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Lord Avebury
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2 April 2008

Dear Eric

Early Removal of Short-term and Long-term Prisoners (Amendment of Requisite Period) Order 2008 and the Early Removal of Fixed Term Prisoners (Amendment of Eligibility Period) Order 2008

On the 27 March the House of Lords debated Government proposals to amend, by Statutory Instrument, both the Criminal Justice Act 1991 and the Criminal Justice Act 2003 to the effect that the Secretary of State for Justice be empowered to remove foreign national determinate and / or fixed sentence prisoners, for the purpose of removing them from the United Kingdom, up to 270 days before the halfway point of their sentence, rather than the current statutory limit of 135 days.


During debate you asked for details on the number of foreign national prisoners that are currently detained in prison and could not be removed under the provisions of the Early Removal Scheme as they had an appeal against their deportation outstanding. You also asked how many prisoners could not be returned because the receiving jurisdictions did not want them to be returned; what the specific problems were preventing foreign national prisoners being returned to China, Jamaica, Nigeria and Vietnam, and whether these problems are mostly associated with travel documentation. I undertook to respond to your requests for information.

I am afraid that the UK Border Agency (formerly the Border and Immigration Agency) does not keep information on the number of prisoners that could not be removed under the Early Removal Scheme owing to an outstanding appeal against their deportation. Where possible, the Agency is commencing its consideration of foreign prisoners for deportation at least twelve months before the earliest date of release in order to increase the number of removals and deportations taking place before sentence expiry. It must be borne in mind of course, that some prisoners will not receive their original deportation decision until towards the end of their sentence because of the length of the (short) sentence that has been imposed upon them.

Turning to your remaining questions, I can assure you that there is no country to which we cannot remove, including to China, Jamaica, Nigeria and Vietnam, although our efforts to deport prisoners can be frustrated in a number of ways, for example through appeals against a deportation order and last minute applications for judicial review. In terms of travel documentation being a factor in our efforts to deport foreign national prisoners, it is true that, on occasions, we do experience difficulties in obtaining the necessary documentation but where this is the case, these issues are taken up directly with the respective Embassy or

High Commission. We have also established safe routes and re-documentation arrangements with a significant number of countries and this is aiding our ability to return prisoners and other people at an improving pace. In particular, we have recently signed a returns agreement with China and we are working ever more closely with governments around the world to facilitate removals.

I am copying this letter to Lord Henley and Baroness Howe of Idlicote. A copy will also be placed in the libraries of both Houses.

A handwritten signature in black ink, appearing to read 'Philip Hunt', with a large, stylized initial 'P'.

PHILIP HUNT