

IMMIGRATION AND ASYLUM BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Immigration and Asylum Bill which was introduced in the House of Commons on 30 June 2026 (Bill 105).

- These Explanatory Notes have been provided by the Home Office in order to assist the reader of the Bill. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

1. The Bill focuses on the Government's aim of establishing a firm but fair immigration system which brings into effect the main reforms announced in the Restoring Order and Control statement in November 2025.
2. The Bill covers the establishment of a new Independent Immigration Appeals Authority, reform of the interpretation of Article 8 of the European Convention on Human Rights and changes to the Modern Slavery regime. Further elements cover the recovery of asylum support costs and 'core protection'.
3. The aims of the Bill are:
 - a) the creation of a new Independent Immigration Appeals Authority;
 - b) tightening of the application of Article 8 of the European Convention on Human Rights;
 - c) reforming the modern slavery legislative framework to set out the Government's obligations;
 - d) create new law enforcement measures to tackle exploitation and provide for the identification of and support for children.
 - e) replace asylum/refugee and humanitarian protection claims and grants of leave with a single 'core protection' model; and
 - f) establishing a mechanism to require asylum seekers receiving publicly-funded accommodation and other support to contribute once they are able to do so.
4. The Bill includes the following measures:
 - a. Clauses 1 to 16 set out the provisions relating to the new Independent Immigration Appeals Authority
 - b. Clauses 17 to 20 set out the reforms to interpretation of Article 8 of the European Convention on Human Rights
 - c. Clauses 21 and 22 set out the changes to protection status and asylum
 - d. Clauses 23 and 24 set out the asylum support cost measures
 - e. Clauses 25 to 49 set out the reform of the modern slavery system
 - f. Clauses 50 to 53 detail general provisions for the legislation.

Policy background

5. Recent measures to address the scale of illegal arrivals and enable the removal of illegal immigrants have included the establishment of the Border Security Command in July 2024. The Government's strategy is to adopt a long-term transformative approach to deliver stronger border security through strong leadership, effective partnerships and a long-term vision. While

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the initial focus has been on dismantling the smuggling networks, its broader aims are to enable smarter, faster and more effective interventions across the entire system to strengthen the UK border.

6. Alongside the establishment of the Border Security Command, the Border Security, Asylum and Immigration (BSAI) Act 2025 provided the tools, powers and offences to transform the cross-system response to the threats against UK border security, including Organised Immigration Crime. It delivered on the Labour party manifesto commitment to create new, transformative powers to strengthen law enforcement's ability to identify, disrupt and prevent serious and organised crime, through new criminal offences and expanded data-sharing capabilities. These measures were inspired by the approach taken to counter terrorism, enabling earlier intervention against those individuals facilitating organised crime.
7. The Restoring Order and Control statement presented to Parliament by the Secretary of State for the Home Department on 17 November 2025 proposed the reshaping the UK's protection and settlement offer to make the system faster, firmer and significantly less open to abuse. Its goals are twofold: first, to reduce illegal arrivals into the UK, and secondly, to increase removals of those with no right to be here.
8. The Government will open up new, capped routes for refugees for whom this country will be the first, safe haven they encounter. The Government will make community sponsorship the norm, so that the pace and scale of change does not exceed what a local area is willing to accept.
9. This Bill aims to bring into effect the reforms in the Restoring and Order Control statement which require legislation, introducing key reforms to the appeals system, the modern slavery system and the way that international and domestic legislation is interpreted by decision makers and the courts. The core protection measures taken forward in this legislation seek to place the Government's obligations in supporting asylum seekers on a clear legal footing to ensure value for money, whilst establishing new systems and processes to rapidly speed up the immigration and asylum system. The measures aim to reduce opportunities for misuse of the modern slavery system while maintaining essential protections, provide law enforcement with enhanced tools to reduce exploitation and strengthen expectations on businesses and public bodies to report on their activity to address modern slavery in their supply chains.
10. The measures in this Bill are part of a broader package of reforms from the Restoring Order and Control statement that are being progressed by this Government. Other measures outside this Bill include:
 - a) Shortened Leave to Remain: On 5 March 2026, the Immigration Rules were changed so that adults and families who claim asylum from 2 March 2026 and are granted protection receive 30 months permission to stay, reduced from 5 years.
 - b) Revoking duty to support: A Statutory Instrument to revoke the duty to support asylum seekers was laid on 5 March 2026, with the reversion to a power to provide support taking effect from 2 June 2026.

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- c) **Illegal working:** On 5 March, two Statutory Instruments were laid to make illegal working a breach of asylum support rules. The first of these came into force on 27 March 2026, providing the means to suspend or discontinue asylum support for those receiving Section 98 or Section 95 support if there are reasonable grounds to believe the person has been working illegally. On 2 June 2026, the second Statutory Instrument came into force providing the means to suspend or discontinue asylum support for those receiving section 4 support, if there are reasonable grounds to believe the person has been working illegally.
 - d) **Ending hotel accommodation:** The number of hotels being used has reduced from its peak of around 400 in 2023 to 190.
 - e) **Family removals:** A pilot of an enhanced Voluntary Returns offer of up to £10,000 per family member, capped at £40,000 per family, commenced on 5 March 2026. The pilot remains ongoing, with the first families having already departed and more in progress.
 - f) **Broader ECHR reform:** On 15 May 2026, all 46 Council of Europe Member States agreed a consensus Political Declaration on a modernised interpretation of the Convention to address today's challenges, including illegal migration and foreign national offenders. It underlines the importance of a stronger role for national authorities in decision-making, ensuring appropriate State discretion; confirms that Article 8 should properly balance individual rights and the public interest; and reaffirms that the threshold under Article 3 must remain high and constant.
 - g) **Settlement:** The government consultation on earned settlement closed on 12 February 2026. The final earned settlement system will be based on these responses.
 - h) **Protection 'Work and Study' route:** The Government is working on the implementation of this policy which will be delivered shortly through Immigration Rules changes.
11. The Government is also working closely with international partners to disrupt the activity of people smugglers operating in Europe and beyond. This includes the agreement of a £662 million multi-year partnership with the French Minister of the Interior, Laurent Nuñez, on law enforcement action, French maritime interventions and intelligence sharing to target smuggling networks at every stage of the route.

Statistics

12. Since 2021, over 460,000 people have claimed asylum in the UK. In the same period just a decade before (2011 – March 2016), that figure was over 165,000.¹

¹ Immigration system statistics data tables: Asylum - GOV.UK <https://www.gov.uk/government/statistical-data-sets/immigration-system-statistics-data-tables#asylum>

13. Of the 93,500 who have claimed asylum in the year ending March 2026, 42% (39,000) arrived in a small boat. A further 39% (36,700) arrived first by legal means, on a visa or with other leave, before claiming asylum. Around 17,800 arrived by other means.¹
14. In the first half of 2024 40,000 people received initial asylum decisions.¹
15. Around 97,500 asylum seekers are currently receiving state funded support, with the majority living in asylum accommodation.¹ At its peak in 2023, there were 400 asylum hotels across the country, at a daily cost of £9 million.
16. Asylum decision-making has increased significantly in the last two years. Around 209,000 people have received initial asylum decisions since July 2024. As a result, the number of people awaiting an initial decision is now 72% lower than the peak in June 2023, and 59% lower than in June 2024.¹
17. In addition, there has been an increase in immigration enforcement activity in the UK, including more than 9,000 arrests during illegal working visits in the year up to December 2025. This amounts to a 60% increase on the same period 12 months prior.
18. Returns have also increased. Since July 2024, there have been over 67, 000 removals. 39,000 returns occurred in the 12 months to the end of March 2026, a 7% increase on the same period in the previous year. Of these, around 5,900 were foreign national offenders, a 13% increase on the same period in the previous year.

Appeals reform

19. The Government considers that despite efforts to improve the immigration and asylum appeals system, only significant changes will have the necessary impact needed to establish a functioning system. The appeals backlog has continued to increase rapidly (from 31,000 in March 2023 to 152,000 in March 2026), with appeals taking 61 weeks on average to be determined. These delays undermine the UK's ability to swiftly enforce deportations and returns and increase the costs of the immigration system as a whole.²
20. The Bill establishes a new Independent Immigration Appeals Authority (IIAA) which will be responsible for determining all types of immigration appeal, with the aim of speeding up the process and restoring public confidence in the system. Adjudicators will be responsible for determining the outcomes of appeals. They will have a broad range of skills and backgrounds and will undergo thorough training and assessments.
21. The IIAA will have a range of case management powers to prioritise cases when it considers it appropriate to do so.
22. A single appeal route process will be established to ensure there is no advantage to bringing forward new claims or evidence piecemeal to frustrate the system. There will be a new power for the Secretary of State for the Home Department to instruct individuals to bring forward any basis

² Tribunals statistics quarterly: January to March 2026 - GOV.UK
<https://www.gov.uk/government/statistics/tribunals-statistics-quarterly-january-to-march-2026>

for which they wish to remain in the UK with all pertinent information included – failure to do so only to raise a claim later when removal from the UK is imminent will result in the Home Office and IAA considering the claim and any appeal as top priorities in an expedited timescale.

23. Those who exercise their right to appeal to the IAA will be able to do so with the help of an immigration/legal adviser and/or representative; including with the support of legal aid where eligible. Appellants will be required to confirm they have advice and/or representation, or consent to proceed without it, to lodge a valid appeal.
24. As is the case today in the FTT-IAC, where an appeal is dismissed by the IAA, there will be a right to onward appeal to the Upper Tribunal on points of law.

Article 8 reform

25. The Government committed in the Restoring Order and Control statement to reform the domestic application of Article 8 ECHR to ensure the framework remains fair, robust and capable of supporting effective immigration control. Evidence published in the impact assessment indicates that aspects of the current framework allow individuals to remain in the UK in circumstances that are not aligned with the intended operation of the Immigration Rules. This can weaken confidence in the system and place sustained operational and financial pressures on public services. The legislation intends to provide a clear statutory framework that reflects established Strasbourg and domestic case law, constrains overly expansive interpretations, and enhances consistency across decision-making.
26. A central element of the reform package is to define and codify the concept of “family life” in primary legislation. At present, the absence of a clear statutory definition allows for a broad and evolving interpretation, including reliance on extended family relationships and loosely evidenced dependency. The reforms will clarify that, in most cases, family life is to be understood as existing between spouses, partners, and parents with their minor children, with a stronger emphasis on cohabitation and demonstrable ongoing relationships. Provision will be made for exceptional cases, but within a clearer statutory framework that sets out relevant factors for assessing dependency where relationships fall outside the core model.
27. The reforms also address the treatment of socio-economic and wider public interest considerations within the proportionality assessment that is undertaken in Article 8 cases. Section 117B of the Nationality, Immigration and Asylum Act 2002 currently provides only limited clarity on how decision-makers should weigh factors such as public costs and conduct, which can lead to disproportionate emphasis on individual circumstances. This Bill will therefore strengthen and clarify how these factors are taken into account, by identifying key underlying components of financial independence including the ability to adequately accommodate oneself and any dependents without reliance on state support and the requirement to not be, or become, reliant on public health or social care services (in particular) in the long term. These reforms support a more consistent and balanced application of the public interest test.
28. Available evidence published alongside the impact assessment shows that a significant proportion

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of successful claims involve individuals who have entered unlawfully or remained without leave. The reforms will introduce a clearer statutory approach to weighting immigration status and compliance, including stronger emphasis on lawful residence and clearer consequences for periods of non-compliance, in order to incentivise adherence to the Immigration Rules and support the integrity of the system.

29. The qualifying child provisions are also being amended to clarify what factors should be considered when determining whether it is in the public interest to remove the parent of a qualifying child from the UK. These factors focus on assisting decision makers to determine whether it is reasonable to expect that a child would be able to join a parent abroad should that parent be removed. The framework will also include provision for assessing the proportionality of removing a parent where a child remains in the UK. These changes are intended to maintain appropriate protections for children while ensuring that the approach reflects the wider public interest.
30. In relation to Article 8 claims in respect of the deportation of foreign nationals, the proposals introduce a stricter, more rigid Article 8 regime for those subject to deportation. They require that a person demonstrate a significant interference with Article 8 rights, introduce a proportionality assessment before a breach of Article 8 can be established for all cases, and incorporate clearer statements about the public interest.
31. This Bill clarifies that where a person is liable to deportation, the public interest requires their deportation unless the effect would be disproportionate. The effect will only be disproportionate if it is established that there has been a significant interference with Article 8 rights, and that interference cannot be justified by the public interest in favour of deportation. This ensures that a person's criminal and immigration history is considered in every case and weighed against the interference before a breach of Article 8 can be established.
32. This Bill clarifies that the public interest in deportation increases with the seriousness of the person's offending or misconduct, the nature and circumstances of that offending or misconduct, and its impact on society as a whole.
33. The application of Section 117C of the Nationality, Immigration and Asylum Act 2002 is extended so that it applies to deportation cases generally, rather than only to cases involving the deportation of foreign criminals.
34. Finally, the Bill will require out-of-country applications that engage Article 8 to be made by the UK-based sponsor and will entitle the UK-based sponsor to appeal the refusal of any such application. This will ensure that the focus is on the Article 8 rights of the sponsor and how the decision to refuse entry to their overseas family member will impact them, aligned with European Court of Human Rights case law.

Modern Slavery

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35. The UK is committed to ending modern slavery, human trafficking and exploitation and has established a legal and operational framework – the National Referral Mechanism (NRM) - to ensure victims can be identified and supported. The Government considers that the system needs reform to ensure it can better prevent exploitation occurring and robustly identify and support those who are exploited at the earliest opportunity.
36. Since its conception in 2009 the system has faced significant challenges in adapting to increases in referrals, changes in the types of cases entering the system and regular litigation which has seen courts interpret the international obligations for the UK in ways that are not aligned with the intended operation of the NRM. The rights and obligations that flow from modern slavery legislation have meant that the NRM is susceptible to misuse, in particular to delay or prevent immigration removal action.
37. The Bill includes measures to:
- enable the UK Government to set out its interpretation of its international obligations to victims of modern slavery in domestic legislation;
 - ensure that essential protections are embedded in legislation, especially for child victims of modern slavery;
 - close potential opportunities for the system to be misused, including ensuring that the timing of disclosure of modern slavery experiences is considered in decision-making about victim status. This aims to reduce late presentation which can unnecessarily delay removal activity for those with no right to remain in the UK and promote earlier identification of victims;
 - strengthen the disqualification process to ensure those who pose a threat to public order or those claiming to be a victim in bad faith can be excluded from accessing support and protections and be quickly removed;
 - ensure sustainable support for victims by embedding current support arrangements for adult and child victims in legislation;
 - clarify that modern slavery support can be withheld from victims where the need arises due to the withdrawal of equivalent support from wider state services due to a victim's non-compliance with wider service requirements; and
 - amend the basis on which confirmed modern slavery victims are granted temporary permission to stay, limiting it to those assisting in criminal investigations or pursuing compensation.
38. The Bill also includes measures to strengthen expectations on businesses and public bodies to address modern slavery in their supply chains and creates tougher penalties for those who do not comply with these enhanced transparency measures.

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39. The Bill also includes measures to provide enhanced powers for law enforcement to tackle exploitation in the form of amendments to existing provisions on Slavery and Trafficking Prevention Orders and Slavery and Trafficking Risk Orders.

Core Protection

40. The UK has international obligations to provide protection to those who genuinely need it for as long as it is needed.
41. However, the current system is complex, with multiple types of protection claim, multi-faceted decisions, and appeal rights being given even where someone is found to qualify for humanitarian protection.
42. The Government's new 'core protection' model marks a significant change in direction - away from an assumption of offering permanent protection, and towards a more basic, and temporary protection.
43. The Government will provide support for refugees in accordance with but not exceeding the UK's international obligations. The Bill includes measures which contribute towards and assist with the long-term delivery of the core protection model – by introducing a single definition of a protection claim and protection status.
44. The Bill also includes measures which aim to clarify entitlements to those in need of protection, simplify the asylum decision-making process and reduce the pressures on the appeals system, allowing resources to be focused more efficiently on supporting the core protection offer.
45. The Bill will ensure that serious criminals who are excluded from refugee protection but who cannot be removed from the UK due to ECHR obligations do not have the same entitlements as refugees who comply with UK laws.

Asylum Support Cost Recovery

46. Under new powers in the Bill, the Home Secretary will be able to require those who have received asylum support, and who have had their case concluded, to contribute towards those costs when they have the financial means to do so.
47. The asylum system imposes a significant fiscal burden, with asylum support alone costing approximately £4 billion in financial year 2024/25.³ These pressures undermine the sustainability of the system and public confidence in its fairness.
48. Asylum support in the UK provides assistance to asylum seekers who would otherwise be destitute, as well as failed asylum seekers with outstanding applications or appeals.
49. The relevant asylum support covered by this power is section 4 (support for certain failed asylum seekers) and section 95 (support for destitute asylum seekers) of the Immigration and Asylum Act

³ The Home Office's management of asylum accommodation:
<https://publications.parliament.uk/pa/cm5901/cmselect/cmhaff/580/report.html>

1999.

50. Under the current legislative framework, while asylum support can be recovered in certain circumstances such as recovery of an overpayment, there is no provision to recover asylum support that has been lawfully and properly paid. The Bill will introduce the power to recover contributory costs.
51. These contribution payments will be required only once the person is financially able, for example where they have access to funds from work or savings. Payments would not be sought where it would push the individual into destitution. The Bill exempts those who were under 18 at the time of receiving support from any charges. Further exemptions, including for victims of modern slavery, will be set out in regulations.
52. The legislation enables the creation of a new Home Office mechanism to recover the costs, and a power to recover the charge via HMRC when an individual is working. Existing mechanisms used by DWP could also be used to recover the charge via the welfare system if benefits are claimed.

Legal background

53. This Bill will amend the following legislation:

- a. The Immigration Act 1971 (c. 77);
- b. The House of Commons Disqualification Act 1975 (c. 24);
- c. The Northern Ireland Assembly Disqualification Act 1975 (c. 25);
- d. The British Nationality Act 1981 (c. 47);
- e. The Special Immigration Appeals Commission Act 1997 (c. 68);
- f. The Northern Ireland Act 1998 (c. 47);
- g. The Immigration and Asylum Act 1999 (c. 33);
- h. The Nationality, Immigration and Asylum Act 2002 (c. 41);
- i. The Courts Act 2003 (c. 39);
- j. The Access to Justice (Northern Ireland) Order 2003 (N.I. 10);
- k. The Immigration, Asylum and Nationality Act 2006 (c. 13);
- l. The UK Borders Act 2007 (c. 30);
- m. The Tribunals, Courts and Enforcement Act 2007 (c. 15);
- n. The Equality Act 2010 (c. 15);
- o. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10);

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- p. The Modern Slavery Act 2015 (c. 30);
- q. The Human Trafficking and Exploitation (Scotland) Act 2015 (asp 12);
- r. The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.));
- s. The Immigration Act 2016 (c. 19);
- t. The Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052);
- u. The Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020 (S.I. 2020/61);
- v. The Nationality and Borders Act 2022 (c. 36);
- w. The Border Security, Asylum and Immigration Act 2025 (c. 31);
- x. the Scottish Parliament (Disqualification) Order 2025 (S.I. 2025/284);
- y. The Senedd Cymru (Disqualification) Order 2025 (S.I. 2025/183);
- z. The Sentencing Act 2026 (c. 2).

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Territorial extent and application

54. See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.
55. There is a convention (“the Sewel Convention”) that the UK Parliament will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned. In relation to Scotland and Wales, this convention is enshrined in law (see section 28(8) of the Scotland Act 1998 and section 107(6) of the Government of Wales Act 2006).
56. The following provisions in the Bill involve the UK Parliament legislating for a matter that is within the legislative competence of a devolved legislature, and engage the Legislative Consent Motion process under the Sewel Convention:
- a) Measures (clause 25(8) and (9)) relating to slavery and trafficking risk orders will engage the LCM process in Scotland and Northern Ireland.
 - b) Provision (clause 35) which allows for nomination of another public authority to be the competent authority to determine whether a child is a victim of modern slavery will engage the LCM process in Scotland, Wales and Northern Ireland.
 - c) Measures which make provision on slavery and human trafficking statements (clauses 44-49), insofar as they relate to obligations on public authorities, will engage the LCM process in Scotland, Wales and Northern Ireland.
 - d) Relating to the IIAA, consequential amendments to legislation to ensure provision of legal aid for appellants and to subject the IIAA to public sector equalities duties as defined in the Northern Ireland Act 1998 (paragraphs 34, 35 and 38 of schedule 1) will engage the LCM process in Northern Ireland.
 - e) Disqualification of a member of the Independent Immigration Appeals Authority from becoming a Member of Parliament in England, Scotland, Wales or Northern Ireland will engage the LCM process in Scotland and Wales (paragraph 2 of schedule 2).

Extent in the Channel Islands, Isle of Man and the British Overseas Territories

57. The Bill does not extend to the Channel Islands, the Isle of Man or the British Overseas Territories.

Commentary on provisions of Bill

Part 1: The Independent Immigration Appeals Authority

Clause 1: The Independent Immigration Appeals Authority

58. Clause 1 establishes the Independent Immigration Appeals Authority (IIAA). It details the primary function of the IIAA which is to determine appeals in relation to the cases listed, as well as its objectives: that justice is done, that it is accessible, fair and independent, that it handles cases quickly and efficiently and that it operates in the public interest.
59. This establishing clause puts a duty on every Minister of the Crown to uphold the IIAA's independence.
60. Clause 1 also codifies that decisions of the IIAA may only be questioned in legal proceedings in accordance with the power of the IIAA to review its own decisions or the right of appeal to the Upper Tribunal. As a result, judicial reviews are not the appropriate grounds to challenge a matter that has been before the IIAA (including on case management grounds). The types of appeals to be heard by the IIAA are also detailed here. These are:
- a. Appeals against decisions of the Secretary of State relating to protection claims and human rights claims,
 - b. certain applications for immigration bail,
 - c. appeals against decisions of the Secretary of State relating to deprivation of citizenship,
 - d. appeals against decisions of the Secretary of State under the Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052) as they continue to have effect following their revocation.
 - i. This instrument consolidated into domestic law the Council Directive 2004/38/EC of the 29th April 2004 on the rights of citizens of the Union and their family members to move and reside freely within the territory of the Member States. The 2016 Regulations set out the circumstances in which a person's free movement rights may be restricted by removing or excluding them from the UK because of the threat their conduct poses.
 - ii. This is intended to cover any outstanding appeals in this area.
 - e. appeals under the Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020 (S.I. 2020/61)
 - i. This instrument established, from exit day, a right of appeal for EU, other European Economic Area (EEA) and Swiss citizens and their family members against decisions affecting their entitlement to enter and remain in the UK under the EU Settlement Scheme (EUSS) or decisions in relation to EUSS family permits or travel permits.

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Clause 2: Membership of the IIAA

61. Clause 2 makes provision for the membership of the IIAA. It sets out the non-executive members (Chair and Professional Standards Officer (PSO)) and executive members (Chief Executive (CE) and Chief Appeals Officer (CAO) and IIAA adjudicators) that the IIAA will consist of, how they will be appointed, and the eligibility requirements that specific roles will have.
62. The clause also sets out the eligibility requirements for roles in the IIAA requiring legal experience which are the Senior Adjudicator, the CAO and the PSO. The definition of 'law-related activities' in the Tribunal Courts and Enforcement Act (TCEA) 2007 is used here so that the CE can consider any of the activities set out in Section 52 (4) and (5) of the TCEA 2007 as making someone eligible for these roles. The senior adjudicator role requires two years of relevant legal experience and the CAO and PSO require five years of relevant legal experience. The requirement is sufficiently broad to allow experience as an adjudicator to make someone eligible for these positions.
63. Responsibility for appointment of the non-executive members (the Chair and the PSO) sits with the Secretary of State. Responsibility for executive appointments (the CE and CAO) sits with the Secretary of State in the first instance, with the Chair taking on responsibility for appointment of those officers subsequently, to reinforce the IIAA's independence from Government insofar as possible. The Chair will also be expected to consult the PSO when making these appointments in future. All appointments to the IIAA will be on the basis of merit and subject to fair and open competition principles. (as set out at paragraph 2 of Schedule 2).
64. The clause establishes that IIAA adjudicators are to be appointed by the Chief Executive of the IIAA.
65. Clause 2 also introduces Schedule 2 which makes further provision about the membership and proceedings of the IIAA.

Clause 3: Powers and duties of IIAA members

66. Clause 3 sets out the governance structure of the IIAA, including the separation of adjudicative, operational and oversight functions. It provides that adjudicators alone have the authority to decide appeals, and will be trained and recruited independently by the IIAA. Adjudicators will not be responsible for exercising the other functions of the IIAA set out in this section.
67. The CE is responsible for the training of IIAA adjudicators and their appointment. This role is given a power to send written representations to the Secretary of State on matters relating to IIAA members and the IIAA's operations that the Secretary of State must lay before Parliament. The CE may use this power to raise matters relating to the operations or independence of the IIAA with the Secretary of State and Parliament.
68. The CAO is to be considered the head of the adjudicative profession and will be responsible for the quality of legal decision making in the IIAA. They are responsible for overseeing the quality of decisions made by IIAA adjudicators at a macro level. They have no authority to intervene in an adjudicator's decision, as only adjudicators have the authority to perform the IIAA's primary function.

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69. The CAO can delegate any of their powers to a senior adjudicator. Given their legal expertise, it is anticipated that senior adjudicators would have a role in allocating cases to the IIAA's adjudicators, as well as identifying individual training needs of the adjudicators in their area. Senior adjudicators, as adjudicators, can still make decisions on appeals, in addition to these other delegated powers.
70. The PSO is to be responsible for setting the professional standards required of IIAA adjudicators, in addition to preparing the code of conduct for the profession. As a non-executive member, the office holder will operate separately from operational delivery within the IIAA and act as an internal guarantor of the standards they set. In practice, they will establish the initial framework for the training of adjudicators, in line with their responsibility for setting professional standards. They will also hold the CE to account for ensuring recruitment processes align with the Code of Conduct.

Clause 4: IIAA Procedure Rules

71. Clause 4 provides that the practice and procedure for cases before the IIAA will be governed by a set of statutory Procedure Rules, made by the IIAA Procedure Rules Board. It sets out how those Rules are to be developed, including a requirement to consult with those it considers appropriate. The IIAA will have powers to lay the Rules through statutory instrument, as if it were a Minister of the Crown. The Rules will be subject to Parliamentary scrutiny under the negative procedure.
72. This safeguards the operational independence of the IIAA by placing control of its procedural framework in the hands of an independent Board, rather than Ministers. It mirrors the existing Tribunal Procedure Committee (although unlike that system, where the Lord Chancellor has a role in allowing/disallowing the Rules, no Minister will be required to agree the Rules).
73. Clause 4 also introduces Schedule 3 which makes further provision about the content of IIAA Procedure Rules.

Clause 5: The IIAA Procedure Rules Board

74. Clause 5 sets out which of the IIAA members will sit on the Procedure Rules Board. It also provides for the Chair to appoint standing members to the IIAA in specialist areas.
75. The make-up of the Procedure Rules Board is intended to include adequate legal expertise to ensure that the Rules are fit for purpose, whilst also including operational expertise in the form of the CE. The option to appoint further standing members will enable the Chair to ensure that the Board can make Rules in areas requiring specialist expertise where relevant.

Clause 6: Power of the IIAA to review its own decisions

76. Clause 6 allows the IIAA to reconsider its decisions once, to correct errors or re-make them, either on request or on its own initiative.

Clause 7: Right of appeal to the Upper Tribunal

77. Subject to permission being given by the IIAA or Upper Tribunal, clause 7 provides for decisions of the IIAA to be appealed to the Upper Tribunal on a point of law. It mirrors the existing onward appeal route from the First-tier Tribunal, allowing the Upper Tribunal to either remake a decision itself or remit the case back to the IIAA for a new decision.

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Clause 8: Regulations about time periods

78. This clause gives the Secretary of State power to make regulations setting out the time periods within which the IIAA should decide certain appeals and bail applications or take any other step in proceedings. This enables expedition of cohorts of cases by the Secretary of State following consultation with the IIAA.
79. Clause 8(5) require the IIAA have a procedure to ensure the Chief Executive is made aware where it has failed to comply with the timeframe, alongside annual reporting on timeliness.
80. This does not take away the independence of the IIAA Procedure Rules Board. Instead, it aims to complement the practice and procedures set by the IIAA Procedure Rules Board, while improving consistency and accountability within the IIAA.

Clause 9: Expedition of cases on request by Secretary of State

81. This clause enables the Secretary of State to request the expedition of an individual appeal or bail application on public interest grounds.
82. Clause 9(4) allows the Secretary of State to make regulations setting out the process for a request to expedite an appeal, including the information that the Secretary of State must give to the IIAA when making a request and the time period within which the IIAA must deal with the request. This allows the Secretary of State to ask the IIAA to expedite individual cases where there is public interest in doing so.
83. To ensure the IIAA's independence, clause 9(3) makes it clear that the decision on whether to grant the Secretary of State's request for expedition rests with the IIAA. The IIAA can either grant the request or decline it if it considers that it would not be reasonably practicable for it to comply with the expedition request or it would not be in the interests of justice to do so.

Clause 10: Charging power in respect of wasted resources

84. This clause allows the IIAA to charge a relevant participant in proceedings where it considers that they have acted improperly, unreasonably or negligently, and that this has resulted in the IIAA's resources being wasted. A relevant participant includes parties to proceedings, representatives of parties, and employees of representatives. Any money charged under this power must be paid into the Consolidated Fund.
85. This provides a proportionate mechanism for the IIAA to respond where poor conduct by a party or representative creates avoidable delay or unnecessary work, while leaving the detailed operation and safeguards to be set out by the IIAA Procedure Rules Board in its Procedure Rules.

Clause 11: Claim notices

86. This clause allows the Secretary of State or an immigration officer to issue a claim notice to those who are liable to removal or deportation. The notice will require the person to tell the Home Office all the reasons for wanting remain in the UK or why they should not be removed. This then allows the Secretary of State to operate a new late claims procedure as set out in Clause 12.

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87. The notice will also require the person to disclose any information relevant to whether they are a potential victim of modern slavery or human trafficking. Failure to comply with this part of the notice is linked to the credibility consequences set out clause 36 (which inserts a new section 60A(5) into the Nationality and Borders Act 2022 ('NABA')).
88. Subsection (1) introduces a new provision to allow the Secretary of State or an immigration officer to serve a claim notice to an individual who is liable to removal or deportation from the United Kingdom.
89. Subsection (2)(a) to (e) establishes that the claim notice will require the recipient to provide the following information to the Secretary of State and any other competent authority specified in the notice:
- a. any reasons for wishing to enter or remain in the United Kingdom;
 - b. any grounds upon which they should be permitted to enter or remain in the United Kingdom;
 - c. any grounds upon which they should not be removed from the United Kingdom;
 - d. any relevant status information (which in effect is information relating to reasonable grounds or conclusive grounds decisions with regard to modern slavery) and
 - e. any evidence supporting these submissions.
90. Subsection (2) provides a signpost to section 60A(5) of NABA (inserted by clause 36 of this Act) which sets out the consequences for late disclosure of relevant status information.
91. Subsection (3)(a) and (b) require the claim notice to specify:
- a. The date by which the recipient must respond to the notice with any relevant claims or information; and
 - b. the consequences of failing to comply with that deadline.
92. Subsection (4) gives a power to the Secretary of State to make regulations about additional information to be provided in the notice or for the notice to impose additional requirements.
93. Subsection (5) establishes that a person who receives a claim notice is not required to re-submit any relevant status information (per para 4d. above) that has already been provided to the Secretary of State or the competent authority.
94. Subsection (6) sets out that in a case where someone receiving a claim notice has previously been served with a notice under section 120 of the Nationality, Immigration and Asylum Act 2002, the requirements served under the section 120 notice cease to apply, and are superseded by the requirements of this claim notice.
95. Subsection (7) provides that, where information is submitted after the specified deadline, the individual must also provide a statement explaining reasons for the delay.

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96. Subsection (8) defines when a person is ‘liable to removal or deportation from the United Kingdom’ for these purposes as when:
- a. they are liable to be removed on the basis they are in the country unlawfully (per section 10 of the Immigration and Asylum Act 1999), or
 - a. they are liable to be deported (per section 3(5) or (6) of the Immigration Act 1971 respectively).
97. Subsection (9) defines “competent authority” for the purposes of this section as having the same meaning as in Part 5 of NABA and “relevant status information” as information that may be relevant for the purpose of making a reasonable grounds or conclusive grounds decision, in relation to that person (within the meaning of Part 5 of the NABA).
98. Subsections (10) and (11) repeal un-commenced provisions relating to priority removal notices, in NABA and the Immigration and Asylum Act 1999, respectively.

Clause 12: Late claims process for certain recipients of claims notices

99. Clause 12 provides for a “late claims process” which applies to appeals before the IAA where a person provides information in response to a claim notice after the claim notice deadline.
100. Subsection (1) specifies that the process applies where such information is provided while the person is detained or after they have been given a notice of departure details.
101. Subsection (2) provides that where proceedings are subject to the late claims process, the IAA must, so far as reasonably practicable, prioritise those proceedings over other appeals.
102. Subsection (3) amends immigration bail provisions to require decision makers to take account of whether the late claims process applies or is likely to apply to the person when considering whether to grant immigration bail.
103. Subsection (4) contains definitions which have the effect that appeals routed through this “late claims process” will not be prioritised over bail decisions. They also define notice of departure details and reference the relevant powers for detention.
104. The provision is intended to support earlier disclosure of claims and enable more efficient and expedited determination of late claims.

Clause 13: Inspections

105. This clause amends the UK Borders Act 2007 (UKBA 2007) to bring the Independent Immigration Appeals Authority (IAA) within the remit of the Independent Chief Inspector of Borders and Immigration.
106. Subsection (2) inserts new subsection (2ZA) into section 48 of UKBA 2007. This provides that, when monitoring and reporting on the IAA, the Chief Inspector must also consider and make recommendations about the efficiency and effectiveness of the IAA’s process.

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107. Subsections (3) and (4) amend the reporting provisions in the UK Borders Act 2007. They disapply the existing section 50 reporting arrangements in relation to the IAA and insert a new section 50A dealing specifically with reports about the IAA.
108. Subsection (4) inserts a new section 50A requiring the Chief Inspector to report in writing to the Secretary of State and the Chief Executive of the IAA once each calendar year, and at other times as requested by the Secretary of State in relation to specified matters. It also requires the Chief Executive of the IAA to provide a written response to each report, setting out the extent to which recommendations are accepted and any steps the IAA expects to take in response.
109. The Secretary of State must lay before Parliament both the Chief Inspector's report and the IAA Chief Executive's response. The clause allows material to be omitted from a report or response before publication where the Secretary of State considers that publication would be undesirable for reasons of national security or might jeopardise an individual's safety.

Clause 14: Transfer schemes

110. This clause confers a power on the Secretary of State or Lord Chancellor to make transfer schemes so that, for example, staff, assets and contractual arrangements can be moved to the IAA, if required, to facilitate the transition of cases from the FTT-IAC. As the IAA will gradually replace the FTT-IAC, there may be a need for property, rights and liabilities to be transferred so that the IAA can continue to increase its caseload.

Clause 15: Power to specify cases to be heard by First-tier Tribunal instead of IAA

111. This clause provides a means by which to ensure that specified descriptions of cases are heard by the FTT-IAC rather than the IAA. This can be in relation to all appeals and bail applications for an individual to be heard by the same tribunal, the transfer of cases from the IAA to the FTT or requiring the Upper Tribunal to remit cases on appeal from the FTT to the IAA.

Clause 16: Power to make consequential provision etc.

112. Clause 16 provides a power to allow the Secretary of State to make consequential amendments, enabling existing and limited future legislation to be amended via secondary legislation. This includes the ability to amend, repeal or revoke provisions made by or under an Act passed before the Bill, or later in the same session as the Bill.
113. This power intends to ensure that further minor or technical changes can be made by regulations if needed to ensure the new appeals system can operate effectively in practice, particularly as it is to be implemented in stages.
114. The clause also provides that any reference to a tribunal in primary or secondary legislation will apply to the IAA unless regulations are made to amend it.

Schedule 1: Consequential amendments relating to the primary function of the IAA

115. This schedule makes amendments to a range of primary and secondary legislation to give effect to

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the transfer of jurisdiction for immigration, nationality and asylum appeals from the First-tier Tribunal to the IIAA.

116. The amendments made by this Schedule include:

- a. Substituting references to the FTT and Tribunal with references to the IIAA;
- b. Updating relevant legislation in relation to appeal rights, procedural provisions and interpretative provisions so that they operate by reference to the IIAA;
- c. Making provision for the application of IIAA Procedure Rules in place of Tribunal Procedure Rules.

117. In order to account for a period of dual running between the FTT and the IIAA, these provisions will be commenced gradually as required.

Schedule 2: The Independent Immigration Appeals Authority

118. This schedule provides further details on the constitution of the IIAA.

119. Status: Paragraph 1 makes clear that the IIAA is not to be a servant or agent of the Crown, i.e. it is separate from His Majesty's Government. The consequence of this is that the IIAA's staff will be public servants, rather than civil servants. This serves to underpin the independence of the IIAA from government.

120. Membership: selection and eligibility: Paragraph 2 sets out that all appointments of members of the IIAA must be made on the basis of fair and open competition. It also provides that no member of the IIAA can become a Member of Parliament in England, Scotland, Wales or Northern Ireland. This includes IIAA adjudicators as well as executive and non-executive members. The disqualification criteria above mirrors that in place for both judges and civil servants, and implicitly sets in statute the expectation that all staff in the IIAA are to perform their functions impartially.

121. Tenure of non-executive members: Paragraph 3 gives a power to the Secretary of State to remove a non-executive member (the Chair or the PSO) under the circumstances specified in the paragraph. These are if the Secretary of State is satisfied that the person:

- a. is guilty of serious misconduct,
- b. has a conflict of interest,
- c. is unable, unfit or unwilling to carry out their functions.

122. Remuneration and pension of the non-executive members: Paragraph 4 makes arrangements for the payment of non-executive members.

123. Executive members: terms and conditions: Paragraph 5 makes clear that executive members are to be employees of the IIAA. The first CE and CAO appointed by the Secretary of State are to be employed on terms and conditions of their employment contract as set by the sponsoring department on behalf of the Secretary of State. Those that are employed subsequently by the IIAA are to be on terms and conditions determined by the IIAA. It also makes clear that the IIAA must

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either pay or provide a pension scheme as it may determine.

124. Other staff: appointment, terms and conditions: Paragraph 6 enables the IIAA to appoint additional employees and staff that would not be executive members. It specifies when appointing employees or staff the IIAA must have regard to the principle of selection on merit on the basis of fair and open competition, and on terms and conditions that the IIAA may determine. These employees are also to be paid or provided a pension scheme as the IIAA may determine.
125. Committees: Paragraph 7 allows the IIAA to set up committees as required to exercise any of its ancillary functions or for the purpose of giving advice to inform the performance of its functions. Any committee that discharges an ancillary function of the IIAA must include a member, employee or staff member. These committees can also establish sub-committees, which must include at least one person who is a member of the committee that established it.
126. Delegation: Paragraph 8 sets out how the IIAA may delegate its ancillary functions to a member of the IIAA, an employee or other staff member, or a committee of the IIAA. A committee may also delegate functions to one of its members or to a sub-committee. Any delegation is subject to the terms set by the IIAA or committee, and does not prevent the IIAA or committee from exercising the function itself. Any delegation made under this paragraph does not apply to the Chief Appeals Officer's functions, which may only be delegated to a senior adjudicator.
127. Procedure etc.: Paragraph 9 sets out that the IIAA can regulate its own procedures and the procedures of its committees, including what is required of committee members.
128. Validity of acts: Paragraph 10 makes clear that the validity of IIAA proceedings, or proceedings of a committee of the IIAA, is not affected by a vacancy in the membership of the IIAA or committee, or by a defect in the appointment of a member of the IIAA. It prevents decisions or proceedings from being undermined solely because there is a vacancy or technical issue with an appointment, supporting the stable and effective functioning of the IIAA.
129. Reports and accounts: Paragraph 11 places a duty on the IIAA to send a report on the exercise of the IIAA's functions to the Secretary of State, who then must lay this before Parliament. It also places a duty on the IIAA to send a statement of accounts to the Secretary of State and the Comptroller and Auditor General. The Secretary of State must lay before Parliament a copy of the statement of accounts, as well as a copy of a report (on the statement of accounts) prepared by the Comptroller and Auditor General. The aim of this paragraph is to ensure the IIAA is held to account by Parliament through reporting mechanisms.
130. Funding: Paragraph 12 sets out how the IIAA will be funded. The sponsoring department (the Home Office) will provide funding to enable the IIAA to perform its duties and the Secretary of State may attach conditions to that funding.

Schedule 3: Content of IIAA Procedure Rules

131. This schedule sets out what Procedure Rules the IIAA may make, in line with Clause 4.

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132. Delegation: Paragraph 2 allows the Procedure Rules Board to make provision for the delegation of its function to staff. This aims to make clear the roles and responsibilities of staff members.
133. Time limits: Paragraph 3 allows the IIAA Procedure Rules Board to set time limits for complying with stages in the appeals process. The aim is to allow the IIAA to set clear statutory requirements to support it to enforce its deadlines.
134. Repeat applications: Paragraph 4 enables the Board to make Rules restricting repeated applications on the same issue.
135. IIAA acting of its own initiative: Paragraph 5 allows the IIAA to exercise its functions without needing an application from a party to an appeal, where appropriate. The aim of this measure is to allow the IIAA to be proactive in its case management functions by, for example, requesting evidence referred to but not provided in an appellant's bundle.
136. Reviews and appeals: Paragraph 6 allows the Rules to set out the procedure in which the IIAA can review its own decision. The rules can include provision that describe the types of case or specify the grounds on which either the IIAA will review its own decision or an application for review can be made. The Rules can also set out the procedure for an appeal to the Upper Tribunal.
137. Hearings: Paragraph 7 provides that the IIAA Procedure Rules Board may make Rules in relation to different hearing types, including remote hearings, in-person hearings or to deal with matters without a hearing (on the papers).
138. Proceedings without notice: Paragraph 8 allows the Rules to make provision for proceedings to take place at the request of one party even though the other, or another, party has had no notice.
139. Advice and representation: Paragraph 9 allows the Rules to make provision about who may represent people before the IIAA, to enable people to be represented by a "qualified person" (a suitably accredited and regulated immigration/legal adviser). It introduces a requirement for appellants to confirm, when they institute an appeal or bail application, that they either have advice and/or representation, have made an informed decision to proceed without it, or, would have liked advice and/or representation but have been unable to obtain it. People who wish to be advised and/or represented, but do not have arrangements in place, are required to state why and what steps they have taken to put such arrangements in place. The aim is to encourage the uptake of advice and/or representation and to embed it in the IIAA, because early engagement with advice and representation leads to issues being identified and a reduction in delays, adjournments and disruption.
140. Evidence, witnesses and attendance: Paragraph 10 allows the Procedure Rules Board to make Rules in relation to evidence, including expert witnesses and anonymity.
141. Failure to comply with requirements imposed by the IIAA: Paragraph 11 sets a duty on the Board to make provision in the Rules requiring the IIAA to take account as damaging the credibility of an appellant any failure to submit evidence on time unless there is good reason for the late submission. It also allows the Board to make similar provision more generally for non-compliance, as well as to

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refer cases of non-compliance to the Upper Tribunal.

142. Use of information: Paragraph 12 allows the IIAA Procedure Rules to make provision about the disclosure or non-disclosure of information received during proceedings before the IIAA.
143. Publication of decisions: Paragraph 13 requires the IIAA Procedure Rules to provide for the publication of the IIAA's final determinations. The rules may set out the detailed approach to publication, including how determinations are published and any safeguards needed for sensitive information, anonymity and data protection.
144. Fees: Paragraph 14 allows IIAA Procedure Rules to make provision about fees in relation to proceedings before the IIAA.
145. Costs and expenses: Paragraph 15 enables the IIAA Procedure Rules to make provision about costs of proceedings before the IIAA. The Rules made can make provision for an adjudicator to order a party or their representative to pay another party's costs. Those costs are limited to a fee paid under paragraph 14 or costs incurred as a result of an improper, unreasonable or negligent act or omission.
146. Charges in respect of wasted resources: Paragraph 16 allows the IIAA Procedure Rules to regulate matters relating to the charging of amounts under section 10, where the IIAA considers that a participant's improper, unreasonable or negligent conduct has wasted IIAA resources. The Rules may, in particular, prescribe scales of amounts that may be charged.
147. Correction of errors and setting aside of decisions on procedural grounds: Paragraph 17 allows the IIAA Procedure Rules to make provision for correcting errors in a decision, or in the record of a decision. It also allows the Rules to provide for a decision to be set aside on procedural grounds.
148. Presumptions: Paragraph 18 allows the IIAA to make Rules enabling them to make presumptions unless evidence shows otherwise.
149. Differential provision: Paragraph 19 allows procedural rules to vary depending on the type of case, where appropriate. For example, there may be differential provision for cases going through the expedited process.

Part 2: Article 8 of the European Convention on Human Rights

Clause 17: Sponsor claims

150. Subsection (1) expands the definition of a human rights claim at section 113 of the Nationality, Immigration and Asylum Act 2002 so that it also includes a "sponsor human rights claim". This means that a UK-based sponsor must make an application for their family member living outside of the UK to be granted entry clearance where the sponsor has a claim based on their family life rights (Article 8 of the European Convention on Human Rights). The effect of subsection (1) is that a UK based sponsor will be able to appeal against a decision to refuse a HR claim to their overseas family member under section 82(1)(b) of the Nationality, Immigration and Asylum Act 2002.

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151. Subsection (2) describes how the new definition set out in subsection (1) requires further amendments to be made to the Nationality, Immigration and Asylum Act 2002 and that these changes are set out in subsections (3) to (7).
152. Subsection (3) makes amendments to section 80A of the Nationality, Immigration and Asylum Act 2002 so that a “sponsor human rights claim”, as created by subsection (1) above, cannot be deemed “inadmissible” under section 80A(1). It also clarifies that a “sponsor human rights claim” in section 80A has the same definition as that set out in section 113.
153. Subsection (4) makes necessary changes to section 85 (matters to be considered) of the Nationality, Immigration and Asylum Act 2002. Section 85 joins together all appeals related to the same appellant by requiring the Immigration Tribunal to include as part of an appeal under section 82(1) against a relevant decision, all matters raised in decisions for which the appellant has a right of appeal. Subsection (4)(a) creates an exception for sponsor human rights claims because in these cases the sponsor is the appellant. Subsection (4)(b) adds a new subsection 1(A), requiring that, for sponsor HR claims, the Tribunal must consider as part of a relevant appeal, any other appealable decision relating to the family member seeking entry to the UK. The effect is that an appeal against a decision in relation to a sponsor human rights claim will not include any matter in relation to a decision regarding the status of the sponsor.
154. Subsection (5) creates an exception for a “sponsor human rights claim” in section 86B (timeframe for determination of appeal brought by certain non-detained appellants liable to deportation) of the Nationality, Immigration and Asylum Act 2002. As a UK-based sponsor will not be an appellant liable to deportation, there is no requirement that their appeal be determined within the statutory timeframe laid out in this section.
155. Subsection (6) establishes an exception for a “sponsor human right claim” in section 94 (Certification of human rights or protection claims as unfounded or removal to safe country) of the Nationality, Immigration and Asylum Act 2002. It creates subsection 94(3ZA) that has the effect of preventing the certification of a sponsor human rights claim as unfounded if the UK-based sponsor is entitled to live in one of the “safe” states listed in subsection (4).
156. Subsection (7) inserts an exception into section 104 (pending appeal) of the Nationality, Immigration and Asylum Act 2002 for a “sponsor human rights claim”. Section 104(4A) requires that an appeal against an immigration decision be treated as abandoned if the appellant is granted leave to enter or remain in the UK. This will not be applicable where a UK sponsor is applying on behalf of an overseas family member so new subsections (4AA) and (4AB) disapply this measure to sponsor human rights claims and, instead, require an appeal to be treated as abandoned if the overseas family member is granted leave to enter or remain.

Clause 18: Family life

157. Clause 18(2) amends the heading in Part 5A of the Nationality, Immigration and Asylum Act 2002 to reflect the addition of the definition of family life: Article 8 of the ECHR: Family life and public interest considerations.

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158. Clause 18(3) inserts new subsections (1A), (1B) and (1C) to s.117A to state the court or tribunal must first decide whether Article 8 is engaged on the basis of a person's private and family life, that in considering whether Article 8 is engaged the court must have regard to the considerations in section 117AA, and that it is, it must then go onto consider the public interest question.
159. Clause 18(4) inserts new section 117AA to set out the definition of family life for the purposes of Article 8 and the various elements of this definition are set out in subsections (1) to (5).
160. Subsection (1) sets out that a person's family life for the purposes of Article 8 is normally limited to their core cohabiting family and subsection (2) states that the "core cohabiting family" means a person's spouse, civil partner or partner; their children under the age of 18 if they are a parent; or, where the person is under the age of 18 themselves, their parents, who they live with.
161. Subsection (3) sets out that for non-cohabiting parent and child relationships, family life is not normally established for the purposes of Article 8 unless the parent can evidence they have a genuine and subsisting parental relationship with the child.
162. Subsection (4) states that a person does not normally have a family life for the purposes of Article 8 with another adult unless they live together as spouses, civil partners or partners, or there are additional elements of dependence beyond normal emotional ties between the two adults.
163. Subsection (5) sets out the factors which, in isolation, do not constitute an additional element of dependency between two adults at paragraphs (a) to (d). In respect of subsection (b)(iii) on adequate care, this does not require the care available in the country where A lives to be of the same standard as in the UK.
164. Subsection (6) states that courts or tribunals are not prevented from considering the factors mentioned in subsection (5) when determining the public interest question.
165. Subsection (7) states that "the public interest question" has the same meaning as in section 117A of the Nationality, Immigration and Asylum Act 2002.

Clause 19: Public interest considerations

166. This clause amends section 117B of the Nationality, Immigration and Asylum Act 2002, which sets out the considerations that courts or tribunals should have regard to when deciding if an interference with a person's Article 8 rights is justified.
167. Subsection (2) amends 117B(3) of the Nationality, Immigration and Asylum Act 2002 to clarify it is in the public interest that a person who seeks to enter or remain in the UK is, and is likely to remain, financially independent and able to house themselves and any family members adequately without reliance on State support; and is not likely to be reliant on public services, in particular health or social care, in the long-term.
168. Subsection (3) inserts new subsection (3A) to state it is in the public interest of the prevention of disorder or crime that a person who seeks to enter or remain in the UK has not been convicted of a

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criminal offence (in the UK or elsewhere), has co-operated with immigration authorities and processes and is otherwise of good character.

169. Subsection (4) amends section 117B(4) of the Nationality, Immigration and Asylum Act 2002 by providing that no weight should be given to family or private life established by a person when they are in the UK and require leave to enter or remain in the UK and do not have it (or obtained it by deception) or if they are in serious breach of a condition attached to their leave to enter or remain. This provides a starting point for the weight that should be attributed to a person's private or family life when established in these circumstances. Courts and tribunals will continue to have the ability to depart from this weighting under section 117(A)(2) of the Nationality, Immigration and Asylum Act 2002.
170. Subsection (5) amends section 117B(5) of the Nationality, Immigration and Asylum Act 2002 so that family life and private life should both be given little weight if established when a person's immigration status in the UK is precarious.
171. Subsection (6) amends section 117B(6) of the Nationality, Immigration and Asylum Act 2002 by inserting new paragraph 117B(6)(c) so that in considering whether the public interest requires removal, where the person has a genuine and subsisting parental relationship with a qualifying child and it would not be reasonable to expect the child to leave the UK, courts or tribunals should now also consider whether a person's removal from the UK would have a very significant and long-lasting adverse effect on the child if the child were to remain in the UK.
172. Subsection (7) inserts new subsection 117B(7) into the Nationality, Immigration and Asylum Act 2002 setting out when it would not be reasonable to expect a qualifying child to leave the UK. These conditions relate to the provision of education, obstacles to integration and any significant, long term adverse effect that would be had on the child

Clause 20: Cases involving foreign criminals and others liable to deportation

173. This clause amends sections 117C and 117D of the Nationality, Immigration and Asylum Act 2002, which sets out the additional considerations that courts or tribunals should have regard to when deciding, in a case involving a foreign criminal or other person who is liable to deportation, if an interference with a person's Article 8 rights is justified.
174. Subsection (2) amends section 117A of the Nationality, Immigration and Asylum Act 2002 to reflect the additional considerations in section 117C will apply to all persons liable to deportation.
175. Subsection (3) substitutes a new section 117C into the Nationality, Immigration and Asylum Act 2002. New section 117C applies to all persons liable to deportation under sections 3(5) and (6) of the Immigration Act 1971. New section 117C(1) sets out where a person is liable to deportation, the public interest, and in particular that pertaining to public safety and the prevention of disorder or crime requires their deportation unless its effect, either on that person or a member of their family would be disproportionate. New section 117C(2) sets out that there is a greater public interest in deporting a person if the offence, the nature and circumstances of the offending or the impact of the offending on society is more serious.

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176. New section 117C(3) sets out that the effect of deportation will be disproportionate only where one or more of the exceptional circumstances as set out in subsections (4), (5) or (6) apply and the interference with a person's Article 8 rights cannot be justified by the public interest in deportation.
177. New section 117C(4) sets out the first set of exceptional circumstances. This requires that the person has been lawfully resident in the UK for most of their life; is socially and culturally integrated in the UK and that there would be very significant obstacles to the person's integration into the country to which they will be deported.
178. New section 117C(5) sets out the second set of exceptional circumstances. This requires that the person has a genuine and subsisting relationship with a qualifying partner or a genuine and subsisting relationship with a qualifying child and the effect of deportation on the partner or child would be unduly harsh.
179. New section 117C(6) sets out the third set of exceptional circumstances. This applies where there are otherwise very compelling circumstances indicating that the person or a family member has an Article 8 claim which is at least as strong as the circumstances in subsections (4) or (5).
180. Subsection 4 amends the definitions in section 117D of the Nationality, Immigration and Asylum Act 2002.
181. Subsection 5 amends the Sentencing Act 2026 to remove the reference to section 117D(4) of the Nationality, Immigration and Asylum Act 2002.

Part 3: Protection status and asylum

Clause 21 – Core Protection: regulations about protection status and protection claims

182. Subsection (1) provides the Secretary of State with a power to make regulations which can amend any enactment in respect of protection claims or protection status. Enactment is defined in subsection (5) and includes primary legislation and legislation of the devolved administration.
183. Subsection (2) defines a person as having protection status if they have been granted leave to enter or remain on the grounds that their removal would breach the UK's obligations under the Refugee Convention, or in relation to a person eligible for humanitarian protection. This refers to the current forms of refugee and humanitarian protection limited and indefinite leave to enter or remain. A protection claim is defined as a claim made to the Secretary of State for protection status.
184. Subsection (3) provides a non-exhaustive list of things that regulations made under subsection (1) may do. These include requiring a person to make a protection claim (as opposed to a claim for asylum or humanitarian protection) and allowing the Secretary of State to grant protection status instead of refugee status or humanitarian protection. The list also includes making provision to confer rights or impose obligations on any person (including the Secretary of State) in relation to a protection claim or protection status, amending, replacing or removing reference to terms such as "protection status", "protection claim", "asylum", "refugee" or humanitarian protection, and

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making different provisions relating to either type of existing claim. Paragraph (d) also makes it clear that, in amending another enactment to change or add a definition of protection status, the power can be used to set out a definition that does not expressly rely on the concept of humanitarian protection or does not cross-refer to the immigration rules. Instead, the definition can explain the specific circumstances in which a person falling within subsection (2)(a)(ii) will be granted leave to enter or remain in the UK

185.Subsection (4) clarifies that the clause does not limit any power or duty in existing legislation, but that this also does not limit the provisions that can be made using regulations under this section.

186.Subsection (5) provides definitions of terms used within the clause.

187.Subsection (6) means regulations made under subsection (1) must be made within a year of this clause coming into force, but any regulations made within that period will continue to remain in force.

Clause 22 – Interpretation of Refugee Convention: “lawfully staying”

188.Subsection (2) introduces new subsections (3A) and (7) into section 30 of the NABA. The new subsections set out that the interpretation in subsection (3) applies for any purpose where a person, court or tribunal determines whether a person is “lawfully staying” in the United Kingdom for the purposes of the Refugee Convention, and that this only applies from the day this Act commences. It makes clear that the interpretation of “lawfully staying” is confined to the Refugee Convention only, which does not affect any assessment as to whether their presence in the UK is lawful in respect of domestic immigration law.

189.Subsection (3) inserts new section 37A into NABA specifying that where a person is excluded from the protection against refoulement under Article 33(2) of the Refugee Convention because there are reasonable grounds for regarding the person as a danger to the security of the United Kingdom, or they have been convicted by final judgment of a particularly serious crime and constitute a danger to the community of the United Kingdom (as per section 72 of the Nationality, Immigration and Asylum Act 2002), such a person will be deemed to be not “lawfully staying” in the United Kingdom for the purposes of the Refugee Convention.

Part 4: Asylum Support

Clause 23 - Power to require payments from recipients of asylum support

190.Subsection (1) sets out the scope of the clause. It provides that it applies to any person who has received asylum support and who is not exempt, with the categories of exemption defined later in subsection (6).

191.Subsection (2) defines what it means to have “received asylum support” for the purposes of this clause. It clarifies that this includes individuals who have been accommodated or provided with support under specified provisions of the Immigration and Asylum Act 1999, namely sections 4, 95 and 95A (whether provided directly or via section 99), as well as those accommodated in accommodation centres under section 17 of the Nationality, Immigration and Asylum Act 2002.

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192.Subsection (3) confers a power on the Secretary of State to require a person within the scope of the clause to make payments to the Secretary of State. This establishes the core power, subject to further provision set out in subsequent subsections.

193.Subsection (4) provides a regulation-making power enabling the Secretary of State to make further provision about such payments. In particular, this includes provision about how the sums payable are to be calculated, the circumstances in which payments are required (including consideration of a person's financial means), the timeframe for payment, and the method by which individuals are notified of any requirement to pay.

194.Subsection (5) places a constraint on the regulation-making power by requiring that regulations must ensure that a person is not required to make payments if doing so would render them destitute, as defined in section 95(3) of the Immigration and Asylum Act 1999.

195.Subsection (6) sets out the categories of persons who are exempt from the requirement to make payments. These include individuals who were under 18 throughout the period they received asylum support, and individuals who began receiving asylum support before the section comes into force. It also allows for additional categories of exemption to be specified in regulations.

Clause 24– Section 23: further provision

196.Subsection (1) provides that regulations made under section 23(4)(a) may include provision for the amount a person is required to pay to be calculated by reference to whether they received dependant support, among other factors. This makes clear that the presence of dependants may be taken into account when determining the amount to be repaid.

197.Subsection (2) sets out when a person is to be treated as having received dependant support. It provides that this applies where the person applied for asylum support for both themselves and a dependant, and both the person and the dependant received that support.

198.Subsection (3) defines “dependant” for the purposes of subsection (2). It clarifies that the meaning of dependant differs depending on the type of asylum support received, by reference to the relevant definitions in the Immigration and Asylum Act 1999 and the Nationality, Immigration and Asylum Act 2002.

199.Subsection (4) allows regulations made under section 23(4)(e) to provide for His Majesty's Revenue and Customs (HMRC) to collect amounts payable under clause 23.

200.Subsection (5) allows HMRC to undertake preparatory activity, including incurring expenditure, in anticipation of functions that may be conferred by regulations under section 23(4)(e), before those regulations come into force.

201.Subsection (6) amends section 40 of the UK Borders Act 2007 to permit HMRC information to be shared for the purpose of determining liability for, and requiring, payments under section clause 23.

202.Subsection (7) provides that unpaid amounts due under section clause 23 may be recovered as a

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debt owed to the Secretary of State.

203. Subsection (8) enables the Secretary of State to make regulations containing provision that is consequential on clause 23 or this clause.

Part 5: Modern Slavery

Prevention and risk orders

204. Slavery and Trafficking Prevention Orders (STPO) and Slavery and Trafficking Risk Orders (STRO) were introduced by Part 2 of the Modern Slavery Act (MSA) 2015. STPOs and STROs are civil orders enabling courts to impose tailored prohibitions, restrictions and requirements on individuals convicted of a slavery or trafficking offence, or where there is a risk they will commit a slavery or trafficking offence (despite not having been convicted of an offence). Listed law enforcement agencies can apply for an order, or a Court can make one on its own motion following conviction or acquittal. The terms of an STPO or STRO may for example: prohibit contacting specific individuals, recruiting or employing staff, organising transport/accommodation for other people, or restrictions on foreign travel. An STPO or STRO can be varied, renewed or discharged and breach of an STPO or STRO is a criminal offence.

205. Clauses 25 to 34 make a number of amendments to the MSA 2015 in relation to STPOs and STROs, including who can apply for an order, notification and monitoring requirements, and procedural matters, and will apply to England and Wales, with the exception of clause 25, which amends the Human Trafficking and Exploitation (Scotland) Act 2015 and the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.

Clause 25: Slavery and trafficking risk orders on acquittal

206. Clause 25(2) inserts new section 22A into the MSA 2015, which introduces a power for a court to make an STRO on acquittal for a slavery or human trafficking.

207. New section 22A(2)(a) to (b) sets out that a court may only make the order if satisfied that there is a risk the defendant will commit a slavery or trafficking offence, and the order is necessary to protect others from physical or psychological harm which would be likely to occur if such an offence was committed.

208. New section 22A(3) stipulates that if the Court of Appeal allows an appeal against a conviction it may send the case to the Crown Court to consider the STRO on acquittal.

209. New section 22A(4) provides that where the Crown Court allows an appeal against conviction, or a case is remitted to the Crown Court under subsection (3), the reference in subsection (1) to a court by or before which a person is acquitted of a slavery or human trafficking offence is to be read as referring to that Crown Court.

210. New section 22A(5) enables the court to adjourn proceedings relating to a STRO. New section 22A(6) sets out if the defendant does not appear for adjourned proceedings the court can further

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adjourn or hear the proceedings in the defendant's absence. New section 22A(7) provides that the court may not hear the proceedings in the defendant's absence unless satisfied that the defendant has been given adequate notice of time and place of the adjourned proceedings, and the defendant has been informed that the proceedings may go ahead in their absence.

211. New section 22A(8) permits that acts of the defendant that took place before the new section 22A came into force may be relied upon by the court under section 22A(2).

212. Subsection (3) of clause 25 inserts "on application" in the heading of section 23 of the MSA 2015 after STROs, to more accurately reflect the content of the section.

213. Subsection (4)(a) inserts "under section 23" to section 27 of the MSA 2015, which deals with variation, renewal and discharge of a STROs made on application (section 23) and STROs made under new section 22A(1). Subsection (4)(b) inserts a STRO made by the Crown Court, to include orders granted by the Crown Court under new section 22A(1) so that they can be varied, renewed and discharged by the Crown Court.

214. Subsection (5) inserts "under section 23" to section 28(1) of the MSA 2015, which deals with interim slavery and trafficking risk orders to distinguish between the current STROs (under section 23) and STROs on acquittal being introduced under new section 22A(1).

215. Subsection (6) substitutes the current wording in section 29(1) of the MSA 2015, which deals with appeals of STROs to the Crown Court and the Court of Appeal, and replaces it with a new subsection (1), (1A) and (1B) to cover the process for appeals for orders made under new section 22A(1) and existing orders made under section 23 of the MSA 2015, including appeals against the variation, renewal, discharge or refusal of orders under section 27 of the MSA 2015.

216. Subsection (7) adds the new section 22A to the interpretation of Part 2, in section 34(1) of the MSA 2015, which defines key terms and expressions used in STPOs and STROs.

217. Subsection (8) includes the breach of the new section 22A, STRO on Acquittal, to the list of offences under section 32(2)(g) of the Human Trafficking and Exploitation (Scotland) Act 2015 which maintains the current enforcement position.

218. Subsection (9) includes breach of the new section 22A, STRO on Acquittal, to the list of offences in paragraph 16(1)(e) of Schedule 3 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.

Clause 26: Power for chief constable of the British Transport Police Force to apply for prevention and risk orders etc

219. This clause amends the MSA 2015 to add the Chief Constable of the British Transport Police Force (BTP) to the list of people who can make an application for an STPO under section 15 of the MSA 2015 and an application for a STRO under section 23, and to vary, discharge and renew the orders under sections 20 and 27 of the MSA 2015. It also adds BTP to the list of agencies required to provide information received in accordance with the notification requirements to the chief officer for each relevant police area. Clause 26 also amends the language to avoid repetition and simplify.

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220. Subsection (3)(a) and (b) adds the chief constable of the BTP to the list of agencies required to give details of any notification requirements in a STPO to the chief officer of police for each relevant police area.
221. Subsection (4)(a) adds the chief constable of the BTP to the list of individuals who may apply to the appropriate court for an order to vary, renew or discharge a STPO under section 20 of the MSA 2015. Subsection (4)(b) amends section 20(9) of the MSA 2015 to add the chief constable of the BTP.
222. Subsection (5)(a) adds the chief constable of the BTP to the list of agencies who can apply for an STRO under section 23 of the MSA 2015. Subsection (5)(b) amends section 23(6) of the MSA 2015 to add the chief constable of the BTP to the list of bodies required to notify the chief officer of the relevant police force area of an application for a STRO.
223. Subsection (6)(a) adds the chief constable of the BTP to the list of bodies required to give details of any notification requirements in a STRO to the chief officer of police for each relevant police area.
224. Subsection (7) (a) adds the chief constable of the BTP to the list of individuals who may apply to the appropriate court for an order to vary, renew or discharge a STRO under section 27 of the MSA 2015.
225. Subsection (8) adds the chief constable of the BTP to the list of bodies who the Secretary of State under section 33(1) of the MSA 2015 must issue guidance to in relation to the exercise by them of their powers under Part 2 of the MSA 2015.

Clause 27: Power for chief officer of police to apply for prevention and risk orders etc

226. This clause amends the MSA 2015 to allow forces to make applications for STPOs and STROs for individuals, regardless of whether they live in the force area.
227. Subsection (1) sets out that the MSA 2015 is amended, as set out in subsections (2)-(6).
228. Subsection (2)(a) omits section 15(4) of the MSA 2015 and subsection (2)(b) amends section 15(8) (STPOs on application) of the MSA 2015 to allow STPOs on application to be applied for by police either in the police area where the defendant lives, or in police areas which the defendant is in or intending to go to.
229. Subsection (3)(a) stipulates that in section 20(2) of the MSA 2015, a chief officer of police can apply to the appropriate court for an order varying, renewing or discharging a STPO.
230. Subsection (4)(a) amends section 23 (STRO on application) to omit section 23(3) of the MSA 2015. Subsection (4)(b) amends section 23(7) to allow STROs to be applied for by police either in the police area where the defendant lives, or in police areas which the defendant is in or intending to go to.
231. Subsection (5)(a) stipulates that in section 27(2) of the MSA 2015, a chief officer of police can apply to the appropriate court for an order varying, renewing or discharging a STRO.

Clause 28: Notification requirements in slavery and trafficking prevention orders

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232. This clause amends the MSA 2015 to require a STPO to include a requirement to notify the person specified in the order of the information requested.
233. Subsection (1) sets out that the MSA 2015 is amended, as set out in subsections (2) to (5).
234. Subsection (2) makes amendments to section 19 of the MSA 2015 to substitute the heading to read ‘Notification Requirements’. It also stipulates that an order must require the subject of an order to comply with the notification requirements at section 19 (3-) to (6), by notifying the person specified with the information specified in the order.
235. Subsection (3) amends section 21 of the MSA 2015 so that the notification requirements also apply to interim STPOs.
236. Subsection (4) adds the meaning of “prescribed” to section 34(1), which defines key terms and expressions used in STPOs and STROs.
237. Subsection (5) adds the regulations for the notification requirements under section 19(6A) to section 58(4) of the MSA 2015 (regulations), which deals with regulation-making powers under the MSA 2015 and how they are exercised by statutory instrument and the parliamentary procedures required.
238. Subsection (6) provides that the amendment provided in subsection (2)(b) which stipulates that a subject of an order must comply with the notification requirements set out in a STPO does not apply to orders made prior to the section coming into force.

Clause 29: Notification requirements in slavery and trafficking risk orders

239. This clause amends the MSA 2015 to require the subject of an STRO to include a requirement to notify the person specified in the order of the information requested.
240. Subsection (1) sets out that the MSA 2015 is amended, as set out in subsections (2)-(4).
241. Subsection (2) makes amendments to section 26 of the MSA 2015 to substitute the heading to read ‘Notification Requirements’. It also stipulates that the subject of the order must comply with the notification requirements set out in an STRO, by notifying the person specified with the information specified in the order.
242. Subsection (3) amends section 28 of the MSA 2015 so that the notification requirements also apply to interim STROs.
243. Subsection (4) adds the regulations for the notification requirements under section 26(6A) to section 58(4) of the MSA 2015 (regulations), which deals with regulation making powers under the MSA 2015 and how they are exercised by statutory instrument and the parliamentary procedure required.
244. Subsection (5) provides that the amendment provided in subsection (2)(b), which stipulates that a subject of an order must comply with the notification requirements set out in a STRO, does not apply to orders made prior to the section coming into force.

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Clause 30: Slavery and trafficking prevention orders: adjournment of proceedings

245. This clause amends section 14 of the MSA 2015 to include provisions to allow the court to adjourn proceedings relating to the making of an STPO and the circumstances in which these proceedings can operate.

246. Subsection (1) inserts new sections (2A) - (2D) to section 14 of the MSA 2015. Section (2A) adds that the court may adjourn any proceedings relating to the making of a STPO.

247. Section (2B) adds that if the individual does not appear for any adjourned proceedings the court may further adjourn the proceedings, issue a warrant for the defendant's arrest, or hear the proceedings in the defendant's absence.

248. Section (2C) adds that the court may not act under subsection (2B)(b) and issue a warrant for the defendant's arrest unless satisfied the defendant has had adequate notice of the time and place of the adjourned proceeding.

249. Section (2D) further adds that the court may not proceed in the defendant's absence (subsection (2B)(c)) unless it is satisfied that the defendant has had adequate notice of time and place of the adjourned proceedings and has been informed that if the defendant does not appear for those proceedings, the court may hear the proceedings in the defendant's absence.

Clause 31: Slavery and trafficking prevention orders: electronic monitoring

250. This clause inserts new section 19A into the MSA 2015 to provide courts with the express legislative power to impose an electronic monitoring requirement as part of an STPO where the court is satisfied that the requirement is necessary for the purpose of protecting persons from physical or psychological harm.

251. New section 19A(1), (2) and (3) sets out that STPOs can include the requirement for an individual subject to an STPO in England and Wales to submit to electronic monitoring, in order to monitor their compliance with other terms and restrictions of the order, where arrangements for electronic monitoring are available in the relevant area and the court is satisfied that the necessary provision can be made under the arrangements currently available. The requirement may only be imposed if defendant is present. New section 19A(4) and (5) stipulates that a person must be specified as the person responsible for the monitoring and must be of a "prescribed description", meaning set out in regulations made by the Secretary of State.

252. New section 19A(6)(a) to (c) outline the obligations on the person subject to an electronic monitoring requirement as part of an STPO regarding the fitting installation, inspection, or repair of the device. Someone who is subject to this requirement must: allow any necessary device to be fitted to them or installed; allow the device to be inspected; not interfere with the working of any device necessary for the electronic monitoring (such as tampering or intentionally damaging the device); and take any steps required by the 'responsible person' (the service provider) to keep the device in working order.

253. New section 19A(7) and (8) provides that an electronic monitoring requirement cannot be imposed

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for more than 12 months at a time, subject to applications for variations and amendments. New section 19A(9) allows for the variation or renewal of the order under section 20 of the MSA 2015.

254. New section 19A(10) defines the “relevant area” within England and Wales as the local justice area where the defendant lives or will live, or, when relevant to the order, the local justice area where there is a requirement for the individual subject to the order to remain (for specified periods, at a specified place) or if there is a prohibition preventing the individual from entering a specified place. New section 19A(11) stipulates that “specified” means specified in the STPO.

255. Subsection (3) sets out that section 19A (electronic monitoring) also applies to interim STPOs.

Clause 32: Slavery and trafficking risk orders: electronic monitoring

256. This clause inserts new section 26A into the MSA 2015 to provide courts with the express legislative power to impose an electronic monitoring requirement as part of an STRO where the court is satisfied that the requirement is necessary for the purpose of protecting persons from physical or psychological harm.

257. New section 26A(1), (2) and (3) sets out that STPOs can include the requirement for an individual subject to an STPO in England and Wales to submit to electronic monitoring, solely in order to monitor their compliance with other terms and restrictions of the order, where arrangements for electronic monitoring are available in the relevant area and the court is satisfied that the necessary provision can be made under the arrangements currently available. The requirement may only be imposed if defendant is present.

258. New section 26A(4) and (5) stipulates the requirement for a person to be specified who will be responsible for the monitoring and must be of a “prescribed description”, meaning set out in regulations made by the Secretary of State.

259. New section 26A(6)(a) to (c) outlines the obligations on the person subject to an electronic monitoring requirement as part of an STRO regarding the fitting installation, inspection, or repair of the device. Someone who is subject to this requirement must: allow any necessary device to be fitted to them or installed; allow the device to be inspected; not interfere with the working of any device necessary for the electronic monitoring (such as tampering or intentionally damaging the device); and take any steps required by the ‘responsible person’ (the service provider) to keep the device in working order.

260. New section 26A(7) and (8) provides that an electronic monitoring requirement cannot be imposed for more than 12 months at a time. New section 26A(9) allows the variation or renewal of the order under section 27 of the MSA 2015.

261. New section 26A(10) defines the “relevant area” within England and Wales as the local justice area where the defendant resides or will reside, or, when relevant to the order, the local justice area where there is a requirement for the individual subject to the order to remain (for specified periods, at a specified place) or if there is a prohibition preventing the individual from entering a specified place. New section 26A(11) stipulates that “specified” means specified in the STRO.

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262.Subsection (3) sets out that section 26A (electronic monitoring) also applies to interim STROs.

Clause 33: Electronic monitoring: further provisions

263.Subsection (2) amends the MSA 2015 to simplify the language of the offences (section 30(2) (offences) of the MSA 2015) to stipulate that it is an offence if the individual subject to the order fails to comply with a requirement imposed under an STPO, STRO or the interim orders.

264.Subsection (3) introduces new section 33A “Data from electronic monitoring: code of practice”. This requires the Secretary of State to issue a code of practice which will outline the expectations, safeguards, and broad responsibilities for the collection of data gathered, retention and sharing of information on these orders. New section 33A(2) stipulates that failing to act in accordance with the code of practice does not of itself make a person liable to criminal or civil proceedings.

265.Subsection (4) adds the regulations for the electronic monitoring under section 19A(5) or 26A(5) to section 58(2) of the MSA 2015 (regulations), which deals with regulation-making powers under the MSA 2015 and how they exercised by statutory instrument. It also sets out that the regulations for electronic monitoring may make different provision for different areas.

Clause 34: Variation etc of slavery and trafficking prevention and risk orders

266.Subsection (1) allows for the sections in the MSA 2015 on variation and renewal of STPOs (section 20) and STROs (section 27) to be amended to support and align with the introduction of electronic monitoring and notification requirements.

267.Subsection (2) adds the additional notification requirements and electronic monitoring to section 20 (variation etc. of slavery and trafficking prevention orders) of the MSA 2015, so when an STPO is renewed or varied the new measures introduced in this Bill can be applied (sections 19(6A), 19A(3) and 19(3) to(6)). The subsection stipulates that they can be applied where the court is satisfied that the requirement is necessary for the purpose of protecting persons from physical or psychological harm. The court must also be satisfied that arrangements for electronic monitoring are available in the relevant area and that the necessary provision can be made under the arrangements currently available. It also sets out that in the case of an order made before the day the measures came into force, and the order is varied on or after the day the measures come into force the individual subject to an STPO may be required to follow the notification requirements in section 19(3) to (6). Where the order is renewed, it must provide for those notification requirements to be imposed.

268.Subsection (3) adds the additional notification requirements and electronic monitoring to section 27 (variation etc. of slavery and trafficking risk orders) of the MSA 2015, so when an STRO is renewed or varied these new measures introduced in this Bill can be applied (sections 26(6A), 26A(3) and 26(3) to (6)). The subsection stipulates that they can be applied where the court is satisfied that the requirement is necessary for the purpose of protecting persons from physical or psychological harm. The court must also be satisfied that arrangements for electronic monitoring are available in the relevant area and that the necessary provision can be made under the arrangements currently available. It also sets out that in the case of an order was made the day before the measures came into force, the individual subject to an STRO will need to follow the notification requirements.

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Identification and support of Victims

Clause 35: Authority responsible for deciding if a person is a victim etc

269. Subsection (1) inserts new section 65A into the Nationality and Borders Act 2022 to provide a definition of 'competent authority' for the purposes of Part 5 NABA. New section 65A(a) confirms that insofar as decisions relate to people over 18 on the day the decision is made, the 'competent authority' will be the Secretary of State. Under new section 65A(b), the Secretary of State will also be a competent authority with regard to decisions relating to children, but this subsection also creates a power for the Secretary of State in such cases to nominate a public authority to be the competent authority on a case-by-case basis. This change will allow nominated public authorities to make reasonable and conclusive grounds decisions in relation to children. This approach to decision-making has been tested through a successful pilot.

270. Subsection (2) introduces Schedule 4 which amends the Nationality and Borders Act 2022 and MSA 2015 to make additional provision in relation to decisions as to whether a person is a victim of slavery or human trafficking. It also makes consequential amendments required as a result of the changes to the definition of 'competent authority' in subsection 65A(1).

Schedule 4: Further amendments relating to decisions as to whether a person is a victim

271. Paragraphs 2 and 3 amend the wording in subsections 62(2), 63(1) and 63(2A) of the Nationality and Borders Act 2022 to ensure determinations made pursuant to these subsections can only be exercised by the Secretary of State. These changes are necessary as a result of the introduction of a new definition of competent authority in section 65A of the Nationality and Borders Act 2022.

272. Paragraph 4 inserts new sections 65B and 65C to the Nationality and Borders Act 2022. Section 65B provides that the Secretary of the State may make regulations about the making of reasonable and conclusive grounds decisions. This includes regulations that require public authorities other than the competent authority to participate in decision making (section 65B(2)(c)). This ensures that decisions in relation to children continue to be made by multi-agency panels, as is currently the case under the pilot.

273. Section 65C requires the Secretary of State to issue and maintain guidance about:

- the procedure and timing for reasonable and conclusive grounds decisions made by competent authorities within section 65A(b)(ii) of the Nationality and Borders Act 2022
- the manner in which the Secretary of State will exercise their nomination power under Section 65A(b)(ii), and
- the processes a public authority needs to complete before being nominated as a competent authority.

274. Paragraph 5 amends and updates section 69(1) of the Nationality and Borders Act 2022 to update

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the definition of ‘competent authority’ and insert a definition of ‘public authority’.

275.Paragraph 7 removes section 49(4) of the MSA 2015 covering the scope of regulations laid under section 50 of the MSA 2015. This subsection has been removed as it is unnecessary.

276.Paragraph 8(a) replaces the existing section 50(3) and inserts a new section 50(3A) in relation to regulations that the Secretary of State may make in relation to identifying and supporting victims. This has been added to mirror the changes being made to NABA 2022 in the new sections 65A and 65B. Paragraph 8(b) inserts a new subsection 50(5) that requires the Secretary of State to issue and maintain guidance in relation to any regulations laid under section 50(2) of the MSA 2015. This mirrors the amendments made to NABA 2022 in the new section 65C. However, section 50 of the MSA 2015 is currently not in force and is not being brought into force through these amendments.

277.Paragraph 9 amends the definition of “competent authority” that appears in Part 4 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

Clause 36: Deciding if a person is a victim: credibility

278.The clause amends Part 5 of the Nationality and Borders Act 2022 to insert a new section 60A. This sets out the factors which a competent authority (decision-maker) must take into account when determining whether an individual is a potential victim or a victim of modern slavery (i.e. when making a reasonable grounds or conclusive grounds decision (as defined in section 69 of the Nationality and Borders Act 2022)).

279.Subsection (1) of section 60A sets out that the provisions in subsection (2) will apply whenever a competent authority is making a reasonable grounds or conclusive grounds decision.

280.Subsection (2) of section 60A sets out a list of factors that, in assessing whether to believe an account put forward by or on behalf of a person, a competent authority must take into account as damaging a person’s credibility, as follows:

- a) any delay in the person making a claim that they are a victim of modern slavery (subsection (2)(a));
- b) any delay in the person providing ‘relevant status information’ (i.e. information relevant to a reasonable grounds or conclusive grounds decision) to the competent authority (subsection (2)(b));
- c) any material inaccuracy, inconsistency or omission in the information provided by the person, to the competent authority (subsection (2)(c));
- d) any material inconsistency between the information provided by the person by the individual to the competent authority and any information they have provided in connection with a protection or human rights claim they have made, or any civil or criminal proceedings where they are a party (subsection (2)(d)); and

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- e) any striking similarity between the information provided by the person to the competent authority and information that has been provided by another person in connection with a claim they have made to be a victim of modern slavery or trafficking, a protection or human rights claim they have made; or any civil or criminal proceedings in which they are a party (subsection (2)(e)). The term ‘striking similarity’ is intended to capture both very similar and identical accounts.

281. Subsection (3) of section 60A sets out that subsection (2) will not apply in a given case (i.e. there will be no adverse impact on credibility) where the competent authority is satisfied that there are good reasons for the factor(s) listed in (a). to (e). above arising.

282. Subsection (4) of section 60A requires the competent authority to have regard to any guidance issued by the Secretary of State in deciding whether there are good reasons for the purposes of subsection (3) above.

283. Subsection (5) of section 60A makes clear the link between clause 36 and claims notices under clause 11, setting out that where a person has been served a claim notice under clause 11 and provides relevant status information after the deadline set out in the notice, this is to be treated as a delay for the purposes of subsection (2)(a) or (b), and therefore will have an adverse impact on the person’s credibility, unless there are good reasons provided for the lateness.

284. For the purposes of subsection (2)(a) above (i.e. relating to delay in making a claim), subsection (6) defines ‘making a claim to be a victim of slavery or human trafficking’ if they make a disclosure of information that tends to suggest they may be a victim.

285. Subsection (7) of section 60A defines several terms for the purposes of section 60A. It defines “claim notice” as a notice issued under clause 11; “claim notice deadline” as having the meaning given in clause 11(3); “human rights claim” and “protection claim” as having the same meanings as set out in Part 2 of the Nationality and Borders Act 2022; and “relevant status information” in relation to a person as information provided by a person that may be relevant for the purpose of making a reasonable grounds decision or a conclusive grounds decision in relation to them.

286. Subsection (3) of clause 36 repeals sections 58 and 59 (slavery or trafficking information notices) from Part 5 of the Nationality and Borders Act 2022. These are uncommenced provisions and will be replaced by the provisions in clause 11 of this Bill.

Clause 37: Recovery period to end on making of negative conclusive grounds decision

287. This clause makes provision for the recovery period and any associated entitlements it affords to be brought to an end on receipt of a negative conclusive grounds decision. Under section 61 of the Nationality and Borders Act 2022, a person is entitled to a minimum thirty day ‘recovery period’ from the day on which they receive a positive reasonable grounds decision.

288. Clause 37 amends section 61 of NABA to the effect that in the event a person receives a negative

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conclusive grounds decision within the 30-day period, the recovery period and its associated protections will come to an end. It also makes similar provision enabling an equivalent outcome with regard to any additional recovery period under section 62.

289.Subsection (1) sets out that these provisions will take the form of amendments to Part 5 of the Nationality and Borders Act 2022.

290.Subsection (2)(a) inserts a provision into section 61(3) of the Nationality and Borders Act 2022 to the effect that the entitlement to the recovery period is subject to new subsections (4) and (5). Subsection (2)(b) inserts new subsections 61(4) and (5), which make clear that the recovery period will end on the day on which a negative conclusive grounds decision is made.

291.Subsection (3) makes equivalent amendments to the provisions dealing with additional recovery period in section 62(2) of the Nationality and Borders Act 2022. This inserts new subsections 62(3) to (5) into the Nationality and Borders Act 2022. New section 62(3) makes clear that the entitlement to a further recovery period under section 62 is subject to new subsections (4) and (5), to the effect that where a negative conclusive grounds decision is made in relation to a further reasonable grounds decision made under that section, the further recovery period ends with the day on which that decision is made.

292.Subsection (4) inserts a definition of “negative conclusive grounds decision” for these purposes into section 69(1) of the Nationality and Borders Act 2022, meaning a decision by a competent authority that a person is not a victim of slavery or human trafficking.

293.Subsection (5) makes consequential amendments to section 50A of the Modern Slavery Act 2015 to provide that where a negative conclusive grounds decision is made in relation to a further reasonable grounds decision, that further recovery period and necessary assistance and support ends with the day on which that decision is made.

Clause 38: Disqualification from protection

294.Clause 38 amends section 63 of the Nationality and Borders Act 2022, which deals with disqualification from the National Referral Mechanism on grounds of public order, and inserts new section 63A, which expands upon and more clearly defines the basis on which disqualification can occur on grounds of ‘bad faith’. Section 63 previously dealt with both public order and bad faith, but clause 38 separates them into two separate provisions. This provision sets out the UK Government’s interpretation of Article 13(3) of the European Convention on Action against Human Trafficking. These amendments sit alongside the commencement of section 29 of the Illegal Migration Act (IMA) 2023.

295.Subsection (1) signposts that these changes will take the form of amendments to Part 5 of the Nationality and Borders Act 2022.

296.Subsection (2) outlines the amendments to be made to section 63. Subsection (2)(a) amends the title of the section to reflect the fact that it now only relates to disqualification on the grounds of threat to public order. and (2)(b) removes section 63(1)(b), which relates to bad faith (now dealt with

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separately in new section 63A).

297. Subsection (2)(c) amends section 63(1) to make clear that, when a competent authority is satisfied that a person poses a risk to national security (section 63(1)(a)), or where the person is a threat to public order (section 63(1)(b)), the consequences at section 63(2) (i.e. disqualification) must apply. This will apply to any person coming before the competent authority.

298. Section 63(1)(b) is subject to an exception in new section 63(1A), inserted by clause 38(2)(c). The effect of this is that the duty to disqualify on the basis of public order threat will not apply to people under 18 with either the right of abode in the United Kingdom, or leave to remain other than under section 65 NABA. In effect, this means children meeting these criteria remain eligible for modern slavery protections, even if they might otherwise be considered a threat to public order. This puts in place an explicit statutory safeguard reflecting the need for enhanced protection of children within the modern slavery framework.

299. Subsection 2(d) replaces the current section 63(2) NABA, setting out the consequences attaching to a determination under section 63(1). Where a decision to disqualify is made, under new section 63(2), any prohibition on removing the person, or requiring them to leave the United Kingdom no longer applies. This removes the protections of the recovery period provided under sections 61 and 62 NABA. Further, any requirement to grant the person limited leave to remain (also known as temporary permission to stay or TPS) will no longer apply (new section 63(2)(b)), and there will be no requirement to make a conclusive grounds decision in relation to that person following a decision to disqualify, on the basis that a section 63 determination will be regarded as the conclusion of the identification process.

300. Subsection 2(e) amends section 63(2A), as inserted by section 29(3) of the IMA 2023, such that the duty to make a determination of disqualification on public order grounds will not apply where the competent authority considers the person to be at immediate and significant risk of becoming a victim of modern slavery or human trafficking, or further slavery or trafficking, in the United Kingdom.

301. Subsection 38(2)(f) inserts new section 63(2B) into NABA, defining what constitutes a 'risk to the national security of the United Kingdom' for these purposes by setting out a list of circumstances that will bring a person within scope of this provision, namely:

- a) the person has been convicted of a terrorist offence (new section 63(2B)(a));
- b) the person is subject to a TPM notice (within the meaning given by section 2 of the Terrorism Prevention and Investigation Measures Act 2011) (63(2B)(b));
- c) there are reasonable grounds to suspect that the person is or has been involved in terrorism-related activity within the meaning given by section 4 of that Act (whether or not the terrorism-related activity is attributable to the person being, or having been, a victim of slavery or human trafficking (63(2B)(c));
- d) the person is subject to a notice under Part 2 of the National Security Act 2023

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(63(2B)(d));

- e) there are reasonable grounds to suspect that the person is or has been involved in foreign power threat activity within the meaning given by section 33 of that Act (whether or not the foreign power threat activity is attributable to the person being, or having been, a victim of slavery or human trafficking) (63(2B)(e)); and
- f) the person is subject to a temporary exclusion order imposed under section 2 of the Counter-Terrorism and Security Act 2015 (63(2B)(f)).

302. Subsections 2(g) and (h) make consequential amendments to section 63(3), which sets out the offences and behaviours to be captured by the public order disqualification, to ensure there are clear definitions of what constitutes a national security or public order threat respectively for the purposes of this section.

303. Subsection (2)(i) amends section 63(5A)(b), as inserted by section 29(5) IMA 2023, so that a person in receipt of a suspended sentence is not excluded from the scope of public order disqualification.

304. Subsection (3) inserts new section 63A into NABA which makes separate provision enabling disqualification from protections on grounds of bad faith.

305. Under section 63A(1), when a competent authority is satisfied that a person has claimed to be a victim of slavery or human trafficking in bad faith, the consequences at section 63A(2) must apply. This will apply to any person coming before the competent authority who is aged 18 or over at the time the claim was made (section 63A(1)(b)). New section 63A(8) sets out that for these purposes, a person 'claims to be a victim of slavery or human trafficking' if they disclose information that tends to suggest they may be a victim.

306. New section 63A(2) sets out the consequences attaching to a determination under section 63A(1). Where a decision to disqualify is made, under section 63A(2), any prohibition on removing the person, or requiring them to leave the United Kingdom no longer applies. This removes the protections of the recovery period provided under sections 61 and 62 NABA. Further, any requirement to grant the person limited leave to remain (also known as temporary permission to stay or TPS) will no longer apply (new section 63A(2)(b)), and there will be no requirement to make a conclusive grounds decision in relation to that person following a decision to disqualify.

307. New section 63A(3) sets out a non exhaustive list of circumstances where a person will be taken to have made a claim to be a victim in bad faith, specifying that this will include where a person has made a claim at a point in time where the person was due to be removed from the United Kingdom (section 63A(3)(a)); and where the person has knowingly provided false or fabricated information to support their claim (section 63A(3)(b)).

308. Under new section 63A(4), there is an exception to the duty to disqualify with regard to section 63A(3)(a) (late claims), where the person has been served with a claim notice under clause 11 and that claim was made on or before the prescribed deadline (section 63A(4)(a)), or the Secretary of State is satisfied there are compelling reasons why the person did not make their claim prior to

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becoming due for removal from the UK (section 63A(4)(b)). This provides the person with an opportunity to rebut the presumption in favour of disqualification in these circumstances.

309. New section 63A(5) defines ‘due to be removed from the United Kingdom’ for these purposes with reference to section 10A of the Immigration and Asylum Act 1999.

310. New section 63A(6) provides a regulation-making power enabling the Secretary of State to add to the circumstances where a claim will be taken to be made in bad faith. Any regulations made under that power are subject to the affirmation procedure (section 63A(7)).

311. New section 63A(9) sets out definitions of “claim notice”, meaning a notice issued under section 11; and “claim notice deadline”, with reference to section 11(3).

Clause 39: Removal of duty to grant leave to remain to assist recovery

312. Clause 39 repeals subsections (2)(a), (4)(a) and (5) of section 65 of the Nationality and Borders Act 2022 (‘NABA’).

313. These amendments will, taken together, remove the requirement on the Secretary of State to grant temporary limited leave to remain (known as ‘temporary permission to stay’, or ‘TPS’) to confirmed victims of modern slavery (i.e. individuals with a positive conclusive grounds decision) who are not British citizens and who do not have leave to remain in the UK, for the purpose of assisting them in their recovery from any physical or psychological harm arising from the relevant exploitation.

314. The effect of these amendments is that the Secretary of State will only be obliged to grant temporary limited leave to remain (TPS) in the UK for the cohort described at paragraph 226 above if they consider it necessary for the purposes of -

- enabling the person to seek compensation in respect of the relevant exploitation, or
- enabling the person to co-operate with a public authority in connection with an investigation or criminal proceedings in respect of the relevant exploitation.

Clause 40: Renaming of independent child trafficking advocates

315. This clause amends sections 48 and 58 of the Modern Slavery Act 2015.

316. Subsection (1) to (4) amend section 48 of the MSA 2015, and subsection (5) amends section 58 of the MSA 2015, so that any reference to independent child trafficking advocates is replaced with independent child trafficking guardians.

Clause 41: Functions of independent child trafficking guardians

317. This clause amends section 48 of the Modern Slavery Act 2015.

318. Subsections (2) and (3) amend subsections (1) and (2) of section 48 of the MSA 2015 to ensure independent child trafficking guardians can provide either representation or support, or both representation and support, to a child. Subsection (4) inserts a new subsection (2A) to set out that this representation or support can be provided either directly or indirectly through support to other persons who provide services or take decisions about the child, such as public authorities, or

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through a combination of both.

319.Subsection (5)(a) amends subsection (6)(c) of section 48 of the MSA 2015 to ensure an independent child trafficking guardian can be appointed to provide support and representation to a child that may be a victim of human trafficking or a victim of slavery ahead of a reasonable grounds decision being made.

320.Subsection (5)(b) inserts a new subsection (6)(e)(iii) of section 48 of the MSA 2015 to make further provision for public authorities to involve the independent child trafficking guardian in discussions and decisions that relate to the child, so far as relating to the independent child trafficking guardian's functions.

Clause 42: Further amendments relating to independent child trafficking guardians

321.Subsection (1) amends section 48 of the Modern Slavery Act 2015 by removing subsection (7) so that there is no longer a requirement on the Secretary of State to lay before Parliament a report on proposed steps in relation to this section.

322.Subsection (2) repeals subsections (5) to (7) of section 61 of the MSA 2015 so that commencement of section 48 would instead be subject to the general commencement power in subsection (1).

Clause 43: Assistance and support for potential victims

323.This clause amends section 50A of the Modern Slavery Act 2015 (as inserted by section 64 of the Nationality and Borders Act 2022).

324.Subsection (2) amends section 50A(2) to provide that a person authorised by the Secretary of State can take a view on what will constitute 'necessary' support and assistance to assist a potential victim in their recovery from any physical, psychological or social harm arising from the conduct which resulted in the positive reasonable grounds decision concerned.

325.Subsection (3) inserts a new subsection (2A) into section 50A. This gives the Secretary of State the power to override an assessment that support and assistance is necessary to assist a potential victim in their recovery, where this assessment is made by an authorised person under section 50A(2).

326.Subsection (4) inserts a new subsection (4A) into section 50A which disapplies subsections (1) and (4) in relation to children. This removes children from the duties on the Secretary of State to secure the necessary assistance and support for potential victims during their initial recovery period and any subsequent recovery periods. This has been done to ensure the legislation properly reflects operational realities, specifically that child victims are supported and safeguarded by local authorities and other agencies via separate existing legal duties, including under the Children Act 1989 and the Social Services and Well-being (Wales) Act 2014. The Department for Education also issues the Statutory Guidance 'Working together to safeguard children' to guide multi-agency working to help, protect and promote the welfare of children.

327.Subsection (5) inserts a new subsection (5ZA) into section 50A which provides an exception to the Secretary of State's duty under sections 50A(1) and (4) to secure that necessary assistance is available to an identified potential victim during the recovery period. The intention is that such

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services include specific Home Office services to support adult modern slavery victims in addition to wider statutory support services. The exception at subsection (5ZA)(a) will apply where a form of necessary assistance and support (for example, accommodation), is being provided by a support service, but the person's adverse conduct, contravention or failure (for example, to fulfil basic conditions attaching to the support) has resulted in that support no longer being made available to them. This means that where support, assessed to have been suitable to meet the individual's modern slavery needs, is removed by a service as a result of the person's failure, contravention, etc., the Secretary of State will not be under a duty to provide equivalent support.

328. Subsection (5ZA)(b) requires that, before the duties at section 50A(1) and (4) can be disapplied, the Secretary of State or authorised person must be satisfied that the victim's adverse conduct, contravention or failure to meet the requirements of wider state support services is not attributable to harm caused by the modern slavery experience that led to their positive reasonable grounds decision.

329. Subsection (6) inserts the definition of an "authorised person" for the purposes of section 50A of the MSA 2015.

Slavery and Human Trafficking Statements

330. These clauses amend the measures in section 54 of the MSA 2015 by extending the reporting requirement to public authorities, mandating the topic areas that must be covered within a statement, mandating the use of the Modern Slavery Statement Registry and introduces enforcement penalties for non-compliance.

Clause 44: Content of slavery and human trafficking statements

331. This clause amends section 54 of the MSA 2015 to provide that a compliant statement is one which complies with the mandatory requirements specified in Schedule 4ZA and provides the Secretary of State may amend that schedule by regulations to add amend, or remove a requirement in that Schedule.

332. Subsection (1) provides that this clause amends section 54 of the Modern Slavery Act 2015.

333. Subsection (2) amends section 54 of the MSA 2015 in accordance with subsections (3) and (4).

334. Subsection (3) replaces subsections (4) and (5) of section 54 with new subsections (4), (5) and (5A).

335. New subsection (4) defines an annual statement as complying with the requirements outlined in Schedule 4ZA

336. New subsections (5) and (5A) provide the Secretary of State with the power to add, amend or remove a requirement in Schedule 4ZA, and requiring the Secretary of State to consult persons they consider appropriate before doing so.

337. Subsection (4) changes the word "section" to "Part" in subsection (12) of section 54.

338. Subsection (5)(a) and (b) makes technical updates to the wording of section 58(4).

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339.Subsection (6) inserts the wording “Schedule 4ZA” into Schedule 4.

Clause 45: Approval etc of statements

340.This clause amends section 54 of the MSA 2015 to allow for a slavery and human trafficking statement to be approved by a parent organisation on behalf of its subsidiary organisations. This allows for subsidiary organisations that are required to meet the reporting requirements by virtue of section 54 to report as part of a group under their parent organisation.

341.Subsection (1) provides that this clause amends section 54 of the Modern Slavery Act 2015.

342.Subsection (2) replaces section 54(6) with new subsections (6), (6A), (6B) and (6C).

343.New subsection (6) directs that a statement must be certified by the organisation to which it relates or, if it is a subsidiary organisation, it must be certified by the parent of the subsidiary organisation to which it relates.

344.New subsection (6A)(a) to (d) specifies the appropriate person or group of persons with a private organisation that must approve and sign statements. This covers bodies corporate, limited liability partnerships, limited partnerships registered under the Limited Partnerships Act 1907 and any other type of partnership.

345.New subsection (6B) specifies that a statement must only be signed after the end of the financial year to which it relates.

346.New subsection (6C)(a) specifies that a statement must contain a declaration from the person signing the statement that the information contained in it is accurate to the best of their knowledge and belief.

347.New subsection (6C)(b) requires the organisation to include the date on which the statement was approved.

348.New subsection (6C)(d) requires that the statement contains the date on which it was signed.

349.Subsection (3) provides that for the purposes of subsection (12), “parent undertaking” and “subsidiary undertaking” have the same meanings as in the Companies Acts (see section 1162 of the Companies Act 2006).

Clause 46: Application to public authorities

350.This clause extends the duty to report annually on actions taken to address modern slavery in supply chains to the public sector.

351.Subsection (1) amends section 54 of the MSA 2015.

352.Subsection (2) inserts the term “commercial organisations” into the end of the header in section 54 of the MSA 2015.

353.Subsection (3) inserts a new section 54ZA (Transparency in supply chains etc: public authorities) after section 54.

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354. Subsections (1) to (13) of new section 54ZA provide details about how and when a public authority should report and provide an overarching definition of a public authority, including the power for the Secretary of State to make regulations about prescribing the total budget threshold a public authority must have to meet the requirements, and how that is to be calculated. These subsections outline that one statement should be produced per financial year after commencement if the public authority meets the required annual budget threshold. A statement from a public authority must contain a declaration by the official signing the statement is accurate to the best of their knowledge and belief. The statement must be signed and dated by the most senior member of the officials who have responsibility for the day to day operations of the public authority, or the next most senior official, should the most senior person be unable to act for any reason. The statement must be signed only after the end of the financial year to which they relate.

355. New section 54ZA also excludes the security services, the King in his personal capacity and the Duchies of Lancaster and Cornwall from having to report and confers a regulation making power on the Secretary of State to add, amend or delete an organisation from the list that exempts public authorities from reporting, placing an onus on the Secretary of State to consult with those they consider appropriate before doing so.

356. Subsection (4) removes the definition of “public authority” and inserts a new definition based on that in section 6 of the Human Rights Act 1998.

357. Subsection (5) provides that regulations made under this clause are subject to the affirmative procedure.

Clause 47: Statements: publication and submission

358. This clause clarifies requirements on when and how statements are published and creates a new requirement for statements to be submitted to the Secretary of State through specified electronic means.

359. Subsection (1) amends section 54 of the MSA 2015.

360. Subsection (2) removes subsections (7) and (8) from section 54 of the Modern Slavery Act 2015.

361. Subsection (3) inserts new section 54ZB (Statements: publication and submission) after section 54ZA to impose a new requirement that slavery and human trafficking statements must be submitted to the Secretary of State by specified electronic means. It also specifies that the statement must be submitted no later than six months after the end of the organisation’s financial year.

362. Subsection (1) of new section 54ZB explains that this section relates to commercial or public entities that are required to produce modern slavery statements.

363. Subsection (2) of new section 54ZB states that those organisations must publish a link to their statements on their websites on a prominent place, if they have a website.

364. Subsections (3) and (4) of new section 54ZB state that the Secretary of State may require an organisation to submit a copy of its statement or a link to its statement to them by specified

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electronic means and these means will be specified in regulations.

365.Subsection (5) of new section 54ZB requires reporting organisations to publish and submit their statement as soon as possible after the end of the financial year and no later than six months after the end of the financial year.

366.Subsection (6) of new section 54ZB gives the power to the Secretary of State to amend the six month time period as specified by regulations.

367.Subsection (4) of clause 47 provides that regulations to amend the six-month time period are subject to the affirmative procedure.

Clause 48: Guidance

368.This clause updates the provisions on providing guidance on publishing a slavery and human trafficking statement to account for the changes made in this Bill.

369.Subsection (1) amends the MSA 2015.

370.Subsection (2) removes subsections (9) and (10) from section 54.

371.Subsection (3) inserts new section 54ZC Guidance after 54ZB.

372.Subsection (1)(a) and (b) of new section 54ZC enables the Secretary of State to issue guidance for reporting organisations on how to prepare a slavery and human trafficking statement and places a duty on them to publish the guidance in a way they consider appropriate.

373.Subsection (2) of new section 54ZC provides that the guidance may include provision about the kind of information which may be included in a slavery and human trafficking statement, in addition to the information that is required to be included under section 54 or 54ZA.

Clause 49: Enforcement

374.This clause introduces powers for the Secretary of State to investigate and impose financial penalties on organisations that do not comply with the requirement to prepare and submit a slavery and trafficking statement in line with section 54, section 54ZA and section 54ZB.

375.Subsection (1) amends section 54 of the Modern Slavery Act 2015.

376.Subsection (2) removes subsection 11 from section 54.

377.Subsection (3) inserts new section 54ZD Enforcement: financial penalties and new section 54ZE Enforcement: Other after section 54ZC.

378.Subsection (1) of new section 54ZD enables the Secretary of State to make regulations providing for and in connection with the imposition of a financial penalty on a commercial organisation or public authority which fails to comply with a duty imposed on it in relation to slavery and human trafficking statements.

379.Subsection (2) of new section 54ZD states that the regulations must provide that the amount of a financial penalty may not exceed 1% of the relevant amount (defined at new section 54ZD(7)) or £1

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million, whichever is the highest.

380.Subsection (3) of new section 54ZD states the regulations must provide that only one financial penalty may be imposed on a commercial organisation or public authority in relation to each slavery and human trafficking statement that is prepared or is required to be prepared by the organisation for a financial year.

381.Subsection (4) of new section 54ZD outlines the provisions that may be made but regulations under subsection (1)

382.Subsection (4)(a) provides for regulations in relation to the imposition of financial penalties to be exercisable by the Secretary of State or a person specified in the regulations (“the enforcement authority”).

383.Subsection (4)(b) provides for regulations about the matters to be taken into account by the enforcement authority in determining the amount of a financial penalty.

384.Subsection (4)(c) provides for regulations to require the enforcement authority to give a warning notice to an organisation or authority before imposing a financial penalty.

385.Subsection (4)(d) provides for regulations that allow an organisation or authority to make representations to the enforcement authority in relation to a proposed financial penalty.

386.Subsection (4)(e) provides for regulations for the recovery of costs by the enforcement authority in connection with the imposition of a financial penalty.

387.Subsection (4)(f) provides for regulations for the payment of interest in the event of late payment of a financial penalty or costs recoverable.

388.Subsection (4)(g) provides for regulations that confer rights of appeal against a financial penalty or requirement to pay costs.

389.Subsection (4)(h) provides for regulations about the enforcement of a financial penalty or requirement to pay costs.

390.Subsection (4)(i) provides for regulations about the publication of information relating to an organisation or authority on whom a financial penalty is imposed.

391.Subsection (5) of new section 54ZD requires that a financial penalty received by the enforcement authority is paid into the Consolidated Fund.

392.Subsection (6) of new section 54ZD allows the Secretary of State to, by regulation, amend the amount specified in subsection (2)(b) to take account of any changes in the value of money.

393.Subsection (7) of new section 54ZD defines “the relevant amount” as an organisation’s total turnover, in relation to a commercial organisation as determined in accordance with regulations under section 54(3); or a public authority’s total budget, as determined in accordance with regulations made under section 54ZA(3).

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394. New section 54ZE states that the penalties imposed on reporting organisations are enforceable by the Secretary of State by bringing Civil Proceedings via the High Court, in the case of an injunction. For Scotland, this section is enforceable under section 45 of the Court of Session Act 1988.

395. Subsection (4) of clause 49 provides that powers to amend regulations for financial penalties are subject to the affirmative procedure.

Schedule 5: Slavery and Human Trafficking Statements

396. This schedule sets out the mandatory content of a slavery and human trafficking statement.

397. Paragraph 1 sets out the new Schedule 4ZA mentioned in section 41(6).

398. Paragraph 1 of the new Schedule 4ZA defines, for the purposes of this schedule, “relevant entity” in relation to a slavery and human trafficking statement as the commercial entity or public authority to which the statement relates.

399. Paragraphs 2 to 8 of the new Schedule 4ZA detail the mandatory content of a slavery and human trafficking statement.

400. Paragraphs 2(a) to (c) explain that a statement must contain information about the relevant entity’s structure, operations and supply chains.

401. Paragraphs 3(1)(a) to (c) explain that a statement must specify the parts of the relevant entity’s operations and supply chains where there is a risk of slavery and human trafficking taken place, or it must contain a statement that there is no parts that are at risk or that they have not, during the financial year, carried out an assessment of parts of their supply chains at risk and give reasons why it has not done so.

402. Paragraph 3(2) explains that, where a statement contains information on risks of slavery and human trafficking in parts of the relevant entity’s operations or supply chains, it must also contain information about the steps they have taken during the financial year to assess the risk and reduce or remove the risk.

403. Paragraph 3(3) explains that, where a statement declares no parts of the relevant entity’s operations or supply chains are at risk of slavery and human trafficking, it must also contain information about the steps they have taken during the financial year to assess the risk.

404. Paragraphs 4(a) and (b) explain that a statement must contain information about the relevant entity’s policies in relation to slavery and human trafficking that it had in place that financial year, or it must contain a statement that it has not had such policies in place and give reasons why not.

405. Paragraphs 5(a) and (b) explain that a statement contain information on due diligence processes the relevant entity has implemented during the financial year in relation to slavery and human trafficking in its operations or supply chains or it must contain a statement that no due diligence processes have been implemented and give reasons why it has not done so.

406. Paragraphs 6(1)(a) and (b) explain that a statement must specify the training about slavery and human trafficking the relevant entity has made available to its staff during the financial year, or it

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must contain a statement that it has not made any such training available and give reasons why it has not done so.

407.Paragraphs 6(2)(a) to (c) explain that a statement must specify the training about slavery and human trafficking that has been made available to the staff in the relevant entity's supply chains during the financial year, so far as information is reasonably available, or it must contain a statement that no such training has been made available, or contain a statement that no enquiries have been made as to whether such training has been made available and give reasons why it has not done so.

408.Paragraphs 7(a) to (c) explain that a statement must contain an assessment of the relevant entity's effectiveness during the financial year in ensuring that slavery and human trafficking is not taking place in its operations or supply chains, measured against performance indicators it considers appropriate, or contain a statement that it has not taken any steps or not carried out an assessment of effectiveness and give reasons why not.

Part 6: General

Clause 50: Regulations

409.This clause sets out how the powers to make regulations conferred on the Secretary of State will be used in practice.

410.Subsection (1) sets out that consequential amendments can be made alongside regulations under any provision in this Bill.

411.Subsection (2) explains that any regulations made using powers granted to the Secretary of State by this Bill must be made by statutory instrument.

412.Subsection (3) and (4) require draft regulations under section 16 (which amend primary legislation), section 21 and subsection 23(4) to be laid and approved by both Houses of Parliament before they can come into effect (the affirmative resolution procedure). This does not apply to regulations under paragraphs (c), (d) or (e) of section 24(4).

413.Subsection (5) sets out that any other statutory instrument containing regulations under the Act is subject to annulment in pursuance of a resolution of either House of Parliament (the negative resolution procedure).

414.Subsection (6) confirms that this clause does not apply to clause 52 (commencement).

Clause 51: Extent

415.This clause sets out the extent of the provisions in this Bill.

416.Subsection (1) provides that the Bill extends to England and Wales, Scotland and Northern Ireland, except where it amends another Act, in which case it has the same extent as the provision which it amends.

Clause 52: Commencement

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417. This clause sets out when the provisions of the Bill will come into force.

418. Subsections (1) and (2) provide that the Secretary of State may by regulations appoint the day or days on which the provisions in this Bill come into force, with the exception of those provisions which will come into force either when this Bill becomes an Act of Parliament or two months after that date (see subsections (3) to (6)).

419. Subsection (3) sets out which provisions will come into force on the day this Bill becomes an Act of Parliament which are section 24(5), section 42, this Part and any other provision that needs to be brought into force to allow for the making of regulations.

420. Subsection (4) sets out the provisions of this Bill which come into force two months after this Bill becomes an Act of Parliament which are Part 3, section 39 and sections 43(1) to (4) and (6).

421. Subsection (5) sets out that section 17(3) will come into force upon commencement of section 59(2)(a)(i) of the IMA 2023 and section 17(5) will come into force upon commencement of section 50 of the Border Security, Asylum and Immigration Act 2025.

422. Subsections (6) and (7) provide that the Secretary of State may use these powers to make transitional, transitory or saving provisions or different provision for different purposes.

423. Subsection (8) outlines that specific regulations can be made to bring into effect different parts of the operation of the IAA under Part 1 relating to the application for appeals and bail to be heard by the same body, transfers from the FTT to the IAA and requiring the Upper Tribunal to remit cases from the FTT to the IAA.

424. Subsection (9) provides that commencement regulations under Part 2 may have retrospective effect.

425. Subsection (10) outlines that regulations are to be made by statutory instrument.

Clause 53: Short title

426. This provides that the Bill may be cited as Immigration and Asylum Act 2026.

Commencement

427. Clause 52(3) provides for those clauses which will come into force on Royal Assent of this Bill. The regulation making powers set out in clause 50 will also come into force on Royal Assent. The remaining provisions will be brought into force by commencement regulations made by the Secretary of State.

Financial implications of the Bill

428. The monetised net impact is estimated to be a total -£329.1 million to £226.4 million Net Present Social Value (NPSV) from the measures contained within the Bill, with a central estimate of -£50.5 million over the 10-year appraisal period. There are significant non-monetisable benefits if measures achieve their intended impact which may impact on public expenditure, this includes, but is not limited to, the cost of the asylum system, immigration system efficiencies and lower impact on public services. Further details are provided in the published impact assessment.

Parliamentary approval for financial costs or for charges imposed

429. A money resolution is required where a Bill authorises new charges on the public revenue (broadly speaking, new public expenditure). For this Bill, a money resolution is required to authorise any public expenditure arising out of the setting up and running of the Independent Immigration Appeals Authority set out in Part 1 and the administration of the power to require payments from recipients of asylum support conferred by clause 23.

430. A ways and means resolution is required where a Bill authorises new charges upon the people. A ways and means resolution will be required for this Bill relating to the charging power in respect of clause 10 which covers the ability to charge an individual for who, as a result of their improper or unreasonable behaviour has wasted the resources of the Independent Immigration Appeals Authority. This resolution will also cover the ability to require payments from recipients of asylum support under clause 23. The ways and means resolution also covers the ability for payments to be made to the consolidated fund under clause 10 and also relates to clause 49, which requires penalties imposed for failure to comply with a requirement relating to slavery and human trafficking statements to be paid into the fund.

Compatibility with the European Convention on Human Rights

431. The Government considers that the Bill is compatible with the European Convention on Human Rights. Accordingly, the Rt Hon Shabana Mahmood MP, Secretary of State for the Home Department, has made a statement under section 19(1)(a) of the Human Rights Act 1998 to this effect.

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Environment Act 2021

432. The Rt Hon Shabana Mahmood MP, Secretary of State for the Home Department, is of the view that the Bill as introduced into the House of Commons does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section is made.

Trade between Northern Ireland and the rest of the UK

433. The Rt Hon Shabana Mahmood MP, Secretary of State for the Home Department, is of the view that the Bill as introduced into the House of Commons does not contain provision which, if enacted, would affect trade between Northern Ireland and the rest of the United Kingdom. Accordingly, no statement under section 13C of the European Union (Withdrawal) Act 2018 has been made.

Related documents

434. The following documents are relevant to the Bill and can be read at the stated locations:

- Restoring Order and Control: A statement on the government's asylum and returns policy, [Restoring Order and Control](#), HM Government

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Annex A - Territorial extent and application in the United Kingdom

Provision		England	Wales		Scotland		Northern Ireland	
		Extends to E & W and applies to England ?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Part 1 (The Independent Immigration Appeals Authority)	Clause 1-16 and Schedule 3	Yes	Yes	No	Yes	No	Yes	No
	Schedule 1	Yes	Yes	No	Yes	No	Yes	Yes (para 34-35 and 38)
	Schedule 2	Yes	Yes	Yes (para 2(5))	Yes	Yes (para 2(4))	Yes	No
Part 2 (Article 8 of the European Convention on Human Rights)	Clause 17-20	Yes	Yes	No	Yes	No	Yes	No
Part 3 (Protection Status and Asylum)	Clause 21-22	Yes	Yes	No	Yes	No	Yes	No
Part 4 (Asylum Support)	Clause 23-24	Yes	Yes	No	Yes	No	Yes	No
Part 5 (Modern Slavery)	Clause 25-34	Yes	Yes	No	No, save clause 25(8)	Yes (clause 25(8) only)	No, save clause 25(9))	Yes (clause 25(9) only)
	Clause 35 and Schedule 4	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Clause 36-39	Yes	Yes	No	Yes	No	Yes	No
	Clause 40-43	Yes	Yes	No	No	No	No	No
	Clause 44-49 and Schedule 5	Yes	Yes	Yes	Yes	Yes	Yes	Yes
6 General	Clause 50-53	Yes	Yes	No	Yes	No	Yes	No

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Subject matter and legislative competence of devolved legislatures

435. The following provisions in the Bill involve the UK Parliament legislating for a matter that is within the legislative competence of a devolved legislature, and engage the Legislative Consent Motion process under the Sewel Convention:

- a) Measures (clause 25(8) and (9)) relating to slavery and trafficking risk orders will engage the LCM process in Scotland and Northern Ireland.
- b) Provision (clause 35) which allows for nomination of another public authority to be the competent authority to determine whether a child is a victim of modern slavery will engage the LCM process in Scotland, Wales and Northern Ireland.
- c) Measures which make provision on slavery and human trafficking statements (clause 44-49), insofar as they relate to obligations on public authorities, will engage the LCM process in Scotland, Wales and Northern Ireland.
- d) Consequential amendments relating to the establishment of the Independent Immigration Appeals Authority to ensure provision of legal aid for appellants and to subject the body to public sector equalities duties as defined in the Northern Ireland Act 1998 (paragraphs 34, 35 and 38 of schedule 1) will engage the LCM process in Northern Ireland.
- e) Disqualification of a member of the Independent Immigration Appeals Authority from becoming a Member of Parliament in England, Scotland, Wales or Northern Ireland will engage the LCM process in Scotland and Wales (paragraphs 2(4-5) of schedule 2).

IMMIGRATION AND ASYLUM BILL

EXPLANATORY NOTES

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