

Immigration and Social Security Co-ordination (EU Withdrawal) Bill

AMENDMENTS TO BE MOVED ON REPORT

Clause 1

BARONESS BENNETT OF MANOR CASTLE

Leave out Clause 1

Clause 4

LORD FLIGHT

Page 2, line 40, at end insert –

“(2A) The power to make regulations under subsection (1) does not include power to make provision inconsistent with the withdrawal agreement as defined by section 39 of the European Union (Withdrawal Agreement) Act 2020 (interpretation).”

Member’s explanatory statement

This amendment would ensure that the power created in subsection (1) can only be used in ways that are consistent with the UK’s obligations under the EU Withdrawal Agreement.

After Clause 4

LORD DUBS
BARONESS HAMWEE
LORD KERR OF KINLOCHARD
THE LORD BISHOP OF DURHAM

Republished with Explanatory Statement omitted in error from HL Bill 121 – R(a)

Insert the following new Clause –

“Leave to enter: family unity and claims for asylum

- (1) For at least such time as a relevant agreement has not been concluded and implemented, a person to whom this section applies must be granted leave to enter the United Kingdom for the purpose of making a claim for asylum.
- (2) This section applies to a person who –
 - (a) is on the territory of any relevant Member State;

After Clause 4 - continued

- (b) makes an application for leave to enter for the purpose of making a claim for asylum; and
 - (c) would, had that person made an application for international protection in that Member State, have been eligible for transfer to the United Kingdom under Regulation (EU) No. 604/2013 by reason of a relevant provision if the United Kingdom remained a party to that Regulation.
- (3) An application for leave to enter under subsection (2)(c) shall be made in such manner as the Secretary of State may prescribe save that—
- (a) there shall be no fee for the making of such an application and no requirements may be prescribed that are unreasonable having regard to the purposes of this section and the circumstances of persons to whom it applies;
 - (b) in relation to such applications, the Secretary of State shall make arrangements to ensure that applicants receive a decision regarding their application no later than two months from the date of submission of the application.
- (4) A claim for asylum made under subsection (2)(b) must remain pending throughout such time as no decision has been made on it or during which an appeal could be brought within such time as may be prescribed for the bringing of any appeal against a decision made on a claim or during which any such appeal remains pending for the purposes of section 104 of the Nationality, Immigration and Asylum Act 2002 (pending appeal); and a claim for asylum remains one on which no decision has been made during such time as the claim has been made to the Secretary of State and has not been granted, refused, abandoned or withdrawn.
- (5) The Secretary of State must, within six months of the day on which this Act is passed, lay before both Houses of Parliament a strategy for ensuring that unaccompanied children on the territory of a relevant Member State continue to be relocated to the United Kingdom, if it is in the child's best interests.
- (6) For the purposes of this section—
- “applicant” means a person who makes an application for leave to enter under this section;
 - “claim for asylum” means a claim for leave to enter or remain as a refugee or as a person eligible for a grant of humanitarian protection;
 - “Regulation (EU) No. 604/2013” means Regulation (EU) No. 604/2013 of the European Parliament and of the Council including the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast);

After Clause 4 - continued

“relevant agreement” means an agreement negotiated by a Minister of the Crown, on behalf of the United Kingdom, with the European Union in accordance with which there is provision for the transfer of a person who has made an application for asylum in a Member State of the European Union to the United Kingdom which is no less extensive than Regulation (EU) No. 604/2013 insofar as that regulation operated to enable the transfer of a person to join a child, sibling, parent or other family member or relative in the United Kingdom before exit day;

“relevant Member State” means a Member State for the purposes of Regulation (EU) No. 604/2013;

“relevant provision” means any of the following articles of Regulation (EU) No. 604/2013 –

- (a) Article 8,
- (b) Article 9,
- (c) Article 10,
- (d) Article 16,
- (e) Article 17.”

Member’s explanatory statement

This new Clause aims to ensure that rights under UK law to family reunion, at present covered by the Dublin III Treaty, will continue after the transition period and that unaccompanied child refugees in Europe will have a legal route to sanctuary in the UK.

LORD RAMSBOTHAM
BARONESS HAMWEE
BARONESS JONES OF MOULSECOOMB
BARONESS LISTER OF BURTERSETT

Insert the following new Clause –

“Immigration detention: removal from association

- (1) Any affected person detained in a removal centre must not be involuntarily removed from association unless it is –
 - (a) reasonably necessary to do so to protect that person or another person from immediate harm; and
 - (b) for no longer than is necessary for this purpose and, in any case, for no longer than 24 hours.

- (2) In this section –

“affected person” means any person whose rights are affected by repeal of legislation by virtue of this Act;

“removal from association” means any restriction on a person associating with others that is not common to all persons then detained at the same removal centre, including but not limited to removal from association under rule 40 of the Detention Centre Rules 2001 (S.I. 2001/238) or being put in temporary confinement under rule 42 of those rules.”

Member's explanatory statement

This amendment seeks to abolish the use of segregation – being detained apart from other immigration detainees – for immigration detainees affected by this bill, except in exceptional circumstances that are listed.

Clause 5

LORD FLIGHT

Page 4, line 2, at end insert –

“(2A) The power to make regulations under subsection (1) does not include power to make provision inconsistent with the withdrawal agreement as defined by section 39 of the European Union (Withdrawal Agreement) Act 2020 (interpretation).”

Member's explanatory statement

This amendment would ensure that the power to make regulations under subsection (1) can only be used in ways consistent with the UK's obligations under the EU Withdrawal Agreement.

BARONESS SHERLOCK

Page 4, line 19, at end insert –

- “() No regulations may be made under subsection (1) after the end of the period of one year beginning with IP completion day.
- () In this section “IP completion day” has the meaning given in section 39 of the European Union (Withdrawal Agreement) Act 2020 (interpretation).”

Member's explanatory statement

This would provide that the regulation making powers under this section expire within one year of the end of the transition period.

Before Clause 6

BARONESS JONES OF MOULSECOOMB

Insert the following new Clause –

“Duty to commission an independent evaluation: health and social care sectors

- (1) The Secretary of State must commission an independent evaluation of the matters under subsection (5) and lay a report of the evaluation before Parliament within one year of this Part coming into force.
- (2) The Secretary of State must appoint an independent person to undertake the evaluation (“the independent evaluator”).
- (3) In this section, “independent person” means a person who is independent of Her Majesty’s Government.
- (4) No person may be appointed under subsection (2) unless their appointment has been approved by –
 - (a) the relevant Scottish Ministers;
 - (b) the relevant Welsh Ministers; and
 - (c) the relevant Northern Ireland Ministers.

Before Clause 6 - continued

- (5) The evaluation under subsection (1) must consider an assessment of the effects of this Act on—
 - (a) the health and social care workforce;
 - (b) the efficiency and effectiveness of the health and social care sectors;
 - (c) the adequacy of public funding for the health and social care sectors; and
 - (d) such other relevant matters as the independent evaluator deems appropriate.
- (6) In undertaking the evaluation, the independent evaluator must consult—
 - (a) the Secretary of State;
 - (b) the relevant Scottish Ministers;
 - (c) the relevant Welsh Ministers;
 - (d) the relevant Northern Ireland Ministers;
 - (e) providers of health and social care services;
 - (f) persons requiring health and social care services;
 - (g) representatives of persons requiring health and social care services; and
 - (h) such other relevant persons as the independent evaluator deems appropriate.
- (7) The independent evaluator must submit the report of the evaluation to the Secretary of State.
- (8) A Minister of the Crown must, within the period of six months beginning with the day on which the report is laid before Parliament, make arrangements for—
 - (a) a motion relating to the report to be debated and voted upon by the House of Commons; and
 - (b) a motion relating to the report to be debated and voted upon by the House of Lords.”

Member’s explanatory statement

This new Clause would require an independent evaluation of the impact of the Bill upon the health and social care sectors across the UK to be produced and laid before Parliament. It would require that the devolved nations are consulted as well as other interested parties.

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24 September 2020
