

Immigration Bill

MARSHALLED LIST OF MOTIONS AND AMENDMENTS
TO BE MOVED ON CONSIDERATION OF
COMMONS REASONS AND AMENDMENTS IN LIEU

[The page and line references are to HL Bill 79, the bill as first printed for the Lords.]

MOTION A

LORDS AMENDMENT 59

After Clause 12

59 Insert the following new Clause –

“Asylum seekers: permission to work after six months

- (1) The Immigration Act 1971 is amended as follows.
- (2) After section 3(9) (general provisions for regulation and control) insert –
 - “(10) In making rules under subsection (2), the Secretary of State must provide for persons seeking asylum, within the meaning of the rules, to apply to the Secretary of State for permission to take up employment, including self-employment and voluntary work.
 - (11) Permission to work for persons seeking asylum must be granted if –
 - (a) a decision has not been taken on the applicant’s asylum application within six months of the date on which it was recorded, or
 - (b) an individual makes further submissions which raise asylum grounds and a decision on that new claim or to refuse to treat such further submissions as a new claim has not been taken within six months of the date on which the submissions were recorded.

- (12) Permission for a person seeking asylum to take up employment shall be on terms no less favourable than those upon which permission is granted to a person recognised as a refugee to take up employment.””

COMMONS REASON

The Commons disagree to Lords Amendment No. 59 for the following reason –

59A *Because appropriate measures which govern asylum seekers’ ability to work are already in place.*

A **Earl Howe to move, That this House do not insist on its Amendment 59, to which the Commons have disagreed for their Reason 59A.**

MOTION B

LORDS AMENDMENT 60

After Clause 12

60 Insert the following new Clause –

“Overseas domestic workers

For section 53 of the Modern Slavery Act 2015 (overseas domestic workers) substitute –

“53 Overseas domestic workers

- (1) Immigration rules must make provision for leave to remain in the United Kingdom to be granted to an overseas domestic worker.
- (2) Immigration rules must make provision as to the conditions on which such leave is to be granted, and must in particular provide –
 - (a) that the leave is to be for the purpose of working as a domestic worker in a private household;
 - (b) for a person who has such leave to be able to change employer, registering such change of leave with the Home Office.
- (3) Immigration rules may specify a maximum period for which a person may have leave to remain in the United Kingdom by virtue of subsection (1), and if they do so, the specified maximum period must not be less than 2½ years.
- (4) Immigration rules must provide for a period during which no enforcement action should be taken against such an overseas domestic worker in respect of his or her –
 - (a) remaining in the United Kingdom beyond the time limited by his or her leave to enter or remain, or
 - (b) breaching a condition of that leave relating to his or her employment if he or she wishes to change it.

- (5) The Secretary of State must issue guidance to persons having functions under the Immigration Acts about the exercise of those functions in relation to an overseas domestic worker who may be a victim of slavery or human trafficking.
- (6) The guidance must provide for an overseas domestic worker remaining in the UK for more than 42 days to be required to attend a group information session as defined in that guidance, within that period.
- (7) In this section –
 - “enforcement action” has the meaning given by section 24A of the Immigration Act 1971;
 - “immigration rules” has the same meaning as in that Act;
 - “overseas domestic worker” means a person who, under the immigration rules, has (or last had) leave to enter or remain in the United Kingdom as –
 - (a) a domestic worker in a private household, or
 - (b) a private servant in a diplomatic household.”

COMMONS REASON

The Commons disagree to Lords Amendment No. 60 for the following reason –

60A *Because appropriate measures to ensure the protection of overseas domestic workers can be put in place using existing legislative powers.*

B **Earl Howe to move, That this House do not insist on its Amendment 60, to which the Commons have disagreed for their Reason 60A.**

MOTION C

LORDS AMENDMENT 84

After Clause 30

84 Insert the following new Clause –

“Immigration detention: time limit and judicial oversight

- (1) Subject to the provisions of this section, a person may not be detained under any of the relevant powers –
 - (a) for a period longer than 28 days; or
 - (b) for periods of longer than 28 days in aggregate.
- (2) The First-tier Tribunal may –
 - (a) extend a period of detention; or
 - (b) further extend a period of detention,
 for such a period as is determined, on application made by the Secretary of State, on the basis that the exceptional circumstances of the case require extended detention.

- (3) The First-tier Tribunal has the power to review an extended period of detention without requiring the Secretary of State to make a new application.
- (4) This section does not apply to a person who—
 - (a) has been sentenced to a term of imprisonment for a term of 12 months or longer; or
 - (b) the Secretary of State has determined shall be deported.
- (5) Rules of procedure for the purposes of this section may be made by the Lord Chancellor.
- (6) In this section—

“First-tier Tribunal” means—

 - (a) in the case of an appeal against a decision on an asylum application which has not been determined, the chamber of the First-tier Tribunal dealing with the appeal; or
 - (b) in any other case, such chamber of the First-tier Tribunal as the Secretary of State considers appropriate;

“relevant powers” means powers to detain pursuant to—

 - (a) paragraph 16(1), (1A) or (2) of Schedule 2 to the Immigration Act 1971,
 - (b) paragraph 2(1), (2) or (3) of Schedule 3 to that Act,
 - (c) section 62 of the Nationality, Immigration and Asylum Act 2002, and
 - (d) section 36(1) of the UK Borders Act 2007.
- (7) In the case of a person to whom section 3(2) of the Special Immigration Appeals Commission Act 1997 applies (detention on grounds of national security), the Commission established under that Act shall be substituted for the First-tier Tribunal.”

COMMONS AMENDMENT IN LIEU

The Commons disagree to Lords Amendment No. 84 but propose Amendment 84A in lieu –

84A Page 108, line 7, at end insert—

“Duty to arrange consideration of bail

- (1) Subject as follows, the Secretary of State must arrange a reference to the First-tier Tribunal for the Tribunal to decide whether to grant bail to a person if—
 - (a) the person is being detained under a provision mentioned in paragraph 1(1)(a) or (c), and
 - (b) the period of six months beginning with the relevant date has elapsed.
- (2) In sub-paragraph (1)(b) “the relevant date” means—
 - (a) the date on which the person’s detention began, or

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- (b) if a relevant event has occurred in relation to the person since that date, the last date on which such an event has occurred in relation to the person.
- (3) The following are relevant events in relation to a person for the purposes of sub-paragraph (2)(b)–
 - (a) consideration by the First-tier Tribunal of whether to grant immigration bail to the person;
 - (b) withdrawal by the person of an application for immigration bail treated as made by the person as the result of a reference under this paragraph;
 - (c) withdrawal by the person of a notice given under sub-paragraph (6)(b).
 - (4) The reference in sub-paragraph (3)(a) to consideration of whether to grant immigration bail to a person–
 - (a) includes such consideration regardless of whether there is a hearing or the First-tier Tribunal makes a determination in the case in question;
 - (b) includes the dismissal of an application by virtue of provision made under paragraph 9(2).
 - (5) The reference in sub-paragraph (3)(a) to consideration of whether to grant immigration bail to a person does not include such consideration in a case where–
 - (a) the person has made an application for bail, other than one treated as made by the person as the result of a reference under this paragraph, and
 - (b) the First-tier Tribunal is prevented from granting bail to the person by paragraph 3(4) (requirement for Secretary of State’s consent to bail).
 - (6) The duty in sub-paragraph (1) to arrange a reference does not apply if–
 - (a) section 3(2) of the Special Immigration Appeals Commission Act 1997 (persons detained in interests of national security etc) applies to the person, or
 - (b) the person has given to the Secretary of State, and has not withdrawn, written notice that the person does not wish the person’s case to be referred to the First-tier Tribunal under this paragraph.
 - (7) A reference to the First-tier Tribunal under this paragraph in relation to a person is to be treated for all purposes as an application by that person for the grant of bail under paragraph 1(3).”

C Earl Howe to move, That this House do not insist on its Amendment 84 and do agree with the Commons in their Amendment 84A in lieu.

C1 Lord Ramsbotham to move, as an amendment to Motion C, leave out from “House” to end and insert “do insist on its Amendment 84”.

C2 Baroness Hamwee to move, as an amendment to Motion C, leave out from “84” to end and insert “, do disagree with the Commons in their Amendment 84A, and do propose Amendment 84B in lieu –

84B Page 108, line 7, at end insert –

“Duty to arrange consideration of bail

- (1) Subject as follows, the Secretary of State must arrange a reference to the First-tier Tribunal for the Tribunal to decide whether to grant bail to a person if –
 - (a) the person is being detained under a provision mentioned in paragraph 1(1)(a) or (c), and
 - (b) the period of 56 days beginning with the relevant date has elapsed.
- (2) In sub-paragraph (1)(b) “the relevant date” means –
 - (a) the date on which the person’s detention began, or
 - (b) if a relevant event has occurred in relation to the person since that date, the last date on which such an event has occurred in relation to the person.
- (3) The following are relevant events in relation to a person for the purposes of sub-paragraph (2)(b) –
 - (a) consideration by the First-tier Tribunal of whether to grant immigration bail to the person;
 - (b) withdrawal by the person of an application for immigration bail treated as made by the person as the result of a reference under this paragraph;
 - (c) withdrawal by the person of a notice given under sub-paragraph (6)(b).
- (4) The reference in sub-paragraph (3)(a) to consideration of whether to grant immigration bail to a person –
 - (a) includes such consideration regardless of whether there is a hearing or the First-tier Tribunal makes a determination in the case in question;
 - (b) includes the dismissal of an application by virtue of provision made under paragraph 9(2).
- (5) The reference in sub-paragraph (3)(a) to consideration of whether to grant immigration bail to a person does not include such consideration in a case where –
 - (a) the person has made an application for bail, other than one treated as made by the person as the result of a reference under this paragraph, and
 - (b) the First-tier Tribunal is prevented from granting bail to the person by paragraph 3(4) (requirement for Secretary of State’s consent to bail).
- (6) The duty in sub-paragraph (1) to arrange a reference does not apply if –
 - (a) section 3(2) of the Special Immigration Appeals Commission Act 1997 (persons detained in interests of national security etc) applies to the person, or
 - (b) the person has given to the Secretary of State, and has not withdrawn, written notice that the person does not wish the person’s case to be referred to the First-tier Tribunal under this paragraph.

- (7) A reference to the First-tier Tribunal under this paragraph in relation to a person is to be treated for all purposes as an application by that person for the grant of bail under paragraph 1(3).”

MOTION D

LORDS AMENDMENT 85

After Clause 31

85 Insert the following new Clause –

“Detention and bail

Guidance on detention of vulnerable persons

- (1) No person whom the Secretary of State knows, or could reasonably be expected to know, is pregnant shall be detained.
- (2) The Secretary of State must issue guidance specifying matters to be taken into account by a person to whom the guidance is addressed in determining –
 - (a) whether a person (“P”) would be particularly vulnerable to harm if P were to be detained or to remain in detention, and
 - (b) if P is identified as being particularly vulnerable to harm in those circumstances, whether P should be detained or remain in detention.
- (3) In subsection (2) “detained” means detained under –
 - (a) the Immigration Act 1971,
 - (b) section 62 of the Nationality, Immigration and Asylum Act 2002, or
 - (c) section 36 of the UK Borders Act 2007,and “detention” is to be construed accordingly.
- (4) A person to whom guidance under this section is addressed must take the guidance into account.
- (5) Before issuing guidance under this section the Secretary of State must lay a draft of the guidance before Parliament.
- (6) Guidance under this section comes into force in accordance with regulations made by the Secretary of State.
- (7) The Secretary of State may from time to time review guidance under this section and may revise and re-issue it.
- (8) References in this section to guidance under this section include revised guidance.”

COMMONS AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment No. 85 but propose Amendments 85A and 85B in lieu –

85A Page 38, line 7, at end insert the following new Clause –

“Guidance on detention of vulnerable persons

- (1) The Secretary of State must issue guidance specifying matters to be taken into account by a person to whom the guidance is addressed in determining –
 - (a) whether a person (“P”) would be particularly vulnerable to harm if P were to be detained or to remain in detention, and
 - (b) if P is identified as being particularly vulnerable to harm in those circumstances, whether P should be detained or remain in detention.
- (2) In subsection (1) “detained” means detained under –
 - (a) the Immigration Act 1971,
 - (b) section 62 of the Nationality, Immigration and Asylum Act 2002, or
 - (c) section 36 of the UK Borders Act 2007,and “detention” is to be construed accordingly.
- (3) A person to whom guidance under this section is addressed must take the guidance into account.
- (4) Before issuing guidance under this section the Secretary of State must lay a draft of the guidance before Parliament.
- (5) Guidance under this section comes into force in accordance with regulations made by the Secretary of State.
- (6) The Secretary of State may from time to time review guidance under this section and may revise and re-issue it.
- (7) References in this section to guidance under this section include revised guidance.”

85B Page 38, line 7, at end insert the following new Clause –

“Limitation on detention of pregnant women

- (1) This section applies to a woman if the Secretary of State is satisfied that the woman is pregnant.
- (2) A woman to whom this section applies may not be detained under a relevant detention power for a period of –
 - (a) more than 72 hours from the relevant time, or
 - (b) more than seven days from the relevant time, in a case where the longer period of detention is authorised personally by a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975).
- (3) In subsection (2) “the relevant time” means the later of –
 - (a) the time at which the Secretary of State is first satisfied that the woman is pregnant, and
 - (b) the time at which the detention begins.

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- (4) A woman to whom this section applies who has been released following detention under a relevant detention power may be detained again under such a power in accordance with this section.
- (5) This section does not apply to the detention under paragraph 16(2) of Schedule 2 to the Immigration Act 1971 of an unaccompanied child to whom paragraph 18B of that Schedule applies.
- (6) In this section –
- “relevant detention power” means a power to detain under –
 - (a) paragraph 16(2) of Schedule 2 to the Immigration Act 1971 (detention of persons liable to examination or removal),
 - (b) paragraph 2(1), (2) or (3) of Schedule 3 to that Act (detention pending deportation),
 - (c) section 62 of the Nationality, Immigration and Asylum Act 2002 (detention of persons liable to examination or removal), or
 - (d) section 36(1) of the UK Borders Act 2007 (detention pending deportation);
 - “woman” means a female of any age.
- (7) The Immigration Act 1971 is amended in accordance with subsections (8) and (9).
- (8) In paragraph 16 of Schedule 2 (detention of persons liable to examination or removal) after sub-paragraph (2A) insert –
- “(2B) The detention under sub-paragraph (2) of a person to whom section (*Limitation on detention of pregnant women*) (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.”
- (9) In paragraph 2 of Schedule 3 (detention or control pending deportation) after sub-paragraph (4) insert –
- “(4ZA) The detention under sub-paragraph (1), (2) or (3) of a person to whom section (*Limitation on detention of pregnant women*) (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.”
- (10) In section 62 of the Nationality, Immigration and Asylum Act 2002 (detention by Secretary of State) after subsection (7) insert –
- “(7A) The detention under this section of a person to whom section (*Limitation on detention of pregnant women*) (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.”
- (11) In section 36 of the UK Borders Act 2007 (detention) after subsection (2) insert –
- “(2A) The detention under subsection (1) of a person to whom section (*Limitation on detention of pregnant women*) (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.””

D Earl Howe to move, That this House do not insist on its Amendment 85 and do agree with the Commons in their Amendments 85A and 85B in lieu.

D1 Baroness Lister of Burtersett to move, as an amendment to Motion D, leave out from “their” to end and insert “Amendment 85A, do disagree with the Commons in their Amendment 85B, and do propose Amendment 85C in lieu of Commons Amendment 85B –

85C Page 38, line 7, at end insert the following new Clause –

“Limitation on detention of pregnant women

- (1) This section applies subject to the over-riding principle that no pregnant woman shall be detained under a relevant detention power save in the most exceptional circumstances.
- (2) This section applies to a woman if the Secretary of State is satisfied that the woman is pregnant.
- (3) A woman to whom this section applies may not be detained under a relevant detention power for a period of –
 - (a) more than 72 hours from the relevant time, or
 - (b) more than seven days from the relevant time, in a case where the longer period of detention is authorised personally by a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975).
- (4) In subsection (3) “the relevant time” means the earlier of –
 - (a) the time at which the Secretary of State is first satisfied that the woman is pregnant, and
 - (b) the time at which the detention begins.
- (5) A woman to whom this section applies who has been released following detention under a relevant detention power may be detained again under such a power in accordance with this section.
- (6) A pregnant woman may only be held under a relevant detention power in a short-term holding facility within the meaning of Part 8 of the Immigration and Asylum Act 1999, or pre-departure accommodation within the meaning of section 147 of that Act, where her needs can be met and provision made for her medical care, except where the woman is being transferred to or from a short-term holding facility or pre-departure accommodation in a manner which makes provision for her care and where the journey does not exceed one hour.
- (7) This section does not apply to the detention under paragraph 16(2) of Schedule 2 to the Immigration Act 1971 of an unaccompanied child to whom paragraph 18B of that Schedule applies.
- (8) In this section –

“relevant detention power” means a power to detain under –

 - (a) paragraph 16(2) of Schedule 2 to the Immigration Act 1971 (detention of persons liable to examination or removal),

- (b) paragraph 2(1), (2) or (3) of Schedule 3 to that Act (detention pending deportation),
- (c) section 62 of the Nationality, Immigration and Asylum Act 2002 (detention of persons liable to examination or removal), or
- (d) section 36(1) of the UK Borders Act 2007 (detention pending deportation);

“woman” means a female of any age.

- (9) The Immigration Act 1971 is amended in accordance with subsections (10) and (11).
- (10) In paragraph 16 of Schedule 2 (detention of persons liable to examination or removal) after sub-paragraph (2A) insert –
 - “(2B) The detention under sub-paragraph (2) of a person to whom section (*Limitation on detention of pregnant women*) (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.”
- (11) In paragraph 2 of Schedule 3 (detention or control pending deportation) after sub-paragraph (4) insert –
 - “(4ZA) The detention under sub-paragraph (1), (2) or (3) of a person to whom section (*Limitation on detention of pregnant women*) (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.”
- (12) In section 62 of the Nationality, Immigration and Asylum Act 2002 (detention by Secretary of State) after subsection (7) insert –
 - “(7A) The detention under this section of a person to whom section (*Limitation on detention of pregnant women*) (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.”
- (13) In section 36 of the UK Borders Act 2007 (detention) after subsection (2) insert –
 - “(2A) The detention under subsection (1) of a person to whom section (*Limitation on detention of pregnant women*) (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.””
- (14) After section 54A of the Borders, Citizenship and Immigration Act 2009 insert –

“54B Cases of pregnant women

- (1) The Secretary of State must consult the Independent Family Returns Panel in each case where the Secretary of State proposes to detain a pregnant woman in pre-departure accommodation or in a short-term holding facility about the suitability of doing so, having particular regard to the need to safeguard and promote her welfare.
- (2) The Secretary of State may by regulations make provision about the constitution of the Independent Family Returns Panel in cases involving pregnant women, and such regulations must provide for

the panel considering such cases to include persons with expertise in the care of pregnant women and in maternity care.

- (3) Regulations under this section must be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In this section –
 - (a) “pre-departure accommodation” and “short-term holding facility” have the same meaning as in Part 8 of the Immigration and Asylum Act 1999; and
 - (b) references to a person “being removed from or required to leave the United Kingdom” are to the person being removed or required to leave in accordance with a provision of the Immigration Acts.””

D2 **Baroness Hamwee to move, as an amendment to Motion D, leave out from “their” to end and insert “Amendment 85A, do disagree with the Commons in their Amendment 85B, and do propose Amendment 85D in lieu of Commons Amendment 85B –**

85D Page 38, line 7, at end insert the following new Clause –

“Limitation on detention of pregnant women

- (1) This section applies to a woman if the Secretary of State is satisfied that the woman is pregnant.
- (2) A woman to whom this section applies may not be detained under a relevant detention power for a period of –
 - (a) more than 72 hours from the relevant time, or
 - (b) more than seven days from the relevant time, in a case where the longer period of detention is authorised personally by a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975).
- (3) In subsection (2) “the relevant time” means the later of –
 - (a) the time at which the Secretary of State is first satisfied that the woman is pregnant, and
 - (b) the time at which the detention begins.
- (4) This section does not apply to the detention under paragraph 16(2) of Schedule 2 to the Immigration Act 1971 of an unaccompanied child to whom paragraph 18B of that Schedule applies.
- (5) In this section –

“relevant detention power” means a power to detain under –

 - (a) paragraph 16(2) of Schedule 2 to the Immigration Act 1971 (detention of persons liable to examination or removal),
 - (b) paragraph 2(1), (2) or (3) of Schedule 3 to that Act (detention pending deportation),
 - (c) section 62 of the Nationality, Immigration and Asylum Act 2002 (detention of persons liable to examination or removal), or

- (d) section 36(1) of the UK Borders Act 2007 (detention pending deportation);
 “woman” means a female of any age.
- (6) The Immigration Act 1971 is amended in accordance with subsections (7) and (8).
- (7) In paragraph 16 of Schedule 2 (detention of persons liable to examination or removal) after sub-paragraph (2A) insert –
 “(2B) The detention under sub-paragraph (2) of a person to whom section (*Limitation on detention of pregnant women*) (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.”
- (8) In paragraph 2 of Schedule 3 (detention or control pending deportation) after sub-paragraph (4) insert –
 “(4ZA) The detention under sub-paragraph (1), (2) or (3) of a person to whom section (*Limitation on detention of pregnant women*) (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.”
- (9) In section 62 of the Nationality, Immigration and Asylum Act 2002 (detention by Secretary of State) after subsection (7) insert –
 “(7A) The detention under this section of a person to whom section (*Limitation on detention of pregnant women*) (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.”
- (10) In section 36 of the UK Borders Act 2007 (detention) after subsection (2) insert –
 “(2A) The detention under subsection (1) of a person to whom section (*Limitation on detention of pregnant women*) (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.””

MOTION E

LORDS AMENDMENT 87

After Clause 37

87 Insert the following new Clause –

“Unaccompanied refugee children: relocation and support

- (1) The Secretary of State must, as soon as possible after the passing of this Act, make arrangements to relocate to the United Kingdom and support 3,000 unaccompanied refugee children from other countries in Europe.
- (2) The relocation of children under subsection (1) shall be in addition to the resettlement of children under the Vulnerable Persons Relocation Scheme.”

COMMONS REASON

The Commons disagree to Lords Amendment No. 87 for the following reason –

87A *Because it would involve a charge on public funds, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

E **Earl Howe to move, That this House do not insist on its Amendment 87, to which the Commons have disagreed for their Reason 87A.**

E1 **Lord Dubs to move, as an amendment to Motion E, at end insert “, and do propose Amendment 87B in lieu –**

After Clause 37

87B Insert the following new Clause –

“Unaccompanied refugee children: relocation and support

- (1) The Secretary of State must, as soon as possible after the passing of this Act, make arrangements to relocate to the United Kingdom and support a specified number of unaccompanied refugee children from other countries in Europe.
- (2) The number of children to be resettled under subsection (1) shall be determined by the Government in consultation with local authorities.
- (3) The relocation of children under subsection (1) shall be in addition to the resettlement of children under the Vulnerable Persons Relocation Scheme.””

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