

ILPA information sheet

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New Immigration Bill

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On 10 October 2013 a new Immigration Bill was introduced into the House of Commons containing wide-ranging changes to the legal landscape in the area of immigration controls. The Government aims to have this Bill approved and passed into law in early 2014. ILPA has numerous concerns about the proposed changes. The Bill seeks to severely curtail rights of appeal, limit access to bail and increase immigration officers' powers to use force. It will also negatively affect migrants' and British nationals' access to a range of public and private services including healthcare, housing and banking.

This information sheet provides a basic introduction to some of the major changes of concern.

- ***Removal of Appeal Rights***

The Bill removes almost all rights of appeal to the Immigration Tribunal; 17 former rights of appeal, such as where a decision is "not in accordance with the law", will no longer exist and will be replaced with just four grounds of appeal, covering asylum and human rights issues. Instead of an independent appeal to the Tribunal, individuals who receive adverse immigration decisions will be given the option to request "administrative review" (i.e. that the Home Office look at the case again) with a further decision due within 28 days. If the original decision is upheld by this, purely internal, review, then the only remaining avenue of redress in non-asylum or human rights cases will be to bring a judicial review action in the High Court, a costly, time-consuming and complicated process.

- ***Restrictions on Access to Bail***

The Bill proposes further restrictions on the right to liberty for those detained under immigration powers by mandating that the Tribunal refuse all bail applications made within 28 days of a previous application for bail, absent proof of a 'change of circumstances'. The Bill also provides that where the Home Secretary has set a date for a detained individual's removal from the UK, no bail application can be heard within 14 days of such date without the Home Secretary's consent. Both changes give rise to concerns regarding the continuing erosion of the right to liberty in the immigration context.

- ***New immigration checks for Housing, Banking and Driving Licenses***

The Bill will require checks to be carried out on the immigration status of all prospective housing tenants, banking clients and applicants for driving licenses. Under the proposed

new regime, it will be unlawful for a landlord to rent accommodation to a person who does not have current leave to remain in the UK. Private landlords will thus be required to carry out periodic checks on the immigration status of their tenants if they wish to avoid becoming liable for onerous fines of up to £3,000. All applicants for bank accounts, or driving licenses, will also face new checks. These changes have given rise to concerns about likely discrimination against ethnic minorities, increased costs in the housing and banking sectors, and adverse impacts upon British citizens, including the homeless, who may not be able to produce sufficient documentation to satisfy the new regime.

- ***Healthcare charges***

The Bill proposes that non EEA-nationals who wish to enter the UK for more than six months (e.g. students) will have to pay a new, unprecedented “health surcharge” for themselves (and each family member) per year of proposed stay, payable at the point of applying for a visa. Current government estimates are for a charge in the region of about £150 per person, per year. These changes come despite evidence that migrants use the NHS less frequently than British-born residents, and are already more likely to be mistakenly refused services due to confusion over immigration documentation. Families with children look likely to bear the brunt of these new charges.

- ***Use of Force by Immigration Officers***

The Bill gives immigration officers sweeping powers to use ‘reasonable’ force by allowing them to do so in the exercise of powers derived from all immigration legislation, including future legislation. Powers of search and entry to premises would also be extended, including the introduction of new powers to search the private homes of relatives, friends, etc. of illegal migrants.

- ***Impact on Human Rights***

The Bill seeks to delineate the limits of Article 8 of the European Convention on Human Rights (which deals with rights to Family and Private life) for the first time in primary legislation, by specifying particular factors to which Courts should “have regard” when deciding whether a person’s removal from the UK would breach their right to enjoy family and / or private life. This is an attempt by the Government to interfere with the Courts’ role in interpreting and applying human rights derived from the European Convention on Human Rights.

Overall

The Bill contains numerous worrying provisions across a range of areas, the full ambit of which is beyond the scope of this information sheet. ILPA has prepared detailed briefings on every section of the Bill which can be found here: www.ilpa.org.uk/pages/briefings.html

The Bill itself and related documents can be found at:
www.gov.uk/government/collections/immigration-bill

You can follow the progress of the Bill (which has passed its Committee Stage) here:
<http://services.parliament.uk/bills/2013-14/immigration.html>