



Stephen Kinnock MP
House of Commons

22 March 2023

Dear Stephen,

ILLEGAL MIGRATION BILL

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

Provision about removal (amendments to clauses 7 and 55)

Clause 7 enables either the Secretary of State or an immigration officer to give a notice of removal to a person who meets the conditions in clause 2. Subsection (7) enables a person who has been served with a removal notice to be placed, under the authority of an immigration officer or the Secretary of State, on board a ship, aircraft, train or vehicle in which the person is to be removed. Subsection (8) then makes provision requiring the captain of the ship or aircraft, train manager or driver of the vehicle, if so required by an immigration officer, to prevent a person from disembarking in the UK from the ship, aircraft, train or vehicle. The amendment to clause 7(8) adds a reference to the Secretary of State to align with the drafting of clause 7(7). New subsection (12) of clause 7 adds a definition of an “immigration officer” which is then applied across the Bill by the amendment to clause 55.

Powers of detention (amendment to clause 11)

Clause 11 makes provision for the detention of persons falling within clause 2. The bespoke powers of detention are provided for in new paragraphs 16(2C) and (2D) of Schedule 2 to the Immigration Act 1971. New paragraph 16(2F) of Schedule 2 then provides that a person detained under new sub-paragraph (2C) or (2D) may no longer be detained under the existing detention powers in paragraph 16 of Schedule 2. The amendment to clause 11 adds to the list of existing such powers those in paragraphs 16(3) and (4) (which relate to the detention of persons on board ships or aircraft pending their removal).

Period for which a person may be detained (amendment to clauses 7 and 12)

Clause 12 codifies, in part, the common law (*Hardial Singh*) principles governing immigration detention. New paragraph 17A inserted into Schedule 2 to the Immigration Act 1971 provides that a person liable to detention under paragraph 16 of that Schedule may be detained for such period as, in the opinion of the Secretary of State, is reasonably

necessary to enable the examination, decision, removal or directions to be carried out, made or given. The amendment to clause 7 (inserting new subsection (9A)) applies new paragraph 17A of Schedule 2 to the 1971 Act to the detention powers under clause 7(8)(b) (detention on board a ship, aircraft, train or vehicle pending removal from the UK).

Powers to grant immigration Bail (amendments to clause 13)

Clause 13(4) provides that during the first 28 days of detention an individual will have no ability to challenge their detention via the courts by way of judicial review, unless the challenge relates to grounds of bad faith or is made in such a procedurally defective way as to amount to a fundamental breach of the principles of natural justice. During the 28-day period there will be no restriction on the individual's ability to apply for a writ of habeas corpus. These amendments ensure that the clause captures the equivalent to a writ of habeas corpus under Scots law in these circumstances, namely an application to the Court of Session for suspension and liberation.

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 under the name.

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