation:

- a. Section 61(2) of the UK Borders Act 2007, to add this Bill to the list of “the Immigration Acts”;
 - i. the Immigration Act 1971 (c. 77),
 - ii. the Immigration Act 1988 (c. 14),
 - iii. the Asylum and Immigration Appeals Act 1993 (c. 23),
 - iv. the Asylum and Immigration Act 1996 (c. 49),
 - v. the Immigration and Asylum Act 1999 (c. 33),
 - vi. the Nationality, Immigration and Asylum Act 2002 (c. 41),
 - vii. the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19),
 - viii. the Immigration, Asylum and Nationality Act 2006 (c. 13),
 - ix. the UK Borders Act 2007
 - x. the Immigration Act 2014
 - xi. the Immigration Act 2016
 - xii. Part 1 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (and Part 3 so far as relating to that Part)
 - xiii. the Nationality and Borders Act 2022, and
 - xiv. the Illegal Migration Act 2023.
- b. Section 39 of the Illegal Migration Act (serious harm suspensive claims: interpretation), to signpost clauses 2 and 4 of this Bill.

Territorial extent and application

20 Clause 8 sets out the territorial extent of the Bill, that is the jurisdictions in which the Bill forms part of the law. The extent of a Bill can be different from its application. Application is about where a Bill produces a practical effect.

21 The provisions in the Bill extend and apply to the whole of the UK.

- 22 There is a convention (“the Sewel Convention”) that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned. (In relation to Scotland and Wales, this convention is enshrined in law: see section 28(8) of the Scotland Act 1998 and section 107(6) of the Government of Wales Act 2006.)
- 23 In the view of the Government of the UK, the provisions in the Bill do not relate to matters within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly.
- 24 If, following introduction of the Bill, there are amendments relating to matters within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly, the consent of the relevant devolved legislature(s) will be sought for the amendments.
- 25 See the table in Annex A for a summary of the position regarding territorial extent and application in the UK.

Extent in the Channel Islands, Isle of Man and the British overseas territories

- 26 Clause 8 makes provision allowing, by Order in Council, the provisions of this Bill to be extended, with or without modification, to the Channel Islands or the Isle of Man.

Commentary on provisions of Bill

Clause 1: Introduction

- 27 Subsection (1) introduces the purpose of the Bill, which is to prevent and deter unlawful migration, and in particular migration by unsafe routes, by enabling the swift removal of persons who arrive in the UK via such routes to the Republic of Rwanda.
- 28 Subsection (2) acknowledges the Rwanda Treaty has been laid before Parliament to address said purpose.
- 29 Subsection (3) summarises the obligations it imposes upon the Government of the Republic of Rwanda. The first obligation (a) is that any person removed to the Republic of Rwanda under the provisions of the Treaty (a “relocated individual”) will not be removed from Rwanda except to the UK. The second obligation (b) is that any relocated individual is to be made available for return to the UK following a request from the Government of the UK. The third obligation (c) is that the system for the processing of asylum claims by relocated individuals is to be improved. The fourth obligation (d) is that relocated individuals are to be treated equally, irrespective of the status that they are granted in the Republic of Rwanda. The fifth obligation (e) is that relocated individuals are to be provided with legal assistance for the purposes of their protection claims and any appeals relating to such claims. The sixth obligation sets out there will independent monitoring of these obligations and subjection to a

form of binding dispute settlement.

- 30 Subsection (4) recognises (a) the sovereignty of the Parliament of the UK and (b) the validity of an Act is unaffected by international law.
- 31 Subsection (5) defines the term “safe country” as a place to which a person may be removed in compliance with all of the UK’s international obligations that are relevant to the treatment of a person removed there. In particular, this includes a country which will comply with its obligations under international law by: (a) not removing a person or sending them to another country; and (b) ensuring a person who is seeking asylum or who has had an asylum determination will have their claim determined and be treated in accordance with those obligations.
- 32 Subsection (6) defines international law for the purposes of this Bill. It includes: (a) The Human Rights Convention; (b) The Refugee Convention; (c) The International Covenant on Civil and Political Rights of 1966; (d) The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984; (e) the Council of Europe Convention on Action against Trafficking in Human Beings done at Warsaw on 16 May 2005; (f) customary international law; and (g) any other international law, or convention or rule of international law, whatsoever, including any order, judgment, decision or measure of the European Court of Human Rights.

Clause 2: Safety of the Republic of Rwanda

- 33 Subsection (1) recognises the Republic of Rwanda as a safe country (see clause 1(5) for the meaning of “safe country”) and that every decision maker must treat it as such.
- 34 Subsection (2) defines a decision maker as the Secretary of State or an immigration officer when making a decision relating to the removal of a person to the Republic of Rwanda under any provision of, or made under, the Immigration Acts, or a court or tribunal considering such a decision made by the Secretary of State or an immigration officer.
- 35 Subsection (3) removes the ability of a court or tribunal to consider a challenge to such a decision to the extent the challenge is based on the grounds that the Republic of Rwanda is not a safe country.
- 36 Subsection (4) ensures that a court or tribunal cannot consider claims or complaints that are lodged on the basis: (a) the Republic of Rwanda will remove the person or send them to another state in contravention of any of its international obligations (refoulement); (b) the person will not receive fair and proper consideration of an asylum claim in the Republic of Rwanda; and (c) the Republic of Rwanda will not act in accordance with its obligations as set out in the Rwanda Treaty.
- 37 Subsection (5) means that subsections (3) and (4) apply notwithstanding: (a) any provision made by or under the Immigration Acts; (b) the Human Rights Act 1998 (to the extent disapplied in clause 3); (c) any other provision or rule of domestic law (including any common law); and (d) any interpretation of international law by the court or tribunal.

Clause 3: Disapplication of Human Rights Act 1998

- 38 Subsection (1) states that the provisions of the Act apply notwithstanding particular sections of the Human Rights Act 1998. As set out in Subsection (2) these are: (a) section 2 (interpretation of Convention rights); (b) section 3 (interpretation of legislation); and (c) sections 6 to 9 (acts of public authorities and remedies).
- 39 Subsection (3) disapplies section 2 of the Human Rights Act 1998 where a court or tribunal is determining a question relating to whether the Republic of Rwanda is a safe country for a person to be removed to. Section 2 of the Human Rights Act 1998 requires that a court or tribunal, when determining a question which has arisen in connection with a Convention right (as defined in that Act), must take into account any relevant judgment, decision, declaration or advisory opinion of the European Court of Human Rights, and other related and former bodies of the system of the European Convention on Human Rights. The effect of this clause is that, when considering any question relating to the safety of Republic of Rwanda, domestic courts and tribunals are not required to have regard to this jurisprudence; though it does not prohibit the court or tribunal from doing so if it wishes. The purpose of this subsection, when read with subsections (1) and (2), is to make clear that the courts and tribunals should defer to Parliament's sovereign view that Rwanda is safe country as defined, and are under no obligation that could conflict with this.
- 40 Subsection (4) disapplies section 3 of the Human Rights Act 1998 from this Bill. Section 3 of the Human Rights Act 1998 requires that, so far as it is possible to do so, all legislation must be read and given effect in a way which is compatible with the Convention rights. The effect of this clause is that this Bill must be read and given effect only in the specific manner in which Parliament has provided.
- 41 If a court or tribunal is satisfied that a provision of this Bill is incompatible with a Convention right, it may still continue to make a declaration of incompatibility under section 4 of the Human Rights Act 1998. A declaration of incompatibility, by virtue of section 4(6) of the Human Rights Act 1998, does not affect the validity, continuing operation or enforcement of the provision in respect of which it is made, and is not binding on the parties to the proceedings in which it is made. It is therefore for Parliament to decide whether and how to change the legislation in light of a declaration of incompatibility.
- 42 Subsection (5) disapplies sections 6 to 9 of the Human Rights Act 1998 in respect of: (a) a decision taken on the basis of section 2(1) of this Act (duty of decision-makers to treat Rwanda as safe); (b) a decision as to whether to grant an interim remedy on the basis of section 4(3) of this Act (interim remedies: serious and irreversible harm); or (c) a decision taken regarding the safety of a particular individual's circumstances on the basis of clause 4(4) of this Bill under: (i) section 42(2), 44(6)(a) or 45(3) of the Illegal Migration Act 2023 (serious and irreversible harm); or (ii) under section 44(6)(a) of the Illegal Migration Act 2023, as applied by section 2AA of the Special Immigration Appeals Commission Act 1997 (appeals to the Special Immigration Appeals Commission: serious and irreversible harm).
- 43 Section 6 of the Human Rights Act 1998 provides that it is unlawful for a public authority to act in a way which is incompatible with a Convention right; and sections 7 to 9 create

mechanisms by which a claim may be brought in a domestic court or tribunal that a public authority has acted, or proposes to act, contrary to this duty. A public authority includes a court or tribunal, as well as any person whose functions are functions of a public nature. This obligation under section 6 does not apply to an act if, as the result of one or more provisions of primary legislation, the authority could not have acted differently; or if, in the case of primary legislation that cannot be read or given effect in a way which is compatible with the Convention rights, the authority was acting so as to give effect to or enforce those provisions.

- 44 The effect of this clause is that the duty under section 6(1) of the Human Rights Act 1998 is disapplied from any public authority, including any court or tribunal, that is taking a decision that is based on the duty under clause 2 of the Bill to treat the Republic of Rwanda as safe. This ensures, in line with the existing exceptions in section 6 itself, that no conflicting legal obligation may arise in this regard. Likewise, this clause also disapplies the duty under section 6 of the Human Rights Act 1998 from any decision, whether under clause 4(4) of this Bill or under the existing provisions of the Illegal Migration Act 2023, as to whether a person would face serious and irreversible harm if subject to removal.

Clause 4: Decisions based on particular individual circumstances

- 45 Subsection (1) describes how clause 2 does not prevent: (a) the Secretary of State or an immigration officer from considering whether the Republic of Rwanda is safe for the person in question in situations where compelling evidence exists specifically related to the person's particular individual circumstances (rather than on the grounds that the Republic of Rwanda is not a safe country in general), and (b) a court or tribunal considering an appeal or review of such a decision on these grounds.
- 46 Subsection (2) sets out that subsection (1) does not permit a decision-maker (see definition of decision maker in clause 2(2)) to consider any matter, claim or complaint to the extent that it is brought on the grounds that the Republic of Rwanda will or may remove or send the person in question to another State in contravention of any of its international obligations (including in particular its obligations under the Refugee Convention).
- 47 Subsection (3) states that where a court or tribunal is considering a review or an appeal as per subsection (1)(b), it is restricted from granting an interim remedy as described in subsections (4) to (6).
- 48 Subsection (4) describes that the court or tribunal may grant an interim remedy that prevents or delays, or that has the effect of preventing or delaying, the removal of the person to the Republic of Rwanda only if the court or tribunal is satisfied that the person would, before the review or appeal is determined, face a real, imminent and foreseeable risk of serious and irreversible harm if removed to the Republic of Rwanda.
- 49 Subsection (5) states that subsections (4) to (8) of section 39 of the Illegal Migration Act 2023 (examples of serious and irreversible harm) apply (with any necessary modifications) for the purposes of subsections (3) and (4) as they apply for the purposes of that Act.
- 50 Subsection (6) states that subsections (3) and (4) do not apply to any review or appeal relating to a decision to remove a person to the Republic of Rwanda under the Illegal Migration Act

2023 (see instead section 54 of that Act).

- 51 Subsection (7) defines: “interim remedy” as any interim remedy or relief however described (including an interim injunction or interdict); and “relevant decision” as decision made by the Secretary of State or immigration officer that the Republic of Rwanda is a safe country for the specific person.

Clause 5: Interim measures of the European Court of Human Rights

- 52 Subsection (1) describes this clause as applicable only where the European Court of Human Rights indicates an interim measure in proceedings relating to the intended removal of a person to the Republic of Rwanda under the Immigration Acts.
- 53 Subsection (2) states that only a Minister of the Crown has the ability to decide whether the UK will comply with the interim measure.
- 54 Subsection (3) prevents a court or tribunal from having regard to the interim measure as part of an application or appeal against removal of the person to the Republic of Rwanda.
- 55 Subsection (4) defines that: (a) a reference to “the Immigration Acts” does not include the Illegal Migration Act 2023 (see instead section 55 of that Act); and (b) a reference to a Minister of the Crown is to a Minister of the Crown acting in person.

Clause 6: Consequential provision

- 56 This clause makes other consequential amendments to existing immigration legislation relating to removal.

Clause 7: Interpretation

- 57 Subsection (1) defines the terminology used throughout the Bill as follows: “Convention rights” means the rights identified as Convention rights by section 1 of the Human Rights Act 1998 (whether or not in relation to a State that is a party to the Human Rights Convention); “decision” includes a purported decision; “decision-maker” has the meaning given in clause 2(2); “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 4 November 1950, as it has effect for the time being in relation to the UK; “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; “international law” has the meaning given in clause 1(6); “the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and its Protocol; “the Rwanda Treaty” means the agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Rwanda for the provision of an asylum partnership to strengthen shared international commitments on the protection of refugees and migrants, signed at Kigali on 5 December 2023; and “safe country” has the meaning given in clause 1(5).
- 58 Subsection (2) clarifies that references to a person in the Bill, excludes nationals or passport holders or other identity document holders from the Republic of Rwanda.

Clause 8: Extent

- 59 Subsection (1) determines this Bill extends to England and Wales, Scotland and Northern Ireland.
- 60 Subsection (2) means that any amendment made by this Bill has the same extent within the UK as the provision to which it relates.
- 61 Subsection (3) means that His Majesty may by Order in Council provide for any of the provisions of this Bill to extend, with or without modifications, to any of the Channel Islands or the Isle of Man.
- 62 Subsection (4) states that a power under any provision listed in subsection (5) may be exercised so as to extend (with or without modifications) to any of the Channel Islands or the Isle of Man any amendment made by this Bill of any part of an Act to which the provision listed in subsection (5) relates.
- 63 Subsection (5) lists these provisions as: (a) section 60(4) of the UK Borders Act 2007; and (b) section 67(7) of the Illegal Migration Act 2023.

Commencement

- 64 Clause 9 subsection (1) sets out that the provisions will come into force on the date of receipt of the last notification by the Parties that their internal procedures for entry into force of the Rwanda Treaty have been completed.
- 65 Clause 9 subsection (2) states that this Bill applies to any decision by a decision-maker relating to the removal of a person to the Republic of Rwanda that is made on or after the day on which the Rwanda Treaty enters into force, irrespective of when the person arrived in the UK.

Environment Act 2021

- 66 The Home Secretary is of the view that the Bill as introduced into the House of Commons does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

Financial implications of the Bill

- 67 The Bill seeks to ease operationalisation of the Government's plans to relocate illegal migrants to a third country. There are no direct costs associated with this Bill - cost implications were addressed in the Impact Assessments for the Illegal Migration Act 2023 and the Nationality and Borders Act 2022.

Compatibility with the European Convention on Human Rights

68 The Secretary of State proposes to make a statement under section 19(1)(b) of the Human Rights Act 1998 to the effect that although he is unable to make a statement of compatibility, the Government nevertheless wishes the House to proceed with the Bill.

Related documents

69 The following documents are relevant to the Bill and can be read at the stated locations:

- New Plan for Immigration: Policy statement, HM Government, March 2021: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972517/CCS207_CCS0820091708-001_Sovereign_Borders_Web_Accessible.pdf
- Consultation on New Plan for Immigration: Government Response, HM Government, July 2021: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005042/CCS207_CCS0621755000-001_Consultation_Response_New_Plan_Immigration_Web_Accessible.pdf
- Memorandum of Understanding between the Government of the UK and the Government of the Republic of Rwanda for the provision of an asylum partnership, April 2022: <https://www.gov.uk/government/publications/memorandum-of-understanding-mou-between-the-uk-and-rwanda>
- European Convention on Human Rights, November 1950: https://www.echr.coe.int/Documents/Convention_ENG.pdf
- United Nations Convention Relating to the Status of Refugees, July 1951: <https://www.unhcr.org/3b66c2aa10>
- International Covenant on Civil and Political Rights of 1996 [ccpr.pdf \(ohchr.org\)](#)
- United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984 [cat.pdf \(ohchr.org\)](#)
- Council of Europe Convention on Action against Trafficking in Human Beings, May 2005: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/236093/8414.pdf
- Memorandum of Understanding between the government of the United Kingdom of Great Britain and Northern Ireland and the government of the Republic of Rwanda for the provision of an asylum partnership arrangement

[Memorandum of Understanding between the government of the United Kingdom of Great Britain and Northern Ireland and the government of the Republic of Rwanda for the provision of an asylum partnership arrangement - GOV.UK \(www.gov.uk\)](#)

Annex A - Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 2	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 3	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 4	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 5	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 6	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 7	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 8	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 9	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 10	Yes	Yes	N/A	Yes	N/A	Yes	N/A

Subject matter and legislative competence of devolved legislatures

The provisions of the Bill relate to immigration (including asylum) and nationality which are reserved matters in Scotland (section B6 of Schedule 5 to the Scotland Act 1998) and Wales (paragraphs 28 and 29 of Schedule 7A to the Government of Wales Act 2006) and excepted matters in Northern Ireland (paragraph 8 of Schedule 2 to the Northern Ireland Act 1998).

SAFETY OF RWANDA (ASYLUM AND IMMIGRATION) BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Safety of Rwanda (Asylum and Immigration) Bill as introduced in the House of Commons on 7 December 2023 (Bill 38)

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