

Borders, Citizenship and Immigration Bill [HL]

COMMONS AMENDMENTS

[The page and line refer to Bill 86 as first printed for the Commons]

Clause 1

- 1 Page 2, line 17, after “section” insert “(other than in subsection (8))”
- 2 Page 2, line 36, leave out from “means” to end of line 37 and insert “–
- (a) a function that is exercisable –
 - (i) by the Secretary of State by virtue of this section, or
 - (ii) by general customs officials by virtue of section 3,
 - (b) a function that is conferred on general customs officials or the Secretary of State by or by virtue of any of sections 22 to 24 (investigations and detention), or
 - (c) a function under Community law that is exercisable by the Secretary of State or general customs officials in relation to a matter –
 - (i) in relation to which functions under Community law are exercisable by the Commissioners or officers of Revenue and Customs, and
 - (ii) that is not listed in paragraphs (a) to (e) of subsection (2).”

Clause 2

- 3 Page 3, line 6, at end insert –
- “() make provision for a function of the Secretary of State or general customs officials to be treated, or not to be treated, as a general customs function.”

Clause 5

- 4 Page 4, line 41, leave out from “of” to end of line 41 and insert “general customs functions.”

Clause 7

- 5 Page 6, line 21, leave out from “means” to end of line 22 and insert “–
- (a) a function that is exercisable –

- (i) by the Director by virtue of this section, or
- (ii) by customs revenue officials by virtue of section 11,
- (b) a function that is conferred on customs revenue officials or the Director by or by virtue of any of sections 22 to 24 (investigations and detention), or
- (c) a function under Community law that is exercisable by the Director or customs revenue officials in relation to a customs revenue matter.”

Clause 9

- 6 Page 6, line 38, leave out from “Director” to end of line 39

Clause 10

- 7 Page 7, line 8, leave out “functions in relation to customs revenue matters” and insert “customs revenue functions”

Clause 13

- 8 Page 9, line 3, leave out from “of” to end of line 4 and insert “customs revenue functions.”

After Clause 24

- 9 Insert the following new Clause –

“Short-term holding facilities

In section 147 of the Immigration and Asylum Act 1999 (c. 33) (removal centres and detained persons: interpretation), in the definition of “short-term holding facility” –

- (a) after “used” insert “– (a)”, and
- (b) at the end insert “, or
 - (b) for the detention of –
 - (i) detained persons for a period of not more than seven days or for such other period as may be prescribed, and
 - (ii) persons other than detained persons for any period.””

Clause 25

- 10 Page 18, line 42, leave out Clause 25

Clause 26

- 11 Page 20, line 7, leave out from “means” to end of line 8 and insert “a function which before the passing of this Act was exercisable by the Commissioners or officers of Revenue and Customs (whether or not it remains so exercisable) and that –
- (a) is conferred by or by virtue of this Part on the Secretary of State, the Director or a designated customs official, or

- (b) is a function under Community law that is exercisable by the Secretary of State, the Director or a designated customs official;

Clause 28

- 12 Page 21, line 5, at end insert “, and
() after paragraph (g) insert –
“(ga) practice and procedure in relation to the prevention, detection and investigation of offences,
(gb) practice and procedure in relation to the conduct of criminal proceedings,
(gc) whether customs functions have been appropriately exercised by the Secretary of State and the Director of Border Revenue.”
- 13 Page 21, leave out lines 7 to 15

Clause 38

- 14 Page 28, line 16, at end insert –
““Community law” means –
(a) all the rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Community Treaties, and
(b) all the remedies and procedures from time to time provided for by or under the Community Treaties,
as in accordance with the Community Treaties are without further enactment to be given legal effect or used in the United Kingdom;”

Clause 39

- 15 Page 29, line 4, leave out Clause 39

Clause 51

- 16 Page 43, line 18, leave out Clause 51

Clause 55

- 17 Page 44, line 30, leave out Clause 55

Before Clause 56

- 18 Insert the following new Clause –

“Transfer of certain immigration judicial review applications

- (1) In section 31A of the Supreme Court Act 1981 (c. 54) (England and Wales: transfer from the High Court to the Upper Tribunal) –
(a) after subsection (2) insert –

- “(2A) If Conditions 1, 2, 3 and 5 are met, but Condition 4 is not, the High Court must by order transfer the application to the Upper Tribunal.”, and
- (b) after subsection (7) insert –
- “(8) Condition 5 is that the application calls into question a decision of the Secretary of State not to treat submissions as an asylum claim or a human rights claim within the meaning of Part 5 of the Nationality, Immigration and Asylum Act 2002 (c. 41) wholly or partly on the basis that they are not significantly different from material that has previously been considered (whether or not it calls into question any other decision).”
- (2) In section 25A of the Judicature (Northern Ireland) Act 1978 (c. 23) (Northern Ireland: transfer from the High Court to the Upper Tribunal) –
- (a) after subsection (2) insert –
- “(2A) If Conditions 1, 2, 3 and 5 are met, but Condition 4 is not, the High Court must by order transfer the application to the Upper Tribunal.”, and
- (b) after subsection (7) insert –
- “(8) Condition 5 is that the application calls into question a decision of the Secretary of State not to treat submissions as an asylum claim or a human rights claim within the meaning of Part 5 of the Nationality, Immigration and Asylum Act 2002 (c. 41) wholly or partly on the basis that they are not significantly different from material that has previously been considered (whether or not it calls into question any other decision).”
- (3) In section 20 of the Tribunals, Courts and Enforcement Act 2007 (c. 15) (Scotland: transfer from the Court of Session to the Upper Tribunal) –
- (a) in subsection (1), for the “and” at the end of paragraph (a) substitute –
- “(aa) must, if Conditions 1, 2 and 5 are met, but Condition 4 is not, and”, and
- (b) after subsection (5) insert –
- “(5A) Condition 5 is that the application calls into question a decision of the Secretary of State not to treat submissions as an asylum claim or a human rights claim within the meaning of Part 5 of the Nationality, Immigration and Asylum Act 2002 (c. 41) wholly or partly on the basis that they are not significantly different from material that has previously been considered (whether or not it calls into question any other decision).”

Clause 59

Clause 60

- 20 Page 47, line 1, leave out “51 (entry otherwise than by sea or air: immigration control),”
- 21 Page 47, line 8, leave out “55 (fresh claim applications)” and insert “(*Transfer of certain immigration judicial review applications*) (transfer of certain immigration judicial review applications)”
- 22 Page 47, line 20, at end insert –
- “(8A) An order commencing sections 40 to 42 (acquisition of British citizenship by naturalisation) must include provision that the amendments made by those sections do not have effect in relation to an application for naturalisation as a British citizen if –
- (a) the date of the application is before the date on which those sections come into force in accordance with the order (“the date of commencement”), or
 - (b) the date of the application is before the end of the period of 24 months beginning with the date of commencement and the application is made by a person who falls within subsection (8B) or (8C).
- (8B) A person falls within this subsection if on the date of commencement the person has indefinite leave to remain in the United Kingdom.
- (8C) A person falls within this subsection if the person is given indefinite leave to remain in the United Kingdom on an application –
- (a) the date of which is before the date of commencement, and
 - (b) which is decided after the date of commencement.
- (8D) The reference in subsection (8A) to an order commencing sections 40 to 42 does not include an order commencing those sections for the purpose only of enabling regulations to be made under the British Nationality Act 1981 (c. 61).”
- 23 Page 47, line 33, at end insert –
- “() No order may be made commencing section (*Transfer of certain immigration judicial review applications*) (transfer of certain immigration judicial review applications) unless the functions of the Asylum and Immigration Tribunal in relation to appeals under Part 5 of the Nationality, Immigration and Asylum Act 2002 (c. 41) have been transferred under section 30(1) of the Tribunals, Courts and Enforcement Act 2007 (c. 15).”

Clause 61

- 24 Page 47, line 38, leave out subsection (2)

The Schedule

- 25 Page 48, leave out lines 6 and 7