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Immigration Bill 2015: House of Commons Report Stage

30 November 2015

The Immigration Bill has now completed its committee stage in the House of Commons, in which the individual clauses of the Bill were considered by a committee of MPs and changes proposed. The amended Bill will now be debated by the full House of Commons at its Report Stage on **Tuesday 01 December 2015**. MPs will debate the new version of the Bill and consider amendments or new clauses proposed by MPs seeking to make changes.

Individuals and organisations can focus briefings to MPs on issues of concern by asking them to speak about and support amendments to the Bill and by giving reasons and examples in support. ILPA's briefing on all of the amendments tabled for Report stage is available at:

<http://www.ilpa.org.uk/resources.php/31585/immigration-bill-ilpa-briefing-for-house-of-commons-report-and-third-reading-1-december-2015> but we highlight some key proposals below.

Human rights appeals: take out 'remove first, appeal later' provisions

Amendment 27 seeks to remove from the Bill the provision (clause 34) that would enable the Home Office to require that a person appealing a negative immigration decision on human rights grounds bring their appeal from outside the UK unless their removal to do so would breach their human rights or cause 'serious and irreversible harm'. The provision would not affect those seeking protection under the Refugee Convention or Article 3 of the European Convention on Human Rights (the right to be free from torture, inhuman or degrading treatment or punishment) but would affect those bringing appeals under article 8 of the European Convention on Human Rights, the right to private and family life. Individuals are likely to face significant difficulties in preparing their appeal from outside the UK as well as family separation and disruption to their established life in the UK for long periods during the time frame of the appeal.

Offence of illegal working

The Bill would make working illegally in the UK a criminal offence with a maximum prison sentence of 51 weeks and/or a fine, giving rise to concerns that those in exploitative labour situations may be deterred from seeking help. **Amendment 19** seeks to remove this provision (clause 18).

The 'right to rent' scheme

New Clause 17 would remove the 'right to rent' scheme introduced by the Immigration Act 2014 and being extended under the current Bill. This scheme requires landlords and landladies to check immigration status documents and not rent to people disqualified from doing so by their immigration status. It will allow landlords to evict people from their properties, including families with children, after 28 days notice without the normal legal safeguards. Landlords and landladies also risk a fine or criminal conviction with a maximum five year prison sentence if they rent to a person who does not have the right to rent. **Amendments 23 and 26** are specifically targeted at removing the summary eviction provisions.

Detention and bail

New clause 32 would introduce a time limit on immigration detention, preventing a person from being detained under immigration powers for more than 28 days. The provision of automatic bail hearings for immigration detainees is sought through **Amendment 37** so that detention can be automatically and regularly reviewed by a Judge. Bail would not be granted without an address so **Amendment 38** seeks to ensure that accommodation is made available to an individual without an address that would permit their release from detention and guarantee their liberty.

Support for asylum seekers and permission to work

The Bill would replace support under section 4 of the Immigration and Asylum Act 1999 with provisions under new section 95A of the Immigration and Asylum Act 1999 limited to providing support to asylum seekers at the end of the process who can show that they are destitute and that there is a genuine obstacle to their removal. There would be no right of appeal against a wrongful decision to refuse or discontinue support under this section. Currently over 60% of appeals brought against decisions to refuse support under section 4 provisions have a successful outcome.

Families at the end of the asylum process would no longer qualify for support under section 95 of the Immigration and Asylum Act 1999. If they did not meet the criteria for support under the section 95A, they would have to apply for support under new provisions that the Home Office will detail at a later stage. The various provisions create gaps that risk leaving families with children destitute. For example, local authorities are prevented assisting families if there are reasonable grounds for believing that support would be provided under these other provisions, so they would not be able to provide emergency assistance to a family entitled to support but not receiving it.

Amendment 29 seeks to remove the sections of the Bill that make these changes (clause 37 and schedule 8). Specific amendments are also proposed to reinstate a right of appeal for support under section 95A (**Amendments 30 and 31**) and to ensure seamless support to families with children under section 95 until they leave the country (**Amendment 40**). A further amendment (**Amendment 2**) has been proposed to provide asylum seekers with permission to work if they have been waiting for over six months for a decision on their application or further submissions.

Support for young people leaving care

A new schedule introduced to the Bill at committee stage would prevent local authorities from providing leaving care support under the Children Act 1989 to care leavers who reach the age of 18 years and have either exhausted their appeal rights or have a pending application that is not based on asylum grounds. Care leavers would instead have to qualify for support under new section 95A (above) or under a new scheme, the content of which the Home Office would determine at a later stage. **Amendments 42 to 45** would enable young people leaving local authority care to access the specialist leaving care provisions in child welfare legislation and ensure that local authorities are adequately funded to provide this support.

The refugee crisis and family reunion

At the Second Reading of the Immigration Bill in the House of Commons, MPs raised concerns that the Bill failed to include measures to assist those in need of protection in the current refugee crisis. **New Clause 1** and **New Clause 11** make proposals to improve family reunion measures that would enable British citizens and refugees to bring family members living in situations of risk to the UK under this safe and legal route. In particular, **New Clause 11** would require the Home Office to undertake a review of the current rules on family reunion and consider arrangements for reuniting families in different European Union countries, options for enabling British Citizens to sponsor close family members and options for extending the criteria for family reunion to include wider family members and allow refugee children to bring their family members to the UK.

New clauses aimed at making family immigration rules fairer for British citizens and settled persons would also help those with family members at risk overseas. **New Clause 14** would reduce the minimum income requirement for a British citizen or other settled person to sponsor a partner or dependent child to come to the UK provided they could be supported and accommodated without needing public funds, and **New Clause 15** would remove the requirement that an adult dependent relative joining a family member in the UK could not be cared for in the country of origin.