ILPA IMMIGRATION LAW PRACTITIONERS' ASSOCIATION
PRESIDENT: IAN MACDONALD QC

IMMIGRATION, ASYLUM AND NATIONALITY BILL – BILL 13
HOUSE OF COMMONS STANDING COMMITTEE E
Fifth and sixth sessions, 25 October 2005

CLAUSES 23 to 36 (INFORMATION)

ILPA is a professional association with some 1200 members, who are barristers, solicitors and advocates practising in all aspects of immigration, asylum and nationality law. Academics, non-government organisations and others working in this field are also members. ILPA exists to promote and improve the giving of advice on immigration and asylum, through teaching, provision of high quality resources and information. ILPA is represented on numerous government and appellate authority stakeholder and advisory groups.

CLAUSE 23 Documents produced or found

1. All passports are and remain the property of the issuing governments and traditionally government agencies have appropriately been given limited powers to retain them. Under the 1971 Act an immigration officer is permitted to retain any document revealed as a result of an immigration search for 7 days or, if the document is or may be needed for criminal proceedings until satisfied it will not be so needed.

2. The Bill extends this power allowing passports or other documents to be retained 'for any purpose' until the grant of leave or the departure of the holder or until it is decided the person does not require leave to enter. People whose identity documents are held in this way will suffer real prejudice in their daily lives because they will be unable to prove their identity to landlords, doctors, hospitals, childcare etc. The person may wish to depart voluntarily to their home or another reception country and can be handicapped in making such arrangements if they do not have a passport or identity document. It is ILPA's experience that IND is often disorganised and slow in assisting such voluntary departures. Our members have experience where these documents are misplaced by the Home Office.

Passports – case of J
J was a long-term overstayer who had applied to stay in the UK with her husband, who is settled here. Nothing happened; it was taking forever to get a response. In June 2003 J decided to return to Gambia, with her British born, British Citizen children and apply for entry clearance from there. The Home Office promised to return the passport. They did not. Further enquiries were made, and they then said they would return her passport at the airport. She booked a flight, got to the airport: no passport. It took months before she was given her old passport (which by that time had expired) and was able to submit it to her High Commission and obtain a new one. She finally travelled from the UK in January 2004. She obtained her entry clearance, although this was not a speedy process either, and in November 2004 was able to return to the UK with her daughters and with leave as a spouse to remain with her husband.

3. **Questions:**

- In what sort of circumstances is a passport required in connection with an appeal?
- When would a person described in paragraph (c) – i.e. a person whose passport is retained beyond the time when he or she "is about to depart or to be removed" - get their passport back?

- What will happen in the case of the new out of country appeals proposed under Clause 1, and existing cases in which the appeal is out of country? Could a passport be retained after a person has gone back to their country?
- What about human rights cases heard out of country because they are certified as clearly unfounded? Will it be possible to retain the passports of those people beyond the time when they leave the UK?
- If a passport is returned to a person after their plane has landed in another country or during the journey, who will have the passport in the meantime? Will it always be in the possession of an immigration officer or a consular official? What steps will be taken to ensure that the person does indeed get his/her passport back, and also to ensure that his/her safety is not compromised if the handover of the passport is witnessed by local immigration officials, who might take this as suggesting the person is in trouble with the UK authorities.

Amendment 113

Dr Evan Harris, Mr John Leech

ILPA supports the proposed amendment

Clause 23, page 10 line 33, leave out lines 33 to 41 and insert-

(b) if on examination of any document so produced or found the immigration officer is of the opinion that it may be needed in connection with proceedings on or for an offence.

Purpose

4. To deny the extension of powers under Schedule 2, paragraph (4) of the Immigration Act 1971, as set out in this clause.

Briefing

5. Under Paragraph 4(AA) of that Act, inserted by Immigration and Asylum Act 1999 an immigration officer already has the powers set out in the new proposed subparagraph 4(b).

6. The new paragraph (b) suggested in the amendment reproduces powers in the existing paragraph (4). That paragraph also makes provision for passports to be detained if the immigration officer is of the opinion that they may be needed for proceedings in connection with an appeal under the Nationality and Immigration Act 2002 (following amendment by the Nationality, Immigration and Asylum Act 2002). Given the new plans to deny in-country rights of appeal in this bill we have not reproduced that power.

CLAUSE 24 Attendance for fingerprinting

7. The current position is that all those required to attend for fingerprinting, are given seven days notice of the requirement to attend. To probe the government's intention in seeking to amend this clause and to raise the difficulties it may cause applicants by being given only three days notice (see proposed (2A)(b)) running from the date given in the notice as its date of issue, which could easily be more than three days before it reaches the applicant.

8. The people for whom it is proposed that three days, rather than seven, from issue of the document, should be the minimum notice period re people who have made sought recognition as a refugee or asserted that removal would breach their rights under Article 3 of

the European Convention of Human Rights, and their dependants. The people who will get a minimum of seven days[1] are those who have failed to produce a valid passport or identity document on arrival; a person refused leave to enter but on temporary admission whom it is feared will not comply with residence conditions and a person in whose case a decision has been made to make removal directions or to deport.

9. Questions:

- Why is it proposed to make this change and why in respect of people seeking asylum only?
- What will happen if a person can prove that the document did not reach him/her until the after the date on which s/he was required to attend? (for example because it was delayed in the post, or they were temporarily absent from their accommodation for a couple of nights or did not have the money to travel to attend). The consequences of failure to attend can be arrest without warrant (1999 Act s.142(3)).

10. The same problems could arise in the case of a person given 7 days notice, given that the requirement that the days start running from the date of issue will also apply to them.

11. The requirement that a person attend at a specified time of day or specified hour could still be inserted into the Act without shortening the notice period, if this was considered important for good administration. Will not the proposal to shorten notice periods and give fixed times for attending create a greater risk of missed appointments and wasted time of officials?

Amendment 114 - Stand part

Mr John Leech, Dr Evan Harris

ILPA supports the proposed amendment

Page 11, line 11, leave out Clause 24

Purpose

12. To preserve the current position. To probe the government's intention in seeking to amend this clause.

CLAUSE 26 Provision of Information to Immigration Officers

13. As set out in the Explanatory Notes (paragraph 26), the new clause provides a new power to require carriers to pass on information about passengers on a ship or aircraft about to leave the United Kingdom. (26(2)).

14. Paragraph 27(2) of Schedule 2, which this paragraph amends, at the moment allows the Secretary of State to make an order requiring the captains of *arriving* ships or aircrafts to provide immigration officers with a passenger list showing names and nationality of those arriving, and particulars of the crew. Passenger information powers were contained in Schedule 7 to the Terrorism Act 2000 and the Information Order (Terrorism Act 2000 (Information) Order 2002 made under it. These specific powers oblige carriers to provide

[1] Note that contrary to what is said in the House of Commons Library research paper at paragraph H.2, people in all categories can be required to attend at a specific date and time.

more detailed information: including full name of passenger, gender, date and place of birth, home address, nationality, type and number of travel document, country of issue and expiry date as well as information about the number of items in the hold. Where goods are carried on a vehicle it makes provision for a description of them, the address from which they were collected and to which they are to be delivered, and the registration number of the vehicle to be provided.

15. The *Partial Regulatory Impact Assessment* mentions the governments intention to amend the *Immigration (Passenger Information) Order 2000* to allow immigration officers to request additional Advanced Passenger information, including biometric data from travel documents and additional reservation data to the extent that it is known to the carrier.

16. The House of Commons Library briefing states "If carriers collect and pass on embarkation data, there would be no need for immigration or other government staff to do embarkation checks – resulting in an estimated saving of £183 million over 15 years. A *Regulatory Impact Assessment* sets out the estimated costs to carriers."

17. Paragraph 35 of the *Regulatory Impact Assessment* estimates the costs of providing API (Advance Passenger Information) data at 4 million, with ongoing running costs net of data transport, of £470,000 per year.

18. The Conservative party's 2005 election manifesto calls for the reintroduction of "full embarkation controls." [2] To what extent are these new powers a substitute for reintroducing embarkation controls? If this is the case, are the reasons for doing so financial, or other?

Amendment 115

Mr John Leech, Dr Evan Harris

ILPA supports the proposed amendment

Page 12, line 26, at end insert:

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[2] See e.g . *Hansard* HC Report 20 December 2004 Col 1964-5: **David Davis: ..**If the Government are to argue that immigration controls are a high-ranking priority, as I think that they will, embarkation controls and better border controls will be a necessary component…**Mr. Gordon Prentice:** Was it not the right hon. Gentleman's Conservative Government who scrapped embarkation controls in the smaller ports? **David Davis:** If I recall correctly, it was embarkation controls for the EU, which were no longer legal. It was the present Government who scrapped them for the rest of the world…" See also Embarkation Controls, *Hansard* HL Report, House of Lords Written Answer HL957 (the Lord Marlesford, response from the Lord Rooker on behalf of the government) 5 November 2001, which states "In 1994 the Government withdraw the embarkation control for passengers travelling to contintental destinations from ferry ports and small/medium sized airports. The residual embarkation control at large airports was reconfigured by the Immigration Srvice in March 1998 after a lengthy period of consultation with interested parties. The routine presence of imigration officers was replaced by a new arrangement based on an intellignece-led approach, with enhcnaced co-operation between the agencies and an increased use of CCTV technology. The reconfiguration of the embarkation control means that the Imigration Service now uses its resources more flexibly, concentrating on key delivery areas, while operating a targeted embarkation control any time there is an immigration-related operational need. It has a contingency plan for emergency, short-term targeted embarkation controls, which can be set up at one hour's notice if there was an urgent operation need. This involves setting up an embarkation control at the traditional point and an additional gate check embarkation control at airports. I do not think a return to a routine, manual embarkation control is a sensible use of Immigration Service resources, which is why we are considering as a matter of urgency a range of measures to enchance border security, including the us of new technology."

"( ) The Secretary of State may make an order under this paragraph only if satisfied that the nature of the information sought is such that there are likely to be circumstances in which it can be required under subsection (2) without breaching Convention rights (within the meaning of the Human Rights Act 1998 (c.42)."

Purpose

19. To probe the safeguards placed upon the exercise on these powers. The wording of the proposed subsection is taken from **Clause 27** of this Bill. If it was thought necessary to put it on the face of a Bill already certified as complying with the Human Rights Act in that section, why not in this one? Upon what other safeguards is the Secretary of State intending to rely that render its inclusion unnecessary?

CLAUSE 27 Passenger and Crew information – police powers

20. The clause provides powers to the police to require "passenger and service information to be provided to them.

Amendment 116

Mr John Leech, Dr Evan Harris

ILPA supports the proposed amendment

Clause 27, page 13, line 30, leave out "generally or"

Purpose

21. The effect of the amendment is to prohibit the Secretary of State from making orders that apply generally. It invites the Secretary of State to envisage a situation in which he could make an order that applied generally but also complied with paragraph (7) of the clause, requiring that the information could be sought without breaching human rights.

22. Can the Minister clarify whether passenger information orders under Paragraph 17(2) of Schedule 7 to the Terrorism Act 2000, as amended and the Information Order (Terrorism Act 2000 (Information) Order 2002 made under it, include the power to make orders that apply generally, rather than requiring that a specific written order be made in respect of each vehicle?

23. If this is the case, why was it felt necessary to take a different approach under this clause?

24. Could a carrier be given a request that said simply "all your craft, or vehicles? Could this information be required for every single vehicle? The *Partial Regulatory Impact Assessment* says, at paragraph 54 "The timescales involved in bringing forward this legislation have meant that we have been unable to consult fully with industry on the specific detail of the provisions prior to introduction." This is repeated in the notes re these powers (no page number but see just past the middle of the Assessment "3.Consultation" and then 6. Small Firm's Impact Test, where it is noted that "Consultation with the Small Business is ongoing". What was the rush? Had the government waited, perhaps he would have been able to undertake the consolidation we have noted would make the deliberations of this committee, not to mention work in the field of immigration, whether as government official, judge or

representative, much simpler. Moreover, had the government waited, it might have been possible fully to consult with industry on these measures.

25. What has the Small Business Service said to date about these measures

26. The Partial Regulatory Impact Assessment mentions an intention (paragraph 59) to publish a report on Project Semaphore, the e-borders pilot in which carriers have been involved, "probably by September 2005" Is that report available and could the Committee have copies if so?

27. How long would the data collected be kept and stored? With whom could it be shared?

28. The *Partial Regulatory Impact Assessment* notes (unnumbered pages but middle of printed document 2.,(b) *"The powers to require information on outbound EU journeys were disapplied as part of the Single Market provisions but HMRC's experience has shown this to be a specific weakness in their ability to target and profile smugglers."* Could the Minister explain what this means and identify whether there is any risk of the new powers being struck down as incompatible with EU legislation?

29. The *Partial Regulatory Impact Assessment* also states that "The existing legislation is monitored by immigration staff at ports of entry" What form does that monitoring take and in what form are the results collated? Is it possible to provide information about conclusions from the monitoring to the Committee?

Amendment 117

Mr John Leech, Dr Evan Harris

IPPA supports the proposed amendment

Clause 27, line 38, leave out "there are likely to be circumstances in which"

Purpose

30. The amendment rewrites the provision so that instead of stating that "The Secretary of State may make an order under this paragraph only if satisfied that the nature of the information sought is such that there are likely to be circumstances in which it can be required under subsection (2) without breaching Convention rights" it instead reads "The Secretary of State may make an order under this paragraph only if satisfied that the nature of the information sought is such it can be required under subsection (2) without breaching Convention rights". It is to probe the drafting of this clause. The drafting would appear to permit the Secretary of State to make an order if he can envisages circumstances in which requiring the information would not breach human rights, even if in the particular case he knows that this is not so. We should like the Secretary of State's assurance that this is not the case and that he must be satisfied that requiring the information in the cases covered by the order will not breach Convention rights.

CLAUSE 28 Freight information: police powers & CLAUSE 29 Offence

31. This clause provides the police with powers to request information about freight. In the case of the 58 Chinese immigrants who died being smuggled into Dover in a sealed container, the type of freight normally carried would have given no clue as to the likelihood

of the vehicle being used to transport people. They died because they were transported in a sealed container, and were therefore unable to breathe. Information about the freight seems unlikely indirectly to provide information about the people on board.

32. In the Terrorism Act 2000, paragraph 17 of Schedule 7 gave the Secretary of State power to make orders specifying information to be requested, provided that information related to passengers, crew or vehicles belonging to passengers or crew. When the order was made (Terrorism Act (Information) Order 2002, it also allowed information to be requested about goods carried on a vehicle, namely a description, the address from which they were to be collected and that to which they were to be delivered and the registration number of that vehicle. Here we see attention turning from people to goods on the face of the Bill, but it is far from clear that this falls within the short title of a bill which is to "Make provision about immigration, asylum and nationality and for connected purposes".

Amendments 118 & 119 -Stand part

Mr John Leech, Dr Evan Harris

ILPA supports the proposed amendments

Clause 14, page 14, line 3, leave out Clause 28.

Consequential amendment : Clause 29, page 15, line 3, leave out "or 28(2)

Purpose

33. To probe what a clause about "freight information" is doing in a bill on Immigration, Asylum and Nationality and whether this clause can properly be included in this bill given the long title. This is of particular importance given that by operation of Clause 29 it can give rise to criminal offences.

Government Amendments 108 & 111

Presumed purpose:

34. To broaden the ambit of Clause 28 considerably so that it also covers road hauliers.

Government Amendments 109 and 110

Presumed purpose:

35. To reflect the change effected by amendment 108, whereby road hauliers will also be within the ambit of the clause and to further broaden the ambit of the clause so that those connected with freight companies – ie sending the cargo rather than involved in the transport, can also be required to provide information.

Government Amendment 63 & 64

36. Drafting only – the effect of the final version of Clause 29 appears to be the same: a lesser maximum period of imprisonment in Scotland and Northern Ireland than in England and Wales.

CLAUSE 31 Duty to share information & CLAUSE 32 Information sharing: security purposes

37. Clause 31 imposes a duty, rather than a power to share information. What safeguards apply? The duty appears onerous given that the breadth of information is so broad – will orders be specific? – a particular flight? – or general? If so, how are agencies to spot what they should share?

Government Amendments 30 to 32, Govt 42, Govt 44, Govt 47 and Government 50 to 52

Presumed purpose:

38. All these government amendments have the effect of making the order making powers under this section powers to be exercised by the Treasury and Secretary of State jointly, rather than just by the Secretary of State.

Amendment 119

Mr John Leech, Dr Evan Harris

ILPA supports the proposed amendment

Clause 31, page 15, line 43, leave out from "or" to page 16, end of line 2.

Purpose

39. The effect of the amendment is to remove the catch all whereby there is a duty to share information relating to such other matters in respect of travel or freight that the Secretary of State may specify by order. Its purpose is to probe the effect of this clause. Moreover, as per the proposed amendment to Clause 31, it probes whether orders relating to freight are within the long title of this bill.

Amendment 131

Mr John Leech, Dr Evan Harris

ILPA supports the proposed amendment

Clause 31, page 16, line 17, at end insert

"( ) The Secretary of State may make an order under subsection (4) only if satisfied that the nature of the information sought is such that there are likely to be circumstances in which it can be required under subsection (2) without breaching Convention rights (within the meaning of the Human Rights Act 1998 (c.42)."

Purpose

40. To probe the safeguards placed upon the exercise on these powers. The wording of the proposed subsection is taken from **Clause 27** of this Bill. If it was thought necessary to put it on the face of a Bill already certified as complying with the Human Rights Act in that section, why not in this one? Upon what other safeguards is the Secretary of State intending to rely that render its inclusion unnecessary?

Government amendments 33 and 46

Presumed purpose

41. To ensure that there is no overlap between the order-making powers under Clauses 31 and those belonging to HMRC under the specified sections. Where there is potential for such overlap, HMRC shall have the power.

Government Amendments 40 and 41

Presumed purpose

42. These amendments have the effect of retaining the Director General of the Security Service, the Chief of Secret Intelligence and the Director of Government Communications people *with* whom there is a duty to share information, but no longer people *on* whom there is a duty to share information. **Government amendments 38 & 39** are drafting changes consequential on this change. **Government Amendments 43 and 45** appear to be changes consequential on amendments 40 and 41. If the people mentioned in those amendments are under no duty to share information there can be no order specifying the information they must share. It is unclear why amendment 43 does not also delete subclause 3(c) which appears to be left hanging with the deletion of 3(b). It is also worth checking the effect of deleting subclause 4(b), which was a general "without prejudice to s.31(2) and not limited to the duties upon those persons. (For 48 and 49 see note under clause 33)

CLAUSE 33 Code of Practice

Government amendments 48 & 49

43. Takes information sharing for security purposes under clause 32 out of the Code of Practice. It is unclear why this has been done. Nothing in the clause imposes a requirement to report on how the Code of Practice is used, or could otherwise require the Security Services to disclose information. The government should be pressed on why they consider these amendments necessary.

CLAUSE 34 Disclosure to law enforcement agencies

44. Powers for a Chief of Police to disclose information, including to foreign law enforcement agencies

Amendment (NB – the amendment laid, **amendment 130** in the names of Mr John Leech and Dr Evan Harris was slightly different from the ILPA proposal in that it did not omit line 17)

Clause 34, page 18, line 17, leave out from line 17 or line 22"

Purpose

45. This is a probing amendment. Its effect is to remove the power to share information with "any other foreign law enforcement agency". The specific point we should wish to probe is what safeguards will be in place to ensure that information is not shared in a way that breaches the UK's obligations under the 1951 UN Convention relating to the status of refugees. Clause 27 contains provisions in sub-section (7) requiring the Secretary of State to be satisfied that the there are likely to be circumstances in which the information can be required without breaching the applicant's human rights. We should like an assurance that

this will include all cases in which it will put a person at risk of persecution within the meaning of the Refugee Convention, because information will be shared with the person's home government. We note that some passengers on whom information is provided under Clause 27 will be transiting the UK, perhaps en route to their home country. We also note the risk that if information is shared in an inappropriate fashion, it may create a risk of persecution where formerly there was none: it may make a person a refugee.

46. Can the Minister explain why it was decided not to specify by order the relevant "foreign law enforcement agencies" – whether by name of agency or by country, etc.? The clause refers not to police forces but to those with "functions similar to functions of" a police force?

47. Can we also ask why the safeguard referring to breaches of human rights, which has come up in previous amendments, was not included here?

48. Clause 27 refers back to the Immigration and Asylum Act 1999, section 21, for a definition of police purposes. That section defines police purposes as "the prevention, detection, investigation or prosecution of criminal offences, safeguarding national security and such other purposes as may b specified. Have any other purposes been specified?

49. Can the Minister confirm that the sharing of information under this Clause will also be limited to its sharing for "police purposes" as defined in section 21 of the 1999 Act? Could that limitation as to purpose be specified on the face of the statute please?

CLAUSE 35 Searches contracting out & CLAUSE 36 Section 35: Supplemental

50. Clause 35 would allow constables, officers of revenue and customs and other authorised persons to use powers to search and detain, and to use reasonable force. This is a new departure. Contractors under the 1999 Act are detaining or escorting people who had already been arrested or detained. Is there not a risk of creating an unregulated security force? Why not limit the power to the use of police and customs officers? They will be searching vehicles which may well contain frightened and desperate people - it is also likely that some will contain women and children – it is not appropriate for unqualified officers to undertake the search. There are particular concerns where the searching of Muslim women are concerned.

51. ILPA welcomes the appointment of a Crown servant to monitor the exercise of such powers by authorised persons and notes that the monitoring should extend beyond the exercise of any devolved search powers. A great many of the immigration control functions are privatised. The activities and practices of private firms engaged in the transport or detention or search of immigration detainees requires close scrutiny. In addition to the monitoring proposed by the Bill, ILPA supports a detailed exposition of the powers and appropriate practices for authorised persons/constables to be included in a code of practice to be laid before and approved by Parliament. ILPA notes that if such private individuals are to have the status of authorised constable for certain immigration purposes then Parliament should be seen to set the standards for and regulate their conduct.

52. Here, unlike in the case of detainee custody officers under the 1999 Act, these officers are being used for operational duties. Why it is felt appropriate to do so – why are immigration and police officers not being used?

53. Under s.154 of the Immigration and Act 1999 detainee custody officers were authorised individually. Here a class of person can be authorised. To ask the Minister whether a reference to "suitably trained" in 36(5)(b)(ii) would include understanding of the PACE codes of practice, and the limitations placed on powers of search. To ask the Minister why it is necessary to give a private contractor the right to detain a person for three hours, when it is envisaged that these will be people discovered in port and why police constables would not or could not be on hand within a much shorter period to search a person and immigration officers to examine the person. (see the reference in 35(1) to Schedule 2 paragraph 2, which is a reference to people who have arrived in the UK by ship or aircraft). To ask whether these powers would be exercisable only in a port or in, for a example, a lay-by where a lorry that had arrived several hours before was waiting.

Amendment 120

Mr John Leech, Dr Evan Harris

ILPA supports the proposed amendments

Clause 35, page 19 line 1 leave out from line 1 to line 6 (subsection (5).

Consequential (**122, 125**)

Clause 35, page 19, line 13, leave out lines 13 to 16 (subsection (c)).

Clause 36, page 20, line 19, leave out lines 19 to 26.

Purpose

54. To deny the power to allow persons other than constables or officers of revenue and customs powers to search and detain, and to use reasonable force, under this clause. To probe whom it is intended to authorise, and provide an opportunity for expressing concerns about the ways in which private contractors used for detention and escort under Part VIII of the Immigration and Asylum Act 1999 use those powers (see s.154 and Schedule 8 to that Act on which these provisions are modelled, although they do differ).

Amendment 123

Mr John Leech, Dr Evan Harris

ILPA supports the proposed amendments

Clause 35, page 19, line 28, leave out lines 28 to 30 (subsection (7)(c))

Purpose

55. To deny private contractors the power to detain. There is no provision for a disciplinary system to ensure proper use of this new power or public accountability.

Amendment 124

Mr John Leech, Dr Evan Harris

ILPA supports the proposed amendments

Clause 36, page 20, line 3, leave out Crown Servant and replace with "independent person"

Purpose

56. To probe the reasons for giving this role to a crown servant. To invite the Minister to comment on how it has worked having Crown Servants to monitor private contractors used for detention and escort under Part VIII of the Immigration and Asylum Act 1999 (see s.154 and Schedule 8 to that Act on which these provisions are modelled). These crown servants do not managerial responsibility for contracted out staff nor power to discipline them or supervise them To ask the Minister what steps he intends to put in place, by the appointment of Crown Servants or otherwise to scrutinise how these powers are used.

Amendment 125

Mr John Leech, Dr Evan Harris

ILPA supports the proposed amendments

Clause 36, page 20, line 27, leave out lines 28 to 33 (subsection (4)

Purpose

57. To prevent the authorisation of a class of person rather than named individuals and probe whether it is intended to create a specialised port force. The reference to a "specified class" of constable or Revenue and Customs officers is novel. Would these be distinct port forces? If so, why is this approach being taken rather than seeking the cooperation of the police forces in the areas? As to authorised persons, given that these people will have powers to use reasonable force, to search and to detain, they should be appointed individually as was done with detainee custody officers. It should not be possible to say, for example, all employees of Group IV or another private contractor.

Amendment 126

Mr John Leech, Dr Evan Harris

ILPA supports the proposed amendment

Clause 36, page 20, line 37 at end insert

"( ) The Secretary of State shall draw up a Code of Practice setting out the powers and appropriate practices for persons authorised under section 35. The Code:

(a) shall be made by statutory instrument
(b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament. "

Purpose

58. To make those authorised under clause 35 subject to a code of practice. ILPA supports a detailed exposition of the powers and appropriate practices for authorised persons/constables to be included in a code of practice to be laid before and approved by

Parliament. ILPA notes that if such private individuals are to have the status of authorised constable for certain immigration purposes then Parliament should be seen to set the standards for and regulate their conduct.