



Stephen Kinnock MP
House of Commons

20 March 2023

Dear Stephen,

ILLEGAL MIGRATION BILL

I am writing to let you have details of the attached Government amendments that I have tabled today for the first day of Committee stage.

Legal proceedings: Special Immigration Appeals Commission (new clause “*Special Immigration Appeals Commission*” and amendments to clause 45)

The Bill provides that appeals against the refusal of suspensive claims are heard by the Immigration Asylum Chamber of the Upper Tribunal. However, we need to ensure that appeals against decisions which are based on, or supported by, sensitive material can be dealt with by the Special Immigration Appeals Commission (SIAC). SIAC is a superior court of record, established by section 1 of the Special Immigration Appeals Commission Act 1997 (‘SIAC Act’) to enable immigration appeals to be defended if sensitive “closed” information was relied upon. This includes information that, if disclosed, would be damaging to national security; would damage the UK’s relationship with another country; or is likely to harm the public interest. New clause “*Special Immigration Appeals Commission*” amends the SIAC Act 1997 to enable suspensive claims to be certified so that they can be heard by SIAC in the same way that any immigration decision that can be challenged by appeal can be certified. The two amendments to clause 45 are consequential on the new clause.

Legal proceedings: Increasing the capacity of the Upper Tribunal (new clause “*Judges of the First-tier Tribunal and Upper Tribunal*” and amendment to clause 57)

The Bill provides for an appeal route to the Upper Tribunal where suspensive claims are refused. The new clause amends the Tribunals, Courts and Enforcement Act 2007, to provide an enabling power for the Senior President of Tribunals to request that judges of the First-tier Tribunal (including Employment Tribunal judges) can sit as judges of the Upper Tribunal. It will extend existing flexible deployment powers which are an important tool for the judiciary to manage fluctuations in demand in our courts and tribunals, making best use of our valuable judicial resource. Flexible deployment will supplement existing recruitment plans to meet the additional capacity required to process the appeals in a timely fashion. Decisions on the deployment of individual judges are rightly for the judiciary who are best placed to determine the appropriate skills, experience and training required before making such a request.

Legal proceedings: Suspensive claims and the duty to remove (amendment to clause 45)

Clause 45 deals with the consequences of a person making a suspensive claim. In particular, it puts a break on removal pending the outcome of a suspensive claim. Amongst the cases where the bar on removal applies is where the Secretary of State agrees a claim that the claimant would be at real risk of serious and irreversible harm if removed before the appeals process is exhausted or agrees that a factual mistake was made in deciding the person satisfied the removal conditions, as the case may be. In such a case, it would be open to the Secretary of State to revise the decision at a later date if there was a change of circumstances and, if appropriate, issue a further removal notice (for example, in a case where the risk of serious and irreversible harm related to a medical condition which no longer applied). The amendment to clause 45 clarifies that a reference to a change of circumstances includes where a person's human rights claim or application for judicial review in relation to their removal from the United Kingdom is not successful. These amendments apply UK-wide.

I am copying this letter to Yvette Cooper, Alison Thewliss, Dame Diana Johnson, Lord Coaker, Lord Ponsonby of Shulbrede and Baroness Ludford. I am also placing a copy in the library of the House.

Rt Hon Robert Jenrick MP

A handwritten signature in black ink that reads "Robert Jenrick". The signature is written in a cursive style with a horizontal line underneath the name.

**Rt Hon Robert Jenrick MP
Minister of State for Immigration**