



Government Immigration Bill (Session 2022-23)

Commons Consideration of Lords Amendments (July 2023)

The Bill is returning to the Commons with a mass of amendments made to it. Many of these have been Government amendments. MPs will recall that the Bill was subject to [over a hundred last minute Government amendments](#) tabled immediately before its Report and Third Reading on its last appearance in the Commons.

MPs will also recall that the Bill completed its passage through their House before the Government published any impact assessment. A threadbare equality impact assessment was published only the day after Second Reading in the other place; and the Bill's impact assessment was not produced until immediately before Lords' Report. A child impact assessment was published only the day before the last of three days for Lords' Report.¹

With all due respect to Ministers, Government has denied the opportunity for proper parliamentary scrutiny of this Bill. The impropriety of that is dramatically exacerbated by what they are seeking to do by it. Ministers describe the Bill as “*novel*” and “*untested*”.² This is given as explanation for why Ministers have been unable to formally declare this Bill to be compatible with the UK's human rights obligations. Moreover, this untested novelty is quite exceptional in at least two ways:

- Firstly, it significantly excludes the UK's higher courts from performing their basic constitutional function of ensuring that ministerial exercise of laws and powers granted by Parliament is lawful.
- Secondly, it requires the Secretary of State to act or refuse to act in certain ways (specifically to remove certain people from the UK, refuse to consider their asylum or other related claims and refuse to ever grant them any permission to be in the UK).

The disrespect shown by ministers to Parliament and constitutional principle in all this is egregious. It is also extremely reckless. That recklessness concerns the impact of this Bill, and what is to be done by it, both in the UK and elsewhere. As regards its domestic impact, it is extraordinary that Ministers are pursuing what they described as a novel and untested statutory regime that will require them to act in ways they expressly state they cannot adequately evaluate. All the more so, given that this will leave them and their successors no flexibility to alter or abandon course if – and we believe when – its practical, moral or legal depravity is ultimately demonstrated. It is no sufficient answer that Parliament can be asked to legislate all over again.

MPs should pause to consider that what ministers describe as untested novelty is not truly entirely new. The policy position underpinning this Bill is one to refuse to consider and deal with

¹ These impact assessments can be found here: <https://bills.parliament.uk/bills/3429/publications>

² e.g. *Hansard* HC, Second Reading, 13 March 2023 : 580 *per* Rt Hon Suella Braverman; *Hansard* HL, Second Reading, 10 May 2023 : Col 1921 *per* Lord Murray of Blidworth

the asylum claims made by people who arrive in the UK seeking asylum; and seek instead to cast of all responsibility onto some other country. That policy has been pursued by this Home Secretary and her predecessor going back at least as far as the introduction of asylum ‘inadmissibility’ rules by Priti Patel in December 2020.³ The result has been a catastrophe – tens of thousands of asylum claims rapidly backed-up in a system that has collapsed under the weight of its own backlog, with enormous costs of accommodation, detention and support falling on the taxpayer while people are trapped in an appalling limbo.

The only difference between the policy pursued by Priti Patel and that which her successor now seeks via this Bill is that, before the Bill, the Home Secretary was empowered to temper or resile from it – whether in individual cases, in certain categories of cases or across the board. If this Bill is passed, the Home Secretary will be required to continue the punishment of both refugee and taxpayer no matter the moral, human, financial or any other cost.

Amnesty remains wholly opposed to this Bill. As we advised the Joint Committee on Human Rights, it “...is entirely unsalvageable, should never have been introduced and ought to be rejected in its entirety.”⁴ But what can now be done is extremely limited unless ministers relent and withdraw their Bill. Nonetheless, what can be done, should be done. Lords’ amendments should be retained. Among those amendments, the most vital to retain are:

- The [replacement of Clause 1](#) with the modest stipulation that nothing in this legislation *requires* the Home Secretary to break with international human rights law.
- The amendment to Clause 4 that *requires* the Home Secretary to take responsibility for an asylum claim, and the person making it, within six months of their claim being made if she has not found some other safe place willing to receive the person and their claim.
- The removal of the bar upon UK courts exercising their constitutional role to ensure that ministers exercise their executive powers within the law, including where necessary by interim measures to safeguard against unlawful exercise of power pending judicial consideration.

None of this is in any way to diminish the importance of other amendments – such as those seeking to retain safeguards against detention of children and pregnant women; and wider safeguards against unlawful and unnecessary exercise of the power to detain. However, these and other amendments leave untouched the primary purpose and effect of this Bill by which the Home Secretary is to be compelled to respond to everyone – including children, pregnant women, victims of human trafficking and refugees – in a way that refuses even to consider their individual circumstances, their rights in international law and the harm that will be done by ignoring these.

³ A matter on which Amnesty gave warning to the Home Office by letter withing days of the relevant immigration rules being laid: <https://www.amnesty.org.uk/resources/amnesty-uk-letter-immigration-minister-ministers-reply-regarding-immigration-rules>

⁴ Available with our other briefings here: <https://www.amnesty.org.uk/resources/government-immigration-bill-session-2022-23-entitled-illegal-migration-bill-1>