

Bilateral Briefing Paper – Nationality and Borders Bill, United Kingdom

Médecins Sans Frontières, February 2022

Médecins Sans Frontières (MSF) has grave concerns about the Nationality and Borders Bill¹, which was introduced to the House of Commons on the 6th of July 2021. This forms part of the UK Government's 2025 Border Strategy (2020) to "combat illegal migration"² and New Plan for Immigration (2021)³. The Bill is currently making its way through Parliament. MSF, along with and other NGOs and civil society actors, is preparing for this Bill to become law in the coming months and we anticipate few amendments will be accepted, which would lessen the harmful impacts.

In its current iteration in the House of Lords this Bill has serious implications for the health, wellbeing and dignity of people seeking safety in the UK. As an international medical humanitarian organisation, MSF's medical teams have responded to the severe physical and mental damage inhumane migration policies inflicted on people seeking protection in Greece, Italy, France, Belgium, the Balkans, Nauru Island, Libya and on our Search and Rescue (SAR) missions in the Central Mediterranean.

The logic behind the Hostile Environment, of which this Bill is another cruel extension, is fundamentally flawed: punitive deterrence policies do not stop people from starting their journeys in search of safety, rather they cause immense suffering and damage. Indeed, even the Home Office's own Equality Impact Assessment of the Nationality and Borders Bill found that: "There is a risk that increased security and deterrence could encourage these cohorts to attempt riskier means of entering the UK⁴". Measures in this Bill are harmful, cruel and discriminatory and could have irreversible and fatal consequences for people fleeing persecution and violence, as well as undermining basic human rights and contravening the UK's legal obligations.

Amendments to seeking asylum in the UK

Under Part 2 (Asylum), Clause 11 of the Nationality and Borders Bill on **Differential Treatment of Refugees** the Government introduces a discriminatory two-tier system, which treats asylum seekers differently based on their method of arrival to the UK, rather than their need for protection:

(1) For the purposes of this section—

- (a) a refugee is a Group 1 refugee if they have complied with both of the requirements set out in subsection (2) and, where applicable, the additional requirement in subsection (3);
- (b) otherwise, a refugee is a Group 2 refugee.

(2) The requirements in this subsection are that—

- (a) they have come to the United Kingdom directly from a country or territory where their life or freedom was threatened (in the sense of Article 1 of the Refugee Convention), and
- (b) they have presented themselves without delay to the authorities; Subsections (1) to (3) of section 36 apply in relation to the interpretation of paragraphs (a) and (b) as they apply in relation to the interpretation of those requirements in Article 31(1) of the Refugee Convention.

(3) Where a refugee has entered or is present in the United Kingdom unlawfully, the additional requirement is that they can show good cause for their unlawful entry or presence.

(4) For the purposes of subsection (3), a person's entry into or presence in the United Kingdom is unlawful if they require leave to enter or remain and do not have it.

(5) The Secretary of State or an immigration officer may treat Group 1 and Group 2 refugees differently, for example in respect of—

- (a) the length of any period of limited leave to enter or remain which is given to the refugee;
- (b) the requirements that the refugee must meet in order to be given indefinite leave to remain;
- (c) whether a condition under section 3(1)(c)(ii) of the Immigration Act 1971 (no recourse to public funds) is attached to any period of limited leave to enter or remain that is given to the refugee;

¹ <https://bills.parliament.uk/publications/44307/documents/1132>

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945380/2025_UK_Border_Strategy.pdf

³ <https://www.gov.uk/government/consultations/new-plan-for-immigration>

⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1018188/Nationality_and_Borders_Bill_-_EIA.pdf

- (d) whether leave to enter or remain is given to members of the refugee's family.
- (6) The Secretary of State or an immigration officer may also treat the family members of Group 1 and Group 2 refugees differently, for example in respect of—
- (a) whether to give the person leave to enter or remain;
 - (b) the length of any period of limited leave to enter or remain which is given to the person;
 - (c) the requirements that the person must meet in order to be given indefinite leave to remain;
 - (d) whether a condition under section 3(1)(c)(ii) of the Immigration Act 1971 (no recourse to public funds) is attached to any period of limited leave to enter or remain that is given to the person.
- (7) But subsection (6) does not apply to family members who are refugees themselves.
- (8) Immigration rules may include provision for the differential treatment allowed for by subsections (5) and (6).
- (9) In this section— “limited leave” and “indefinite leave” have the same meaning as in the Immigration Act 1971 (see section 33 of that Act); “refugee” has the same meaning as in the Refugee Convention.

Clause 11 criminalises people fleeing violence and persecution, who have no choice other than to risk their lives to come to the UK using irregular routes and through other safe countries. Refugees defined as Group 2, will be treated differently and not granted the same rights and protections as refugees in Group 1, including having no access to family reunion, no recourse to public funds and will not be awarded any automatic right to resettle. Instead, they will be granted temporary protection status which they will be required to renew regularly.

The UK Government prematurely ended the Dubs Scheme (which provided a protection route to the UK to unaccompanied children already in Greece, France and Italy) and suspended family reunification, removing safe and legal routes to the UK for people from within Europe. Resettlement for those outside Europe is slow and does not provide safety for people in immediate danger. Less than 1% of all refugees are resettled each year through this UNHCR route⁵. Furthermore, the number of refugees the UK Government resettled dropped by 81% between 2020 and 2021, with only 661 people resettled in the UK⁶. The ongoing humanitarian crisis in Afghanistan has revealed serious flaws in the UK government's ability to ensure timely and viable safe and legal routes. The Afghan Citizens Resettlement Scheme opened in January 2022, 6 months after it was announced and the first to be resettled include those already evacuated to the UK⁷. This leaves thousands of vulnerable Afghans at risk in Afghanistan with limited information on if, when, and how they can reach safety in the UK. The UK Government believes these deterrence measures will “break the business model of the smugglers”, however, this Bill will further push people into the hands of smugglers, precisely because there are insufficient safe and legal routes to the UK.

Removal of Asylum Seekers to “Safe Third Country” and Offshore Processing

MSF is resolutely opposed to Clause 28 & Schedule 3, Part 2, (Asylum) **Removal to safe third country** which will enable asylum seekers to be indefinitely detained offshore whilst their claims are processed:

Removal of asylum seeker to safe country

Schedule 3 makes amendments to—

- (a) section 77 of the Nationality, Immigration and Asylum Act 2002 (no removal while claim for asylum pending), and
- (b) Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (removal of asylum seeker to safe country).

(See Annexe for full legal text)

To the best of our knowledge, the UK does not provide a safe third country list to which they refer to. Part 4 of the Bill, on asylum claims and inadmissibility, defines a safe state as:

⁵ <https://www.unhcr.org/uk/resettlement.html>

⁶ 661 people were resettled in the UK between July 2020 and June 2021. <https://www.gov.uk/government/statistical-data-sets/immigration-statistics-data-tables-year-ending-june-2021#asylum-and-resettlement>

⁷ <https://www.gov.uk/government/speeches/oral-statement-on-the-afghan-citizens-resettlement-scheme>

- (4) For the purposes of this section, a State is a “safe third State” in relation to a claimant if—
- (a) the claimant’s life and liberty are not threatened in that State by reason of their race, religion, nationality, membership of a particular social group or political opinion,
 - (b) the State is one from which a person will not be sent to another State—
 - (i) otherwise than in accordance with the Refugee Convention, or
 - (ii) in contravention of their rights under Article 3 of the Human Rights Convention (freedom from torture or inhuman or degrading treatment), and
 - (c) a person may apply to be recognised as a refugee and (if so recognised) receive protection in accordance with the Refugee Convention, in that State.

Further, in response to requests for further information the UK Government has refused to provide any information regarding the countries they are collaborating with for offshore processing, other than stating that these countries are “safe” and will comply with “international obligations”.⁸ The Home Office has confirmed returns agreements with Albania⁹, Pakistan¹⁰ and most recently with Serbia¹¹.

The offshore processing policy approach - as MSF witnessed in Australia – inflicts severe harm to people’s physical and mental health. Data from MSF’s mental healthcare project for people detained on Nauru Island whilst their claims were processed by the Australian Government, demonstrated some of the worst mental health suffering we have encountered in our 50 years of existence, including in projects working with survivors of torture. Our mental health teams saw first-hand the horrific - sometimes fatal – impacts of offshoring, where almost one-third of the 208 refugee and asylum seeker MSF patients attempted suicide, 60% had had suicidal thoughts and where 12 patients were diagnosed with a rare psychiatric condition called ‘Resignation Syndrome’¹². Children, as young as nine, trapped on the island were found to have suicidal thoughts, committed acts of self-harm and attempted suicide¹³. The UK Government has a responsibility to process asylum claims of those arriving on our shores and must not transfer this to another country.

Pushbacks of Asylum Seekers who Arrive “Illegally”

Clause 44 and Schedule 6, Part 3, (Immigration Control) **Maritime Enforcement** propose an expansion of the UK’s maritime enforcement powers enabling maritime enforcement action to take place outside of UK waters in order to detect, prevent, investigate and prosecute the ‘illegal entry’ of migrants. It expands existing powers ‘to enable the UK Border Force to stop and redirect vessels out of UK territorial seas that they suspect are being used to facilitate illegal entry to the UK. This power also includes the ability to return intercepted vessels and those on board, to the country from which they started their journey, subject to that country’s agreement¹⁴’ (See *Annexe for legal text*)

MSF is alarmed at this Government’s plans to pursue pushbacks at sea, which is dangerous, harmful and will likely breach international law.¹⁵ Our teams on the Greek Islands, in Libya and on our Search and Rescue (SAR) boats have seen first-hand the often-deadly consequences of choosing not to rescue people and carrying out pushbacks at sea. Over 1,500 people drowned in the Central Mediterranean in 2021 because of EU and UK backed policies that undermine and hinder effective search and rescue. More than 31,500 people were forcibly returned to Libya in 2021. The UK has supported the Libyan Coast Guard, enabling the coast guard to intercept

⁸ <https://questions-statements.parliament.uk/written-questions/detail/2022-02-02/HL5876>

⁹ <https://www.gov.uk/government/news/priti-patel-signs-historic-removals-agreement-with-albania>

¹⁰ <https://www.gov.uk/government/news/uk-and-pakistan-finalise-negotiations-on-bilateral-readmissions-agreement>

¹¹ <https://www.gov.uk/government/news/home-secretary-agrees-historic-returns-agreement-with-serbia>

¹² Resignation Syndrome is a rare psychiatric condition where patients enter a comatose state and require medical care to keep them alive.

¹³ <https://www.msf.org/indefinite-despair-report-and-executive-summary-nauru>

¹⁴ <https://www.unhcr.org/uk/60950ed64.pdf>

¹⁵ <https://www.unhcr.org/6149d3484.pdf> UNHCR Observations on the Nationality and Borders Bill, Bill 141, 2021-2022, September 2021; [UNCHR Observations on the New Plan for Immigration policy statement of the Government of the United Kingdom](https://www.unhcr.org/6149d3484.pdf), May 2021, <https://ecre.org/channel-uk-practices-pushbacks-as-france-ngos-and-the-un-deem-turn-around-tactics-unsafe-and-unlawful/>, <https://committees.parliament.uk/committee/93/human-rights-joint-committee/news/159292/new-powers-to-pushback-and-criminalise-channel-crossings-breach-uks-human-rights-obligations-ichr-finds/>

people in boats and return them to detention centres, which are overcrowded and filthy and where people are exposed to infectious disease outbreaks (scabies, tuberculosis) and violence¹⁶.

MSF teams on our SAR boats in the Central Mediterranean have rescued exhausted and traumatised individuals, including unaccompanied children, pregnant women and newborn babies.¹⁷ For most, this crossing is a last resort in a desperate attempt to reach safety.

A recent Freedom of Information (FOI) request for the period January – June 2021 revealed that of the 6,000 people who crossed the Channel and arrived on the UK coast, 4,075 were suffering from hypothermia, 354 had petrol / saltwater burns and 27 had suspected broken bones on arrival.¹⁸

The men, women and children who arrive on the UK shores are ordinary people who have been forced to leave their homes, family, friends and culture and make treacherous journeys in search of safety. They should not be pushed back, criminalised or made examples of, to deter others from making similar journeys.

Consequences of containment & detention – Asylum Accommodation

MSF is deeply concerned about the UK Home Secretary's plans in Clause 12, Part 2 (Asylum) - ***Accommodation for asylum-seekers etc*** (see Annexe)

These plans to expand the use of large-scale asylum accommodation¹⁹ replicate the Greek Island approach, which would effectively confine people in 'quasi detention' settings, negatively impacting their mental health and threatening their access to quality healthcare, especially mental healthcare, as well as other basic services.

In 2021, in response to Covid-19 pandemic, the Home Office said this emergency required them to extend the use of the military barracks (Napier) for asylum accommodation up until September 2021. The Home Office have since, through a Special Development Order, extended the use of Napier Barracks until 2026, without a proper public consultation.²⁰ It has become apparent that the government views Napier Barracks as a 'prototype' for these centres,²¹ despite serious concerns raised about its safety and suitability by multiple independent inspectors, NGOs, residents²² and the High Court ruling the use of Napier unlawful.²³

This Bill proposes to criminalise and contain people in prison-like conditions, where they are segregated from broader society and their suffering is made invisible. This is dangerous, re-traumatising and deprives people of their liberty and agency and crushes hopes of building bright and stable futures. MSF teams working on the Greek islands of Chios, Samos and Lesvos, where, since 2016 thousands of people have been trapped in large reception centres, have responded to acute levels of mental health suffering. This includes self-harm and suicide attempts by children as young as 6 years old.²⁴ This suffering has been compounded by the containment and the everyday structural violence within the centres. A recurrent theme that emerged from mental health consultations was the sense of hopelessness that people felt as a result of having no control over their lives or futures. As people's sense of hopelessness increases, their mental health worsens; MSF projects in detention and containment settings, such as on Nauru Island, have found similarly high rates of suicide.

¹⁶ <https://www.msf.org/people-dead-and-injured-following-libya-detention-centre-shooting>

¹⁷ <https://www.msf.org/msf-returns-saving-lives-sea-central-mediterranean>

¹⁸ <https://www.theguardian.com/uk-news/2022/feb/14/two-thirds-of-uk-asylum-seekers-on-small-boats-had-hypothermia-or-injuries>

¹⁹ <https://appgdetention.org.uk/wp-content/uploads/2021/12/211209-APPG-on-Immigration-Detention-Report-of-Inquiry-into-Quasi-Detention.pdf?x72033>

²⁰ https://www.gov.uk/government/consultations/napier-barracks-planning-application?utm_medium=email&utm_campaign=govuk-notifications-topic&utm_source=01c2e336-5cc2-4556-a550-f49b49b4717b&utm_content=immediately

²¹ <https://appgdetention.org.uk/wp-content/uploads/2021/09/2021-08-27-FBIM-to-Alison-Thewliss-MP.pdf?x66900>

²² <https://appgdetention.org.uk/wp-content/uploads/2021/12/211209-APPG-on-Immigration-Detention-Report-of-Inquiry-into-Quasi-Detention.pdf?x72033>

²³ <https://www.judiciary.uk/judgments/the-queen-on-the-application-of-nb-and-ors-v-secretary-of-state-for-the-home-department-and-anr/>

²⁴ <https://www.msf.org/constructing-crisis-europe-border-migration-report>

As the Bill goes through Parliament, MSF urgently calls for the following:

- The UK Government must remove Clause 11 and accord the same dignified treatment and access to asylum procedures to all persons seeking asylum in the UK regardless of their mode of entry to the UK.
- The UK Government must urgently create new safe and legal routes to the UK for people seeking sanctuary in the UK who are both inside and outside Europe.
- The UK Government must immediately reinstate and expand safe, legal pathways within Europe for unaccompanied children and family reunion routes for those wanting to join family already in the UK.
- The UK Government must urgently increase its ongoing resettlement commitments for asylum seekers and refugees of all nationalities.
- The UK Government must halt all plans to detain and contain asylum seekers in large-scale asylum accommodation centres and instead must house people in safe and dignified housing in the community, ensuring that they can access quality and timely physical and mental healthcare.
- The UK Government must remove Clause 28 and immediately scrap any plans to detain asylum seekers offshore whilst their claims are processed. All asylum claims must be processed in an efficient, fair and transparent manner in the UK.
- The UK Government must halt plans to pursue dangerous 'pushbacks' and instead must focus on saving lives at sea in line with its legal obligations.

Annexe

Below is the relevant legal text from the Nationality and Borders Bill currently going through UK Parliament (not law yet).

Clause 28 and Schedule 3: Removal of Asylum Seeker to Safe Third Country

SCHEDULE 3

REMOVAL OF ASYLUM SEEKER TO SAFE COUNTRY

Amendments to section 77 of the Nationality, Immigration and Asylum Act 2002

1. In section 77 of the Nationality, Immigration and Asylum Act 2002 (no removal while claim for asylum pending), after subsection (2) insert—

“(2A) This section does not prevent a person being removed to, or being required to leave to go to, a State falling within subsection (2B).

(2B) A State falls within this subsection if—

 - (a) it is a place where a person’s life and liberty are not threatened by reason of the person’s race, religion, nationality, membership of a particular social group or political opinion,
 - (b) it is a place from which a person will not be removed elsewhere other than in accordance with the Refugee Convention,
 - (c) it is a place—
 - (i) to which a person can be removed without their Convention rights under Article 3 (no torture or inhuman or degrading treatment or punishment) being contravened, and
 - (ii) from which a person will not be sent to another State in contravention of the person’s Convention rights, and
 - (d) the person is not a national or citizen of the State.

(2C) For the purposes of this section—

(a) any State to which Part 2 or 3 of Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 for the time being applies—

(i) is to be presumed to be a State falling within subsection (2B)(a) and (b), and

(ii) is, unless the contrary is shown by a person to be the case in their particular circumstances, to be presumed to be a State falling within subsection (2B)(c)(i) and (ii);

(b) any State to which Part 4 of that Schedule for the time being applies is to be presumed to be a State falling within subsection (2B)(a) and (b);

(c) a reference to anything being done in accordance with the Refugee Convention is a reference to the thing being done in accordance with the principles of the Convention, whether or not by a signatory to it;

(d) “State” includes any territory outside of the United Kingdom.”

2 In subsection (3) of that section, for “subsection (2)” substitute “this section, “Convention rights” means the rights identified as Convention rights by section 1 of the Human Rights Act 1998 (whether or not in relation to a State that is a party to the Convention); and”.

Amendments to Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004: introductory

3. Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (the “2004 Act”) (removal of asylum seeker to safe country) is amended as follows.

Amendments consequential on amendments to section 77 of the 2002 Act

4. Omit paragraphs 4, 9, 14 and 18. Rebuttable presumption of safety of specified countries in relation to Convention rights

5 (1) Paragraph 3 (presumptions of safety) is amended as follows.

(2) In sub-paragraph (1), in the opening words, after “human rights claim” insert “(the “claimant”)”. (3) After sub-paragraph (1) insert—

“(1A) Unless the contrary is shown by the claimant to be the case in their particular circumstances, a State to which this Part applies is to be treated, in so far as relevant to the question mentioned in subparagraph (1), as a place—

(a) to which a person can be removed without their Convention rights under Article 3 (no torture or inhuman or degrading treatment or punishment) being contravened, and

(b) from which a person will not be sent to another State in contravention of their Convention rights.”

(4) In sub-paragraph (2), omit paragraph (b) (but not the final “and”).

6 In paragraph 5 (in country appeals in cases of removal to safe country)—

(a) in sub-paragraph (3), omit paragraph

(b) (together with the preceding “or”); (b) in sub-paragraph (4), in both places they appear, omit the words “to which this sub-paragraph applies”;

(c) omit sub-paragraph (5).

Safe countries

7. In paragraph 1(1) (definitions), after the definition of “the Refugee Convention”, insert—

“State” includes any territory outside of the United Kingdom.”

8 In paragraph 2 (countries to which presumptions of safety in Part 2 of Schedule 3 apply)— (a) after paragraph (ba) insert— “(bb) Republic of Croatia,”; (b) after paragraph (a) insert— “(oa) Principality of Liechtenstein,”.

9 In paragraph 20(1) (powers to amend list of safe countries by order)— (a) the words from “add a State” to the end become paragraph (a); (b) after that paragraph (a) insert “, or (b) remove a State from that list.”

10 In paragraph 21 (procedure for orders under paragraph 20)— (a) in sub-paragraph (1), in the opening words, for “20(1)” substitute “20(1)(a)”; (b) in sub-paragraph (2), in the opening words, for “20(2)(b)” substitute “20(1)(b) or (2)(b)”.

Appeal rights

11 In paragraph 5 (appeal rights where person certified for removal to State to which Part 2 applies) in sub-paragraphs (3) and (4), omit “from within the United Kingdom”.

12 Omit paragraph 6 (no out of country appeal rights).

13 In paragraph 10 (appeal rights where person certified for removal to State to which Part 3 applies), in sub-paragraphs (3) and (4), omit “from within the United Kingdom”.

14 Omit paragraph 11 (no out of country appeal rights).

15 In paragraph 15 (appeal rights where person certified for removal to State to which Part 4 applies), in sub-paragraphs (3) and (4), omit “from within the United Kingdom”.

16 Omit paragraph 16 (no out of country appeal rights).

17 In paragraph 19 (appeal rights where person certified for removal to a State safe for that person)— (a) in sub-paragraphs (b) and (c), omit “from within the United Kingdom”; (b) omit sub-paragraph (d).

Consequential amendments

18 In section 92 of the Nationality, Immigration and Asylum Act 2002 (place from which an appeal may be brought), omit— (a) subsection (2)(b) (and the preceding “or”); (b) subsection (3)(b) (and the preceding “or

Transitional provision

19 (1) The amendments made by paragraph 6 do not apply to a case in which the Secretary of State made the certification under paragraph 5(1) of Schedule 3 to the 2004 Act before the coming into force of paragraph 6 of this Schedule.

(2) The amendments made by paragraphs 11, 13, 15 and 17 to the following provisions of Schedule 3 to the 2004 Act do not apply to a case in which the claim was certified as clearly unfounded by the Secretary of State before the coming into force of those paragraphs— (a) paragraph 5(4); (b) paragraph 10(4); (c) paragraph 15(4); (d) paragraph 19(c).

Clause 44 and Schedule 6: Maritime Enforcement

Clause 44: Maritime enforcement Schedule 6 contains amendments to Part 3A of the Immigration Act 1971 (maritime enforcement)

Schedule 6: Maritime Enforcement

“28LA Enforcement powers in relation to ships: United Kingdom

(1) An immigration officer or an enforcement officer may exercise the powers set out in Part A1 of Schedule 4A (“Part A1 powers”) in relation to any of the following in United Kingdom waters, foreign waters or international waters— (a) a United Kingdom ship; (b) a ship without nationality; (c) a foreign ship; (d) a ship registered under the law of a relevant territory. (2) But Part A1 powers may be exercised only— (a) for the purpose of preventing, detecting, investigating or prosecuting a relevant offence, and (b) in accordance with the rest of this section.

8 In section 28Q (interpretation of Part 3A)— (a) at the appropriate places insert— ““foreign waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to any relevant territory or any State other than the United Kingdom;”, ““international waters” means waters beyond the territorial sea of the United Kingdom or of any other State or relevant territory;”,

““Part A1 powers” means the powers set out in Part A1 of Schedule 4A;”, ““relevant offence” means— (a) an offence under section 24(A1), (B1), (D1) or (E1), 24B, 25 or 25A, (b) an offence under section 25B to the extent that the section continues to apply by virtue of regulation 5(7) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), (c) an offence under section 21 of the Immigration, Asylum and Nationality Act 2006, or (d) an offence under section 1 of the Criminal Attempts Act 1981 or Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (S.I. 1983/1120 (N.I. 13)), or in Scotland at common law, of attempting to commit an offence mentioned in paragraph (a) to (c);”, and ““United Kingdom waters” means the sea and other waters within the seaward limits of the United Kingdom’s territorial sea;”, and (b) for the definition of ship substitute— ““ship” includes— (a) every description of vessel (including a hovercraft), and (b) any other structure (whether with or without means of propulsion) constructed or used to carry persons, goods, plant or machinery by water;”

“PART A1

UNITED KINGDOM

Introductory

A1 (1) This Part of this Schedule sets out the powers exercisable by immigration officers and enforcement officers (referred to in this Part of this Schedule as “relevant officers”) under section 28LA.

(2) In this Part of this Schedule— “items subject to legal privilege” means items in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings; “the ship” means the ship in relation to which the powers set out in this Part of this Schedule are exercised.

Power to stop, board, divert and detain

B1 (1) This paragraph applies if a relevant officer has reasonable grounds to suspect that— (a) a relevant offence is being, or has been, committed on the ship, or (b) the ship is otherwise being used in connection with the commission of a relevant offence.

(2) The relevant officer may— (a) stop the ship; (b) board the ship; (c) require the ship to be taken to any place (on land or on water) in the United Kingdom or elsewhere and detained there; (d) require the ship to leave United Kingdom waters.

(3) The relevant officer may require the master of the ship or any member of its crew to take such action as is necessary for the purposes of sub-paragraph (2).

(4) Where a ship is required to be taken to a place under subparagraph (2)(c), the relevant officer may require any person on board the ship to take such action as is reasonably necessary to ensure that person is taken to that place or to any other place determined by the relevant officer.

(5) Where a ship is required to leave United Kingdom waters under sub-paragraph (2)(d), the relevant officer may require any person on board the ship to take such action as is reasonably necessary to ensure that person leaves United Kingdom waters.

(6) The authority of the Secretary of State is required before a relevant officer may exercise the power under sub-paragraph (2)(c) to require the ship to be taken to any place— (a) within a State other than the United Kingdom, or (b) within a relevant territory.

(7) But a relevant officer acting under authority given under section 28LA(2)(c) or (d) in relation to a foreign ship or a ship registered under the law of a relevant territory may require the ship to be taken to a place mentioned in sub-paragraph (8) without authority under sub-paragraph (6).

(8) Those places are— (a) a place in the home state or relevant territory in question, or (b) if the home state or relevant territory requests, a place in any other State or relevant territory willing to receive the ship.

(9) A relevant officer must give notice in writing to the master of any ship detained under this paragraph.

(10) The notice must state that the ship is to be detained until the notice is withdrawn by the giving of a further notice in writing signed by a relevant officer.

(11) The requirement to give notice under sub-paragraph (9) does not apply where it is not reasonably possible to identify who is the master of the ship.

(12) In this paragraph “home state”, in relation to a foreign ship, means— (a) the State in which the ship is registered, or (b) the State whose flag the ship is otherwise entitled to fly

....

Protection of relevant officers

J1 A relevant officer is not liable in any criminal or civil proceedings for anything done in the purported performance of functions under this Part of this Schedule if the court is satisfied that— (a) the act was done in good faith, and (b) there were reasonable grounds for doing it

Clause 12, Part 2 (Asylum) - Accommodation for asylum-seekers etc

- (1) In section 97 of the Immigration and Asylum Act 1999 (support for asylum seekers: supplemental matters), after subsection (3) insert—
- (2) “(3A) When exercising the power under section 95 (support for asylum seekers) or section 4 (accommodation for failed asylum seekers) to provide or arrange for the provision of accommodation, the Secretary of State may decide to provide or arrange for the provision of different types of accommodation to persons supported under those sections on the basis of either or both of the following matters—
 - a. (a) the stage that their claim for asylum has reached, including whether they have been notified that their claim is being considered for a declaration of inadmissibility (see sections 80A and 80B of the Nationality, Immigration and Asylum Act 2002);
 - b. (b) their previous compliance with any conditions imposed on them under any of the following— (i) section 95(9) (conditions for support under section 95); (ii) Schedule 10 to the Immigration Act 2016 (conditions of immigration bail); (iii) regulations made under section 4(6) (conditions for support under section 4).” (2) In section 97(3A) of the Immigration and Asylum Act 1999 (as inserted by subsection (1))— (a) in the words before paragraph (a)— (i) for “section 4 (accommodation for failed asylum seekers)” substitute “section 95A (support for failed asylum seekers)”; (ii) for “persons supported under those sections” substitute “supported persons”; (b) in paragraph (a), for “claim for asylum” substitute “protection claim”; (c) in paragraph (b)— (i) for sub-paragraph (iii) substitute— “(iii) regulations made under section 95A(5) (conditions for support under section 95A);”; (ii) at the end insert— “(iv) regulations made under section 30 of the Nationality, Immigration and Asylum Act 2002 (conditions of residence in accommodation centre).” (3) In section 98 of that Act (temporary support for asylum-seekers etc), at the end insert— “(4) Subsection (3A) of section 97 applies to the power to provide, or arrange for the provision of, accommodation under this section as it applies to the power to do so under

section 95.” (4) In section 98A of that Act (temporary support for failed asylum-seekers etc), at the end insert— “(5) Subsection (3A) of section 97 applies to the power to provide, or arrange for the provision of, accommodation under this section as it applies to the power to do so under section 95A.” (5) In section 17 of the Nationality, Immigration and Asylum Act 2002 (support for destitute asylum-seeker), in subsection (1), at the end insert— “See also section 97(3A) of the Immigration and Asylum Act 1999 (decision on type of accommodation for asylum-seekers etc).” (6) In section 22 of that Act— (a) after “95” insert “or 98”; (b) for “(destitute asylum-seeker)” substitute “(support and temporary support for asylum-seekers)”; (c) in the heading, for “s. 95” substitute “sections 95 and 98”. (7) After section 22 of that Act, insert— “22A Immigration and Asylum Act 1999, sections 95A and 98A The Secretary of State may provide support under section 95A or 98A of the Immigration and Asylum Act 1999 (support and temporary support for failed asylum-seekers) by arranging for the provision of accommodation in an accommodation centre.” (8) In section 24 of that Act (provisional assistance), in subsection (1), at the end insert— “See also section 98(4) of the Immigration and Asylum Act 1999 (decision on type of accommodation for asylum-seekers etc).” (9) In section 25 of that Act (length of stay in accommodation centre), in subsection (4), for “shorter” substitute “different”. (10) In section 27 of that Act (resident of centre), after paragraph (b) insert— “(ba) by virtue of section 22A,”.