PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

IMMIGRATION BILL

Tenth Sitting

Tuesday 12 November 2013

(Afternoon)

CONTENTS

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not later than

Saturday 16 November 2013

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: Sir Roger Gale, †Katy Clark

Bain, Mr William *(Glasgow North East)* (Lab)
† Baker, Norman *(Minister for Crime Prevention)*
† Dowd, Jim *(Lewisham West and Penge)* (Lab)
† Doyle-Price, Jackie *(Thurrock)* (Con)
† Hanson, Mr David *(Delyn)* (Lab)
† Harper, Mr Mark *(Minister for Immigration)*
† Hillier, Meg *(Hackney South and Shoreditch)* (Lab/Co-op)
† Huppert, Dr Julian *(Cambridge)* (LD)
† Jones, Helen *(Warrington North)* (Lab)
Kirby, Simon *(Brighton, Kemptown)* (Con)
† McFadden, Mr Pat *(Wolverhampton South East)* (Lab)
† Mills, Nigel *(Amber Valley)* (Con)
† Milton, Anne *(Lord Commissioner of Her Majesty's Treasury)*
† Opperman, Guy *(Hexham)* (Con)
Paisley, Ian *(North Antrim)* (DUP)
† Patel, Priti *(Witham)* (Con)
† Robertson, John *(Glasgow North West)* (Lab)
† Smith, Henry *(Crawley)* (Con)
Soames, Nicholas *(Mid Sussex)* (Con)
† Syms, Mr Robert *(Poole)* (Con)
† Wilson, Phil *(Sedgefield)* (Lab)

John-Paul Flaherty, Matthew Hamlyn, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 12 November 2013

(Afternoon)

[Katy Clark *in the Chair*]

Immigration Bill

2 pm

Clauses 61 and 62 ordered to stand part of the Bill.

Schedule 8

Transitional and consequential provision

The Minister for Immigration (Mr Mark Harper): I beg to move amendment 14, in schedule 8, page 93, line 22, at end insert—

'Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c.19)

In section 8(7) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (claimant's credibility; definitions), in paragraph (d) of the definition of "immigration decision", omit "(1)(a), (b), (ba) or (c)".'.

This is a technical amendment that updates the reference to an immigration decision in previous legislation to bring it in line with proposed changes in clause 1. Section 8(7)(d) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 defines an immigration decision as one that includes

"a decision that a person is to be removed from the United Kingdom by way of directions under section 10(1)(a), (b), (ba) or (c) of the Immigration and Asylum Act 1999".

Those set out different categories of person liable to removal. Clause 1 of the Bill amends section 10 of the Immigration and Asylum Act 1999 so that there is a single definition of a person liable to removal as one who

"requires leave to enter or remain in the United Kingdom but does not have it".

The amendment, therefore, simply ensures that the definition in the 2004 Act is kept up to date.

Amendment 14 agreed to.

Dr Julian Huppert (Cambridge) (LD): I beg to move amendment 36, in schedule 8, page 95, line 39, after 'rules', insert

'by a senior officer independent of the original decision'.

I can understand the argument for having administrative review of decisions made within what was the UK Border Agency, and now within the Home Office. Appeals certainly take a long time to be determined. Most people want a reconsideration and a correct decision made quickly. I can see that that also has financial advantages for the Home Office. I therefore understand the logic of the changes being made. I would often advise people to go for reconsideration rather than the full process of an appeal.

However, in order for that to be an effective check, it is important that the review is done by someone other than the person who did it initially. Otherwise, someone will look at their own work and it will be easy for them to make the same mistake that they made in other cases. I have seen too many instances where the Border Agency has made decisions that were patently wrong when someone else had a look at them. I have had a number of such cases recently. I spoke to the Minister about one where the individual was not allowed to come in because, given the troubles in Libya, it was felt there was no reason to believe that he would go back there. That might sound like a reasonable explanation, except that he had never been to Libya in his life and had no connection to Libya. There had clearly been a typographical or other error earlier in the case. I do not want to go into details. I am sure all of us who have immigration experience see large numbers of such examples.

I can see the logic of a quick process so that the relevant papers can be looked through—not so that new papers can be asked for—and so that it can be checked that the decision has been made correctly, that there has not been a slip and that people have followed the rules and the process. That is particularly the case given that there is a charge of £80 for the service. However, we need to know not only that the review is done by someone who did not make the original decision, but that they are more senior and more capable and will feel comfortable overruling the decision. If someone is judging a decision made by the person at the next desk, they are likely to say what their mate said earlier.

I do not intend to press the amendment to a Division, but I would like clarity from the Government on how we can ensure that we have serious oversight, so that we can be sure that administrative reviews produce the right outcome. The perfect solution would be that there would never be a need for an appeal, because after a decision and a check there would be no errors remaining. That is what we have to achieve. I hope that the review will be conducted by a senior officer with the experience and expertise to get it right.

On the subject of administrative reviews, I ask the Minister to clarify one aspect of the statement of intent that he published. It reads:

"Will there be a time limit for requesting an administrative review? Yes, the time limit will be 10 days from receipt of the refusal decision, or 2 days for those in detention. This mirrors the current time limits for appeals."

It has to be received within that time. As I understand it, for appeals, it is currently 10 working days as opposed to 10 days. I presume the intention is not to change that, but I would be grateful if the Minister could clarify that. It makes a big difference to people who apply to get things on particular days.

I also understand that the two-day limit for people in detention is only for people who are on the detained fast track, whereas everyone else who is in detention has a limit of five working days. I would be grateful if the Minister could clarify that, too. I assume that the intention is to replicate the current provisions exactly, but I would be grateful if he could be absolutely clear on that issue.

Mr Harper: I am grateful to my hon. Friend for making it clear that this is a probing amendment to explore what our intentions are and to set out his intentions clearly.

Our view is that the right place to set out the details of how an administrative review will operate is in the immigration rules. That is why the Bill states that an administrative review means a review that is conducted under the immigration rules. It would not be sensible to specify bits of how that would work in the Bill. However, I am able to say, and the statement of intent was clear, that the reviewer will be a different person from the decision maker. It would be unreasonable to expect people to mark their own homework, to use what appears to be the current phrase. The whole point is to have the decision looked at by somebody else, to see whether the right process has been followed and the right decision has been reached. I can give my hon. Friend the assurance that we will put into the immigration rules the provision that it must be a different person, which will reflect the statement of intent.

It depends a bit on the size of the post, but normally when an entry clearance officer's work is reviewed, we expect that to be done by an entry clearance manager, a more senior individual. The reason why one has to be a little bit careful about specifying that exactly is that we have different sizes of posts around the world, and if we get too specific we will start setting up processes that do not actually work. Of course, we are moving towards a more paperless system, so in posts where there are not enough people to have that split in responsibilities, decisions could potentially be reviewed elsewhere. We do not want people marking their own homework; we want another look by somebody else.

As I said when we debated the appeals system last week, if Members look at the implementation of the administrative review system overseas, they will see that we deliver 90% of reviews within 28 days. We overturn the original decision in 21% of those reviews. I think that shows that it is not just a case of someone looking at the decision and going, "Yes it's fine, my mate made the right decision." In just over a fifth of cases, a different decision results from that administrative review process.

It is helpful that my hon. Friend tabled the amendment, as it gives me an opportunity to address a point that the right hon. Member for Delyn made last week. He is looking surprised at that, but he referred me to a Home Office response to a freedom of information request. He explained to the Committee that it said that between July 2012 and 2013, 18% of administrative review decisions made overseas were overturned by the first-tier tribunal—at least that was the import of what he said. He has kindly shared with us the FOI request to which he referred, and I have had a look at it. I can explain why I was confused when he talked about it.

The information in question does not refer to decisions being overturned by a tribunal, and it is in fact consistent with what I said, which was that 21% of decisions were overturned by administrative review. The difference between the right hon. Gentleman's 18% and my 21% is that they are for different time periods. His FOI request covers July 2012 to July 2013, whereas the figures that I had were for the calendar year 2012. The information from his FOI request sets out exactly what I said, which is that a significant number of administrative reviews took place—6,096 between July 2012 and June 2013. Of those, 1,077 were overturned by the administrative review system. That demonstrates that it is not just a case of saying to people, "Have a look at the decision, and we will just agree that we made the right decision in the first place." A significant number of decisions are changed. That supports our position.

The final point that I would make to my hon. Friend the Member for Cambridge about putting in place the right processes in place for administrative review is that, of course, we have to lay the immigration rules before Parliament, where they can be debated and voted on. I have given an assurance about what the rules will look like, and Members will have the opportunity to vote on them.

My hon. Friend's last couple of questions were about deadlines. The intention is to mirror absolutely the appeals deadlines, as he suggested. The 10-day limit refers to 10 working days; the deadline will be two days for someone in the detained fast track and five days for someone else who is detained. We have copied those provisions across from the appeals deadlines to mirror the same set of processes. We are not holding anyone to a tighter set of deadlines to prevent them from using the administrative review process. I hope, with those assurances, my hon. Friend is content to withdraw his amendment.

Dr Huppert: I thank the Minister for his comments. He has made the Government's intention clear. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment made: 48, in schedule 8, page 103, line 19, after '52(2)', insert

'(apart from paragraph 5(3)(d) of Schedule 5 to the Immigration and Asylum Act 1999)'.—*(Mr Harper.)*

Schedule 8, as amended, agreed to.

Clause 63

Orders and regulations

Dr Huppert: I beg to move amendment 38, in clause 63, page 48, line 16, leave out from 'subsection' to end of line 17, and insert

'may not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament'.

I certainly do not intend to detain the Committee overmuch. This is an important, though rather technical and geeky amendment, but it comes to the heart of what we discussed earlier when debating the landlord provisions—how the pilot phase will happen. It is a complex issue, and I have to confess that when I first read the provision I had no idea what it meant and how it would work.

The existing legislation is unusual, though what I propose would be equally unusual. It is therefore important to explain how things work. Under subsection (6), a special process is set out for the first order that applies to the provisions of chapter 1 of part 3, on landlords. Under subsection (7), any later orders—after the pilot, or as part of the phased roll-out, depending on the selection of language—whether rolling the system out to a few more places, many more places or the whole country, would have to have a separate procedure. The timetable means that that would happen in the next Parliament and afterwards, but there would be the potential for a vote.

[Dr Huppert]

There are, however, two options for votes: the negative resolution procedure or the affirmative resolution procedure. The suggestion in the Bill is that the negative procedure will be used, which allows for a vote only if the Government provide time for one or if it comes about by some other mechanism. That is an important safeguard, and there is a chance for votes to happen, but on a number of occasions they simply have not happened—the time has not been provided by the Government of the day, the Opposition of the day or, as we have now, the Backbench Business Committee. I am concerned that that might happen in this case.

My concern was heightened by our debate on whether we should have a pilot in only one place, as the two-party Government agreed, or in the five places suggested by others, but I do not want to reopen that debate. I am more concerned about whether a future Government would ensure that there was a vote on an order. My amendment would leave the rest of the complex structure in place, making no difference to the ability to have special processes for a phased roll-out, if we are to go beyond the initial pilot, or any of that. It would merely require a vote in Parliament—not that there would necessarily be a Division, but any statutory instrument would have to be brought before Parliament for a vote.

I hope to hear from the Minister that he is relaxed about my amendment, because it would make no difference to the implementation of his policy. He is presumably relaxed about the concept of the Government, whoever they might be, doing the right thing and having a vote, but I hope that he will comfort me and others.

Mr David Hanson (Delyn) (Lab): Will the hon. Gentleman give way?

Dr Huppert: I will, because I want to ask whether the shadow Minister will guarantee to have a vote on the matter if the Labour party is in government at any point during the roll-out, which, of course, may take many years.

2.15 pm

Mr Hanson: I am happy to reassure the hon. Gentleman. We have tabled new clause 2, on which he will have an opportunity to vote shortly, which would guarantee a pilot with a substantive vote afterwards.

The hon. Gentleman is trying, dare I say it, to face both ways on the issue. *[Interruption.]* Surely not, indeed. In the event of the roll-out occurring after a general election and a Labour Government being in place, we will want to evaluate any phased roll-out pilot carefully and allow the House an opportunity to deliberate on the matter.

Dr Huppert: I thank the right hon. Gentleman for his comment about ensuring that there is a vote. That means that there will be a vote if there are Labour or Liberal Democrat Members in government. We therefore just need a confirmation from the Conservatives—unless there are other parties that Members feel they need to check with—to ensure that the vote will happen. It is having a vote that is key, rather than the legislative change.

I am not sure what the right hon. Gentleman was saying about trying to face both ways. I have been clear that I do not like the provision in question, but the two Government parties have agreed to try it in one place, which is what will happen. I re-read his comments earlier, and I am not sure that he necessarily agrees with his own opinion on the matter, having said that he agrees with the proposal in principle and but that he wants five times as much of it.

I do not wish to detain the Committee. The case is clear. I would like to hear from the Minister a clear commitment that after the next election, if they are in government, he and the Conservative party will do what they can to ensure that there is a vote, so that Members can have a say on the matter.

Mr Hanson: Does the hon. Gentleman anticipate the vote coming before or after the general election?

Dr Huppert: I am glad that the right hon. Gentleman has raised that point. I think the Minister made it clear in last week's debate that the evaluation would happen before the election, but that the vote would happen in the next Parliament. That is the timetable. If we have a six-month pilot, the next Parliament would have the first vote. There could be multiple votes if there was an even longer phased roll-out; it could even be in the Parliament after.

Mr Hanson: The hon. Gentleman will know that the likely date of Royal Assent is April or May 2014. As I recall, the date of the general election is likely to be in May 2015. A six-month pilot could be from June to December 2014, and a vote could take place before the general election if he wished.

Dr Huppert: The Government's clear comment is that the intention is to ensure that the six-month pilot happens before the election, but that the vote will be after the election.

I think I am straying beyond what I can pledge on behalf of the Minister; I am not a Minister in this Government. That is what has been proposed. The Minister is totally at liberty to clarify that now. The key issue is about definitely having the vote.

Mr Hanson: I did not intend to make a speech on the amendment, but the hon. Gentleman has provoked me to query and check some of the things he has said. As I understand it, his amendment suggests that an order should not be made unless

"a draft has been laid before, and approved by resolution of, each House of Parliament."

We will shortly have an opportunity to vote on new clause 2, which I tabled and spoke to earlier in our consideration. It states:

"Each pilot shall last for a period of six months…At the conclusion of each pilot, the Secretary of State must prepare and publish a report and must lay a copy of the report before Parliament…If a motion…has been approved by the House of Commons, the provisions of sections 15 to 32 come into force".

I cannot quite see the difference between the hon. Gentleman's amendment and the meat of new clause 2, with the exception that he proposes one pilot in one

area, which presumably would be in England, whereas we propose to have five pilot areas that would cover the breadth of the United Kingdom.

Let me put this to the hon. Gentleman: I will happily ask my right hon. and hon. Friends to support his amendment should he wish to divide the Committee. I do not see a difference between new clause 2 and amendment 38. In fact, to be helpful to him, I can even give him an assurance now that if he agreed to that, I would not press our new clause 2 to a vote. He would not then be embarrassed. We would not have our five pilots, but he would have an opportunity to get on the record in the Bill that there will be a vote before the provisions in question come into force. That would give him the opportunity not just to make his remarks and hear the Minister's reply in due course, but to put Liberal Democrat policy into practice in the Bill. He could count on my right hon. and hon. Friends to support his amendment 38. He could therefore put what he wants in the Bill and I would be able say that we had pressed a proposal to a vote and that there would be one pilot and a phased roll-out.

We would then have a commitment that, whether or not the hon. Member for Cambridge, the Minister or I are Members of the next Parliament, there must be a vote on the proposals. If the Conservative party wins the next general election and forms a Government without Liberal Democrat support, it will presumably take the action the Minister wants. If we win the general election, we will have to evaluate the pilot, look at it in detail and determine a vote. If either party needed the support of the hon. Member for Cambridge and his hon. Friends, some horse-trading would undoubtedly take place, but ultimately, whatever the circumstances, there would be a commitment in the Bill to a vote.

I stretch out once more the hand of friendship to the hon. Gentleman. He has the opportunity to secure his amendment's place in the Bill with our support, and potentially even with the support of the Minister for Crime Prevention. No one in the room can deny that whatever happens at the next election, the party that forms the next Government will do what it wants to do at that particular time. The winner of the next election will have the numbers to do that, but my offer to the hon. Member for Cambridge would enshrine in the Bill a formal review of the matter. If the Committee divides on amendment 38 and it is agreed to, I would not even dream of pressing new clause 2 to a vote.

The Minister for Crime Prevention (Norman Baker): That was a very generous offer from the shadow Minister—"Beware of Labour bearing gifts" is the phrase that comes to mind. I will deal with the amendment tabled by my hon. Friend the Member for Cambridge.

The commencement provisions in clause 63 indicate the Government's commitment to ensuring that, should it wish to do so, Parliament may scrutinise the implementation of the pilot scheme after the next election and before any subsequent expansion. The provisions in subsections (6) and (7) achieve this aim; any commencement order that brings the landlord provisions into operation in a subsequent area following the initial application will be subject to the negative resolution procedure.

Both I and my colleague the Immigration Minister have said that we want to ensure that the landlord provisions work properly. It is of course our intention to have a proper evaluation at the end of the limited application of the provisions. If that application is successful, there will then be a case for taking the provisions further; if the application has not been successful, nobody will want to take them further. That is just common sense. An evaluation will therefore take place.

My hon. Friend the Member for Cambridge is concerned about the relationship between negative and positive resolutions. He will of course know that negative resolution orders are laid before the House and come into force 21 calendar days later. Although there is no automatic debate to delay such an order coming into force, there is the option for any MP to pray against a negative order within 40 days of its being laid. I personally am confident that my hon. Friend will be returned as the Member for Cambridge at the next election and so will have the opportunity to take that course of action following the next election. He will be able to do so by tabling an early-day motion requesting that the order be considered or annulled.

The business managers consider early-day motions for debate, and in the event of a request for a debate, it is unlikely that they would block a debate on matter of concern such as this. Indeed, I would go further and say that, given the innovative nature of this proposal and the determination of both coalition parties to ensure that it is properly evaluated, it is pretty unlikely that the outcome would be that the business managers blocked the debate.

Dr Huppert: I am afraid that the shadow Minister's very kind offer falls apart on the mathematics. Five is different from one. He mentions his new clause 2; we have already had a vote on that. [Hon. Members: "No, we haven't."] We had a vote on the amendment earlier in our proceedings that would have implemented new clause 2, and I notice that new clause 2 itself has not been selected since. I disagree entirely with the new clause. Although some bits of it are perfectly reasonable, I disagree with the idea that we should have five pilot areas, when we have negotiated to have only one. That is a fundamental difference. We have discussed the issue at length before and I do not want to see this happening in more places than the bare minimum of one.

Meg Hillier (Hackney South and Shoreditch) (Lab/Co-op): Will the hon. Gentleman give way?

Dr Huppert: I do not want to detain the Committee; we have discussed the issue at length previously.

That is one issue; the second is that I have looked at the number of people in the room, and I suspect the chances of securing what I would like to secure are greater by continuing to talk in here, because I think this is something that can be achieved. I will reflect on what the Minister has said and will look to future discussions that we might have. I beg to ask leave to withdraw the amendment.

Hon. Members: No.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 9.

Division No. 3]

AYES

Dowd, Jim	Jones, Helen
Hanson, rh Mr David	McFadden, rh Mr Pat
Hillier, Meg	Robertson, John
Huppert, Dr Julian	Wilson, Phil

NOES

Baker, Norman	Opperman, Guy
Doyle-Price, Jackie	Patel, Priti
Harper, Mr Mark	Smith, Henry
Mills, Nigel	Syms, Mr Robert
Milton, Anne	

Question accordingly negatived.

Norman Baker: I beg to move amendment 13, in clause 63, page 48, line 22, after 'purposes' insert 'or areas'.

This is a simple matter that deals with powers in relation to orders and regulations that can be made under the Bill, specifying the parliamentary procedures to apply through various instruments. Clause 63(8)(a) provides that an order or regulations made may make different provisions for different purposes or areas. I stress "or areas": the amendment will repeat the reference to "or areas" in paragraph (b), ensuring that an instrument may also be made that applies generally or only for particular purposes or areas.

This is a technical amendment that supports the Government's intention to commence the provisions in relation to landlords on a geographical basis, in so far as the matters we have discussed have been taken into account, and which we have considered in some detail already .

Amendment 13 agreed to.

Clause 63, as amended, ordered to stand part of the Bill.

Clauses 64 to 66 ordered to stand part of the Bill.

New Clause 2

PILOT OF RESIDENTIAL HOUSING PROVISIONS

'(1) Sections 15 to 32 shall not come into force until—

(a) a pilot of these measures has been undertaken in—

(i) one London borough;

(ii) one local authority in a county in England;

(iii) one local authority in a county in Wales;

(iv) one local authority in a county in Scotland; and

(v) one local authority in a county in Northern Ireland.

(2) Each pilot shall last for a period of six months.

(3) At the conclusion of each pilot, the Secretary of State must prepare and publish a report and must lay a copy of the report before Parliament.

(4) Each report shall contain an evaluation of the effects of sections 15 to 32 on the level of discrimination in the private rental housing sector.

(5) A Minister of the Crown must, not later than three months after the report has been laid before Parliament, make a motion in the House of Commons in relation to the report.

(6) If a motion under subsection (5) has been approved by the House of Commons, the provisions of sections 15 to 32 come into force on whatever day or days the Secretary of State appoints by order made by statutory instrument.'.—*(Mr Hanson.)*

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 7, Noes 10.

Division No. 4]

AYES

Dowd, Jim	McFadden, rh Mr Pat
Hanson, rh Mr David	Robertson, John
Hillier, Meg	Wilson, Phil
Jones, Helen	

NOES

Baker, Norman	Milton, Anne
Doyle-Price, Jackie	Opperman, Guy
Harper, Mr Mark	Patel, Priti
Huppert, Dr Julian	Smith, Henry
Mills, Nigel	Syms, Mr Robert

Question accordingly negatived.

New Clause 3

POLICE OMBUDSMAN FOR NORTHERN IRELAND

After section 60ZA of the Police (Northern Ireland) Act 1998 insert—

"60ZB Immigration and customs enforcement functions

(1) The Ombudsman and the Secretary of State may enter into an agreement to establish, in relation to the exercise of specified enforcement functions by relevant officials, procedures which correspond to or are similar to any of those established by virtue of this Part.

(2) Where no such procedures are in force in relation to a particular kind of relevant official, the Secretary of State may by order establish such procedures in relation to the exercise of specified enforcement functions by that kind of relevant official.

(3) "Relevant officials" means—

(a) immigration officers and other officials of the Secretary of State exercising functions relating to immigration or asylum;

(b) designated customs officials, and officials of the Secretary of State, exercising customs functions (within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009);

(c) the Director of Border Revenue exercising customs revenue functions (within the meaning of that Part of that Act), and persons exercising such functions of the Director;

(d) persons providing services pursuant to arrangements relating to the discharge of a function within paragraph (a), (b), or (c).

(4) "Enforcement functions" includes, in particular—

(a) powers of entry,

(b) powers to search persons or property,

(c) powers to seize or detain property,

(d) powers to arrest persons,

(e) powers to detain persons, and

(f) powers to examine persons or otherwise to obtain information (including powers to take fingerprints or to acquire other personal data).

(5) "Specified" means specified in an agreement under subsection (1) or an order under subsection (2).

(6) "Immigration officer" means a person appointed under paragraph 1(1) of Schedule 2 to the Immigration Act 1971.

"60ZC Section 60ZB: supplementary

(1) An agreement under section 60ZB may at any time be varied or terminated—

(a) by the Secretary of State, or

(b) by the Ombudsman, with the consent of the Secretary of State.

(2) Before making an order under section 60ZB the Secretary of State must consult the Ombudsman and such persons as the Secretary of State thinks appropriate.

(3) An agreement or order under section 60ZB may provide for payment by the Secretary of State to or in respect of the Ombudsman.

(4) An agreement or order under section 60ZB must relate only to the exercise of enforcement functions—

(a) wholly in Northern Ireland, or

(b) partly in Northern Ireland and partly in another part of the United Kingdom.

(5) An agreement or order under section 60ZB must relate only to the exercise of enforcement functions on or after the day on which the agreement or order is made.

(6) An agreement or order under section 60ZB must not provide for procedures in relation to so much of any complaint or matter as relates to functions conferred by or under Part 8 of the Immigration and Asylum Act 1999 (detained persons & removal centres etc.).”—*(Mr Harper.)*

Brought up, and read the First time.

2.30 pm

Mr Harper: I beg to move, That the clause be read a Second time.

I will not detain the Committee for long. We touched on the new clause earlier, but I thought it would be helpful for the Committee to set out its purpose and put that on the record. As the right hon. Member for Delyn has a particular interest in Northern Ireland, I was sure that if I did not explain this to the Committee, he would feel the urge to ask me some questions—I am getting my retaliation in first, as it were.

The new clause amends section 60 of the Police (Northern Ireland) Act 1998 and permits the Police Ombudsman for Northern Ireland and the Secretary of State to enter into an agreement to provide the ombudsman with the power to oversee the exercise of specified enforcement functions, such as arrest and search, by immigration officers and designated customs officials in Northern Ireland. That is necessary because, unlike in England and Wales and in Scotland, there is currently no mechanism in place to require independent oversight of serious incidents and complaints involving immigration and customs matters in Northern Ireland. The new clause will ensure that the Police Ombudsman for Northern Ireland has a level of oversight that is consistent with the powers of the Independent Police Complaints Commission to oversee complaints and serious incidents involving immigration officers and designated customs officials in England and Wales.

Securing this independent oversight mechanism will offer the public an assurance that, if things go wrong, the Home Office will be held accountable. For example, in cases where a death occurs in immigration or customs detention, the ombudsman would be expected to consider the circumstances in which that death resulted, to determine whether or not an independent investigation should be carried out. The ombudsman currently has responsibilities in relation to police officers in Northern Ireland and, because immigration officers and designated customs officials exercise police-like powers, such as powers of arrest and search, we consider it appropriate that similar scrutiny is provided.

When we considered clause 2 and schedule 1 on 5 November, I explained that we could not have included this measure on introducing the Bill because we were still discussing it with the Northern Ireland Executive. This provision, although an excepted matter, impacts on a transferred body, so we thought it proper to ensure that the Northern Ireland Executive were content with our proposal before introducing it. I am pleased to confirm that the proposal has the Executive’s support. The proposed mechanism will align oversight of specified enforcement functions in Northern Ireland with already established mechanisms in England and Wales and in Scotland. I hope the Committee will agree that the new clause should stand part of the Bill.

Question put and agreed to.

New clause 3 accordingly read a Second time, and added to the Bill.

Ordered, That further consideration be now adjourned. —*(Anne Milton.)*

2.34 pm

Adjourned till Tuesday 19 November at five minutes to Nine o’clock.

Written evidence reported to the House

IB 29 TUI UK & Ireland

IB 30 BATA

IB 31 British Airways