



## Government Amendment

Border Security, Asylum and Immigration Bill, HL Bill 136, House of Lords, Report, November 2025

LORD HANSON OF FLINT

40

Clause 43, page 39, line 40, at end insert

*“, and (b) after subsection (1) insert—*

*“(1A) A condition under any of sub-paragraphs (vi) to (x) of subsection (1)(c) may be attached to limited leave to enter or remain in the United Kingdom given to a person only if the Secretary of State considers that—*

*(a) the person poses a threat to national security,*

*(b) the person poses a threat to the safety of the public, a section of the public, a particular individual or particular individuals,*

*(c) the person has committed an offence that is specified, or falls within a description specified, in Schedule 1 to the Serious Crime Act 2007 (serious offences),*

*(d) the person has committed—*

*(i) an offence that is specified in Part 2 of Schedule 18 to the Sentencing Code (specified sexual offences),*

*(ii) a sexual offence for the purposes of section 210A of the Criminal Procedure (Scotland) Act 1995 (extended sentences), or*

*(iii) an offence that is specified in Part 2 of Schedule 2 to the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)) (specified sexual offences), or*

*(e) the person—*

*(i) has committed, or is suspected of having committed, an offence outside the United Kingdom, and*

*(ii) the act constituting the offence would, if it had been done in any part of the United Kingdom, have constituted an offence within paragraph (c) or (d) (other than an offence within paragraph (xxviii) of the definition of “sexual offence” in section 210A(10) of the Criminal Procedure (Scotland) Act 2010).*

*(1B) For the purposes of subsection (1A)(e) an act punishable under the law in force in a country or territory outside the United Kingdom constitutes an offence under that law however it is described in that law.””*

**Member's explanatory statement**

This amendment would place limits on the circumstances in which conditions referred to in section 3(1)(c)(vi) to (x) of the Immigration Act 1971 as inserted by clause 43(2) may be attached to a person's limited leave to enter or remain in the United Kingdom.

Amnesty is grateful to those peers who have pressed concerns about Clause 43 and, more generally, about the way of legislating of which it gives example. In our view, **the threat to human rights and civil liberties posed by the presence on the statute book of inadequately specified powers without proper safeguards on the mere strength of ministerial assurance is now of far greater severity and immediacy than has been the case for at least several decades.**

We are, therefore, compelled to provide further briefing on this matter **and urge peers to again raise concerns with ministers regarding this Clause and this way of legislating more generally.**

Government Amendment 40 will provide limited constraint on Clause 43. That Clause provides the Home Secretary new powers to impose electronic tagging, curfews, exclusion zones, confinement zones and any other conditions she sees fit as if these are ordinary and general immigration powers. Under the Clause, these conditions may be imposed on anyone in the UK, who is neither free of immigration controls (e.g., British citizens) nor in possession of indefinite leave to enter or remain (i.e., settled persons). The constraint introduced by the Amendment is to restrict the exercise of these powers to circumstances where the Home Secretary considers the person either poses a threat of a varying nature or has ever committed one of a relatively wide range of criminal offences in or outside the UK.

In Committee, the Home Office Minister of State offered further explanation and several assurances about what is intended by Clause 43. It remains clear, notwithstanding the Amendment now tabled for Report, that there is considerable variance between the explanation and assurances being offered and the breadth of the power Parliament is being asked to sanction. For reasons identified by Lord Anderson of Ipswich,<sup>1</sup> Lord Kirkhope of Harrogate<sup>2</sup> and Lord Deben,<sup>3</sup> among others, at Committee, this is neither satisfactory nor safe. Parliament urgently needs to take notice of this general approach before the number and range of extremely wide powers that sit on the statute book is further expanded. As regards Clause 43 and Government Amendment 40, the following concerns remain especially alarming.

First, the Minister has said that the Clause *“will end the disparity in the powers available to protect the public from migrants who pose a threat but currently cannot be removed or deported.”*<sup>4</sup> However, there remains no explanation why existing counter-terror and policing powers are inadequate to the task. There is, most especially, no explanation why the same threat posed by a British citizen, who cannot be removed or deported, is any more easily managed by those existing powers than is a migrant person. There is no explanation of what is meant by disparity. However, given the Clause seeks powers that are free of any of the various safeguards that apply to existing counter-terror and policing powers, it will clearly

<sup>1</sup> *Hansard* HL, Committee, [8 September 2025 : Col 1188 et seq](#) and [Col 1195](#).

<sup>2</sup> *Hansard* HL, Committee, [8 September 2025 : Col 1192-1193](#)

<sup>3</sup> *Hansard* HL, Committee, [8 September 2025 : Col 1193](#)

<sup>4</sup> *Hansard* HL, Committee, [8 September 2025 : Col 1194](#)

create a disparity with the prospect that at some point one minister or another will propose to end that disparity – by removing or reducing those safeguards (to close the gap).

Second, there remains the extraordinary inclusion of the power to impose any other condition that the Home Secretary “*thinks fit*.” This blank cheque is made considerably worse because – even with the addition by the Government’s Amendment of some further restriction of the people on whom these conditions may be imposed – this power remains unconfined by any express statutory purpose. On the face of the drafting, anything may be required, for any purpose or none, of anyone falling within the scope of the power.

Third, it is either politically naïve or reckless to simply rely on the European Convention of Human Rights (ECHR) to fill the void that arises from legislating so opaquely and without statutory safeguards. Yet, this was precisely the response of the Minister in Committee.<sup>5</sup> This is an extreme example of a serious flaw that has bedevilled much immigration policy over many years.<sup>6</sup> By leaving the ECHR (and its incorporation via the Human Rights Act 1998) to fill the void, ministers are choosing to require human rights lawyers and courts to work out via litigation the extent of powers passed to and exercised by immigration officers and Home Office officials; and choosing to require this to be done by sole reliance on human rights law. It is perfectly predictable that this will create more opportunity for that law to be lambasted in social and political discourse in ways that increasingly threaten continued respect for it and its practitioners.<sup>7</sup>

A matter related to this third point was rightly emphasised by Lord Anderson in Committee. Ministerial assurances offer no guarantee as to what current ministers, still less future ministers and future governments, and the civil servants under their direction will then do with the powers. Published policy and guidance may provide some constraint, but these can be altered at any time. Save for when applying the Human Rights Act 1998, courts are generally constrained to accept the meaning of statutes as identified by their wording and not by ministerial explanations and assurances given during their passage.

Fourth, the Minister repeatedly emphasised the purpose of the new powers as concerning people who pose some sort of threat.<sup>8</sup> Subparagraphs (1A)(a) and (b) relate accordingly to an assessment that someone poses a threat to someone’s safety. It is left open as to what type or level of harm is encompassed by the word ‘safety’ and any level of threat is sufficient. On the face of it, an assessment that someone is a shoddy builder, poor driver or aggressive user of social media would indicate a risk of some injury to another person and so satisfy the condition in the Amendment of posing a threat to someone’s safety. In some cases, a person’s physical or mental disability may be assessed as causing some risk of harm to others. Paragraphs (1A)(c), (d) and (e), however, permit the exercise of these powers even where there is no risk to someone else. All that is required is that the person has committed one of the specified offences somewhere at some time, however long ago that may be and whatever circumstances may have since changed. The offence may, for example, have been committed when the person was a child or when under the control of human traffickers; and even years or decades ago.

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<sup>5</sup> *Hansard* HL, Committee, [8 September 2025 : Col 1195](#)

<sup>6</sup> This is a feature of what has been done by successive Governments and Parliaments in respect of deportation policy: see, e.g., Amnesty UK’s [June 2025 briefing on Deportation \(and Article 8\)](#).

<sup>7</sup> As, e.g., discussed in Amnesty UK’s [June 2025 briefing on Article 8: Private and Family Life](#).

<sup>8</sup> *Hansard* HL, Committee, [8 September 2025 : Col 1194-1195](#)

Related to this fourth point is a distinct and wider concern about the encroachment of immigration policy into the lives of people born in this country and who have always lived here. The British Nationality Act 1981 has always recognised the right of such people to British citizenship,<sup>9</sup> but that right has become obstructed by a requirement of good character that was first introduced on the basis of a fundamental misunderstanding about what was being done. Ministers at the time, wrongly advised Parliament that the measure first introduced in 2006 was concerned with people “*coming to the UK*.”<sup>10</sup> Clause 43 will extend the many injustices being done to these British people, who are already deprived of the citizenship that properly belongs to them.<sup>11</sup>

These are not the full extent of Amnesty’s concerns. Our previous briefing for Committee remains available and provides more detail, albeit that briefing must now be read in light of Government Amendment 40. **Amnesty deeply regrets the prospect that Clause 43, even with this Government Amendment, is to appear on the statute book. We respectfully invite further reflection from Parliament and Government on the dangers of such legislation** – legislation in this or any other policy area that provides powers that are inadequately specified in law and insufficiently constrained by statutory safeguards and purpose. Such powers may come to be used in ways very different to those for which ministers have sought them and given assurances about them. They are also likely to create new controversies that undermine respect for human rights and human rights laws in the UK by requiring the Human Rights Act 1998, and its application, to do all the work of attempting to delineate the extent of these powers and protecting individuals against their excessive use.

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<sup>9</sup> See the combined effect of sections 1(1), (3) and (4) of the British Nationality Act 1981, meaning that a person born in the UK who continues to live in this country acquires a right to British citizenship no later than their tenth birthday.

<sup>10</sup> *Hansard* HL, Committee, 19 January 2006 : Col GC279; Report, 7 February 2006 : Col 622; and Third Reading, 14 March 2006 : Col 1198, *per* Baroness Ashton of Upholland, Parliamentary Under-Secretary; and see the [joint submission](#) of PRCBC and Amnesty UK to the Joint Committee on Human Rights for its [consideration of the Draft British Nationality Act \(Remedial\) Order 2019](#).

<sup>11</sup> For more on these matters, see joint PRCBC and Amnesty UK [briefing on Amendment 60](#).