

Research Briefing

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Border Security, Asylum and Immigration Bill 2024-25



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Summary

The [Border Security, Asylum and Immigration Bill](#) was introduced in the House of Commons on 30 January 2025. Second reading, when MPs debate the purpose of the bill, is scheduled for 10 February 2025.

This briefing focuses on the main provisions of the bill and its most significant clauses. The bill's explanatory notes give further detail on other clauses. These and other accompanying documents, including an impact assessment, are available from [the bill's page on parliament.uk](#).

Most provisions of the bill cover the entire UK.

The bill reflects concerns about criminal facilitation of unauthorised migration

The government considers the facilitation of unauthorised immigration to be a [form of serious organised crime](#). The Home Office says that [organised immigration crime is increasing](#) in size and complexity.

The most visible form of organised immigration crime is facilitation of asylum seekers arriving by small boat. From 2018 to 2024, [over 150,000 people arrived in the UK in this way](#). At least [138 people have died in the attempt](#).

[Various characteristics of organised immigration crime](#) make it difficult for law enforcement agencies to combat. These include its transnational element: the National Crime Agency has briefed that most of the [gangs involved in arranging small boat crossings are based elsewhere in Europe](#).

[The government wants to see a "step-change"](#) in the scale of the UK's law enforcement response to border security threats.

Law enforcement agencies would get new powers to tackle organised crime

The bill primarily relates to law enforcement. It would expand the powers and capabilities of the police and other agencies, in relation to both immigration offences specifically and serious crime more generally.

These changes include new criminal offences of supplying or handling almost any item to be used in connection with illegal immigration, and of collecting

information to be used for arranging an unauthorised journey to the UK. These ‘precursor’ offences are inspired by [sections 57 and 58 of the Terrorism Act 2000](#).

There would also be a new offence of endangering another person during an illegal crossing in the English Channel. [The government says it wants to discourage dangerous behaviour](#), like refusing assistance when a person aboard is hurt, but [migrants’ rights groups have criticised the new offence](#) for criminalising migrants rather than people smugglers.

Immigration officers and police would get new powers to seize unauthorised migrants’ mobile phones or other electronic devices if they suspect they contain information about organised immigration crime. They would also get easier access to HMRC customs data to help build up intelligence.

The Border Security Commander would coordinate the overall response

The bill would make the post of Border Security Commander a statutory role. It does not articulate detailed functions for the role but does assign it certain duties. These include to “have regard” to the coordination of cross-government activity on border security and to set strategic priorities after consulting with a board made up of partner agencies.

The Labour government has already appointed a Border Security Commander: [Martin Hewitt’s appointment was announced in September 2024](#). The Conservative opposition have queried [the extent to which this role is different from past efforts](#) to streamline government work in this area.

The bill would also repeal most of the Illegal Migration Act 2023, which reflects the Conservative Party’s approach to unauthorised migration.

Reaction to the bill has been muted so far

[The National Crime Agency has said the bill will be helpful](#) but, at the time of writing, detailed commentary from other stakeholders has been limited. Most of the [media coverage has focused on the new criminal offences](#).

More generally, some people have suggested the government’s approach is too narrowly focused on law enforcement at the expense of measures which could reduce demand for people smuggling, such as [expanding legal immigration pathways](#) or [securing a returns agreement with France or the EU](#).

1 Organised immigration crime

1.1 Background to the issues

‘Organised immigration crime’ refers to acts which help people to cross national borders or remain in a country without legal permission or documentation.¹ In the UK, this typically means:

- Facilitating a person’s unauthorised entry to (or departure from) the UK, such as by air routes, small boat Channel crossings, or hiding in vehicles.
- Helping a person to obtain immigration permission they wouldn’t otherwise be eligible for, such as by providing forged documents.

It is one of the categories of offence covered by the government’s definition of ‘serious and organised crime’.²

As with other types of organised crime, those responsible are motivated by financial gain rather than ideology. Factors such as low entry costs and low risks of prosecution, the potential for high financial rewards, and strong demand from migrants are recognised as creating favourable conditions for their ‘businesses’.³

The main harms which law enforcement agencies have associated with organised immigration crime are:⁴

- Security risks arising from migrants evading identity checks and border controls.
- Links with other types of serious crime, such as human trafficking, corruption, illicit money flows, and firearms and drugs smuggling.
- Exploitation, violence, and risk to life faced by migrants during their journey, and their vulnerability to exploitation in the destination country.

¹ National Crime Agency, National Strategic Assessment of Serious and Organised Crime 2024, [Organised immigration crime](#), undated (accessed 12 January 2025); HM Government, [Serious and Organised Crime Strategy](#), Cm 9718, November 2018, p36

² HM Government, [No Place to Hide: Serious and Organised Crime Strategy 2023-2028](#), CP 992, December 2023, para 9

³ Interpol, [Human trafficking and migrant smuggling/The issues](#), undated (accessed 14 January 2025)

⁴ Europol, [Tackling threats, addressing challenges – Europol’s response to migrants smuggling and trafficking in human beings in 2023 and onwards](#), July 2024, p6; Interpol, [Human trafficking and migrant smuggling/The issues](#), undated (accessed 14 January 2025)

The government has also emphasised the social and economic effects of unauthorised immigration, such as added pressures on local authorities and the asylum system and an erosion of public confidence.⁵

Challenges for law enforcement

The government says the threat from organised immigration crime is increasing in size and complexity.⁶ International law enforcement agencies have identified several characteristics which make it difficult to target:⁷

- Transnational presence. Organised criminals' activities take place across many countries, putting them beyond the jurisdiction of any single authority. Gangs exploit differences between states' capabilities, and the people at the top may be based in countries where there is limited international law enforcement cooperation. The National Crime Agency says most of the organised crime groups involved in small boat crossings are based in France, Belgium, Germany and Turkey rather than the UK.⁸
- Use of online services. Criminals can conduct their business in relative anonymity and under the radar of the authorities.
- Flexibility and operational capabilities. Gangs have become professionalised and well-resourced, and they quickly adapt to changes in their operating environment.
- Nature of their activities. Elements of their business may be lawful, for example owning and transporting boats and other equipment.
- Use of informal money transfer systems to manage payments, such as the 'hawala' system. This is a traditional method of transferring funds between locations which operates outside of formal banking systems and doesn't require physical transfers of money, making it difficult to trace.⁹

The [National Crime Agency](#) leads the law enforcement system's operational response to serious and organised crime. In recent years its strategic priorities (which are set by the Home Secretary) have included responding to small boat crossings and reducing organised immigration crime.¹⁰ The agency currently has around 70 ongoing investigations into networks or individuals in the "top tier" of organised immigration crime or human trafficking.¹¹

⁵ Home Office, [Border Security, Asylum and Immigration Bill Impact Assessment](#), HO IA 1003, 30 January 2025, paras 10, 20

⁶ Home Office, [Delivering Border Security](#), 10 December 2024, para 5

⁷ Europol, [Tackling threats, addressing challenges – Europol's response to migrant smuggling and trafficking in human beings in 2023 and onwards](#), July 2024; Interpol, [Human trafficking and migrant smuggling/The issues](#), undated (accessed 14 January 2025)

⁸ "Inside the Home Office as mistrust grows over Labour's small boats plan", the i, 14 January 2025

⁹ International Monetary Fund, [Hawala](#), Finance and Development vol. 39 no. 4, December 2002

¹⁰ National Crime Agency, [Annual Plan 2023-2024](#), May 2023, p11; [Annual Plan 2022-2023](#), p7

¹¹ National Crime Agency press release, [Three arrested as NCA joins security forces in Kurdistan region of Iraq to target UK-linked people smuggling network](#), 14 January 2025

Organised immigration crime taskforce

Project Invigor, a cross-government multi-agency taskforce and funding stream for organised immigration crime, was established in 2015 to increase the law enforcement response to people smuggling and create a “continuum of capability” across agencies.¹²

It is led by the National Crime Agency.¹³ Border Force, Immigration Enforcement, the police, and the Crown Prosecution Service also participate.

The Sunak government announced a doubling of its funding for 2023-24 and 2024-25, to £74.1 million.¹⁴

1.2

The Labour government’s approach

The government wishes to introduce a “step-change” in the scale of the UK’s response to border security threats.¹⁵ The Prime Minister has also argued that “people smuggling should be viewed as a global security threat similar to terrorism” and powers are needed to stop smuggling gangs before they act.¹⁶

Border Security Command

Labour’s 2024 general election manifesto proposed the creation of a Border Security Command, which would “work internationally and be supported by new counter-terrorism style powers”.¹⁷

The Border Security Command was established in summer 2024 as part of the Home Office.¹⁸ Its purpose is to provide “cross-system strategic leadership” of work to counter organised immigration crime and wider border security threats.¹⁹ It has a strategic rather than operational role, acting as a “convening power” rather than replacing work done by the National Crime Agency, Border Force and other operational agencies.²⁰

It is modelled on the former Office of Security and Counter-Terrorism, a Home Office directorate which was established in 2007 to bring greater cohesion and strategic capability to the UK’s response to international terrorism.²¹

¹² CSSF Programme Summary 2020-21, [Organised immigration crime taskforce \(Invigor\) programme](#), 15 July 2021

¹³ National Crime Agency, [Organised immigration crime](#), undated (accessed 14 January 2025)

¹⁴ Home Office press release, [New strategy to tackle organised crime](#), 13 December 2023

¹⁵ Home Office, [Delivering Border Security](#), 10 December 2024, para 6

¹⁶ Prime Minister’s Office, [PM speech to the Interpol General Assembly](#), 4 November 2024

¹⁷ Labour Party, [Change. Labour Party manifesto 2024](#) (PDF), p17

¹⁸ Home Office press release, [Home Secretary launches new Border Security Command](#), 7 July 2024

¹⁹ PQ 22142 [on [Border Security Command: Staff](#)], answered on 14 January 2025

²⁰ Public Accounts Committee, [Oral evidence: Asylum accommodation: Home Office acquisition of former HMP Northeye](#), HC 361, 9 December 2024, Q130

²¹ Home Affairs Committee, [Project CONTEST: The Government’s Counter-Terrorism Strategy](#) (PDF), HC 212, 7 July 2009, Ev 63

Following a Home Office reorganisation in 2021, this work is now carried out by the Homeland Security Group.

[Martin Hewitt](#) has been appointed to lead the Border Security Command in the role of ‘Border Security Commander’. He is responsible for setting the government’s strategic priorities for border security (acting with the agreement of the Home Secretary and Prime Minister) and coordinating the work of all law enforcement and intelligence agencies to address organised immigration crime. He reports directly to the Home Secretary.²²

[A short policy statement on Delivering Border Security](#), published in December 2024, outlines how the Border Security Command will operate and the government’s plans for the UK’s border security. The approach to organised immigration crime will reflect the ‘4Ps’ model (prevent, pursue, protect, prepare) already used in respect of counter-terrorism and organised crime.

The government has committed £150 million in funding to support the Border Security Command’s work over the next two years.²³ It is using money previously allocated for implementation of the Illegal Migration Act 2023 and UK-Rwanda Migration and Economic Development Partnership (see section 7 below).²⁴ Some of the funding will pay for staff in the Border Security Command, National Crime Agency and Crown Prosecution Service and a new unit to improve police intelligence and the sharing of information.²⁵

International cooperation

The government is also prioritising international cooperation against organised immigration crime. Much of this work will also be led by the Border Security Command.²⁶ Recent announcements in this area include:

- Agreeing an [Anti-Smuggling Action Plan with other G7 countries](#), in October 2024.
- Agreeing a [Priority Plan on Countering Migrant Smuggling](#) with the Calais Group (Belgium, France, Germany and the Netherlands), in December 2024. There have also been new bilateral agreements and joint statements on cooperation against illegal migration between the UK and [France](#), [Italy](#) and [Germany](#).
- Making agreements with some source and transit countries, including [Iraq](#), [Slovenia](#), [Serbia](#), [North Macedonia](#) and [Kosovo](#).

²² Prime Minister’s Office, [New Border Security Commander appointed as Prime Minister’s European reset continues in Italy](#) 15 September 2024; Home Office, [Delivering Border Security](#), 10 December 2024

²³ Prime Minister’s Office, [Prime Minister unveils game changing investment to tackle national security threat from people smuggling gangs](#), 4 November 2024

²⁴ Home Office, [Delivering Border Security](#), 10 December 2024

²⁵ Home Office press release, [New investment for Border Security Command](#), 17 September 2024

²⁶ Home Office, [Explanatory Notes to Border Security, Asylum and Immigration Bill](#) (PDF), 30 January 2025, para 35

1.3

Commentary and criticism

Some people have questioned how the work done by the Border Security Command will be different to what has been done before. Previous strategies for targeting organised immigration crime have placed a similar emphasis on ‘breaking the business model’ of people smuggling, disrupting the end-to-end process and pursuing high-level gang leaders. There have also been attempts to coordinate work done by different agencies in relation to small boats and immigration crime. The government says these previous strategies aren’t comparable with the Border Security Command’s role.²⁷

Commentators have also questioned how much impact law enforcement interventions can have in practice.²⁸ For example, people smuggling gangs often have a limited presence in the UK, so British law enforcement agencies ultimately rely on cooperation from counterparts in other countries.²⁹

Another issue is the scale of demand for people smugglers’ services and ease by which they can be replaced by other gangs.³⁰ Rob Jones, Director General of Operations in the National Crime Agency, has said tracking and shutting down people-smuggling networks is harder than tackling drug smuggling gangs because “it’s a much more distributed organic model” and “relies on a series of informal trusted relationships”.³¹

Alternative proposals

There is an understanding across academics, policymakers, law enforcement agencies and other stakeholders that reducing illegal migration requires a combination of measures in the UK and overseas.

Some people have suggested the government’s approach is too narrowly focused on law enforcement at the expense of measures which could reduce demand for people smuggling.³² For example, securing an agreement with France or the EU for the return of people arriving on small boats is often suggested as a more effective way of undermining the business model.³³

²⁷ Home Affairs Committee, [Oral evidence: The work of the Home Office](#), HC 505, 17 December 2024, Q14

²⁸ [“Starmmer will struggle to keep his ‘smash the gangs’ promise – as I saw firsthand”](#), BBC News, 20 November 2024

²⁹ [“Monday briefing: The reason Keir Starmer’s ‘smash the gangs’ slogan is doomed to fail,”](#) The Guardian, 18 November 2024

³⁰ Institute of Economic Affairs, [The economics of the “small boats” problem](#), 13 August 2024

³¹ [“Stopping migrants is harder than tackling drugs, says crime agency boss”](#), The Times, 18 November 2024

³² [“‘Smash the gangs won’t work’: Home Office officials doubt Labour small boats plan”](#), the i, 10 November 2024; Royal United Services Institute, [Organised immigration crime in the UK: A resilient business model](#), 11 April 2024

³³ [“Is the EU pushing its own mass migration problem in our direction? It sure looks that way”](#), The Telegraph, 15 September 2024

Policies to deter people from making unauthorised journeys

The Conservative opposition, and some commentators, argue that the government’s approach lacks measures to deter people from making unlawful journeys to the UK.³⁴ They have criticised the government for cancelling their policy of removals to Rwanda, which was designed to create such a deterrent in the absence of a returns agreement with France or the EU.

There are also calls to address various aspects of the UK’s asylum system which some people believe act as “pull-factors” for unauthorised migration, including the use of hotels as asylum accommodation, backlogs in asylum decisions, and low rates of removals of people refused permission to stay.³⁵

The government has said it wants to end the use of hotels and introduce faster processing and returns. An immigration white paper, expected later this year, may contain proposals for changes to the asylum system.³⁶

Reducing demand for smugglers’ services

An alternative view, held by migrants’ rights campaigners among others, is that the government should do more to address the underlying causes of demand for smugglers’ services.³⁷

Their proposals include more support for conflict resolution and development in the countries migrants are leaving; more support to host countries in regions of displacement (where the majority of displaced people remain); and making legal migration pathways more accessible, such as by providing authorised entry routes for asylum seekers.³⁸

The government has pledged to provide up to £84 million over the next three years to address drivers of illegal migration.³⁹ It agrees that safe and legal humanitarian routes have a role to play in the overall migration system but says that “it is not possible to offer a pathway into the UK to every person who needs or wants one”.⁴⁰

In recent months ministers have ruled out introducing any more humanitarian routes, arguing that “it is just not an alternative to the enforcement we need against the criminal gangs”.⁴¹

³⁴ [HC Deb 11 December 2024 c902](#)

³⁵ [HC Deb 21 January 2025 c311WH, cc317-8WH](#); [HC Deb 11 December 2024 c902](#); “[Mass deportations are Britain’s only option to stop small boat smugglers](#)”, The Telegraph, 14 November 2024; “[Stارmer’s plan to ‘smash the gangs’ won’t work](#)”, The Spectator, 12 August 2024

³⁶ [HL Deb 13 January 2025 c905](#)

³⁷ “[‘Smash the gangs’ is just Keir Starmer’s version of ‘stop the boats’. It won’t solve the migrant crisis](#)”, The Guardian, 7 November 2024

³⁸ Royal United Services Institute, [Organised immigration crime in the UK: A resilient business model](#), 11 April 2024

³⁹ Foreign Office press release, [UK steps up work to reduce illegal migration](#), 18 July 2024

⁴⁰ PQ 10977 [on [Asylum](#)], answered on 1 November 2024

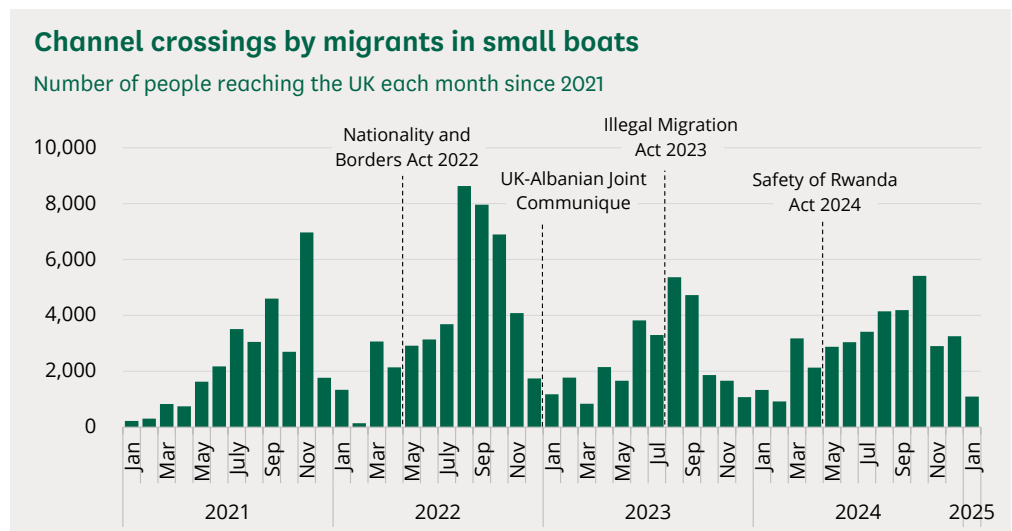
⁴¹ Home Affairs Committee, [Oral evidence: The work of the Home Office](#), HC 505, 17 December 2024, Q21

2 In focus: Unauthorised migration by small boat crossings

2.1 Recent statistics

Unauthorised journeys across the English Channel by boat were first detected at a significant scale in 2018. From 2018 to 2024, over 150,000 people arrived in the UK in this way.⁴² Almost all (94%) claim asylum.⁴³

The Home Office recorded almost 37,000 crossings in 2024. This was an increase compared to the previous year but lower than the record of 46,000 in 2022, as shown in the chart below.⁴⁴



Source: Home Office, [Immigration system statistics quarterly: September 2024](#), irregular migration summary table Irr_02a; Home Office & Border Force, [Small boat activity in the English Channel](#), accessed 29 January 2025.

Notes: Figures up to 28 January 2025.

The highest monthly total was recorded in August 2022, when 8,600 crossings were detected.

⁴² Home Office, [Migrants detected crossing the English Channel in small boats – time series](#), accessed on 16 January 2024

⁴³ Home Office, Immigration system statistics, year ending September 2024, [How many people come to the UK irregularly2](#), 28 November 2024, section 3

⁴⁴ Home Office, [Migrants detected crossing the English Channel in small boats – time series](#), 16 January 2024

Fatalities

In August 2019, an Iranian student, Mitra Mehrad, drowned while attempting to cross the Channel (the first known fatality).⁴⁵ A total of 138 people have died in the crossing, according to the French authorities.⁴⁶

The International Organization for Migration gives a higher figure of 227 deaths over the same period. This includes migrants known to have died in northern France as well as drownings in the Channel itself.⁴⁷

Asylum cases

The majority of those arriving by boat who have received a decision on their asylum claim have been successful. There were around 56,000 such asylum decisions by 30 September 2024 (excluding withdrawn applications) of which 40,000 (71%) resulted in a grant of refugee status or other permission to stay in the UK.⁴⁸

While people arriving by boat are a major contributor to total asylum claims, they do not account for the majority of applications. From September 2023 to September 2024, around 30,000 people arrived by small boat but almost 100,000 lodged an asylum claim.⁴⁹

Prosecutions

Home Office data released under the Freedom of Information Act suggests that 455 people were convicted between June 2022 and December 2024 of arriving in the UK illegally on a small boat.⁵⁰

The Court of Appeal has said that people who break the law to cross the Channel in a small boat are unlikely to be deterred by the prospect of a prison sentence if caught.⁵¹ A very small proportion of migrants crossing by boat are arrested, charged or convicted. Police and prosecutors focus on those who pilot the boats or have previously breached UK immigration laws.⁵²

⁴⁵ “[Justice for the hero PhD migrant who died in the Channel saving a baby as two callous people smugglers are jailed over her death](#)”, Mail on Sunday, 19 December 2019

⁴⁶ PQ 21967 [on [Undocumented Migrants: English Channel](#)], answered on 15 January 2025

⁴⁷ International Organization for Migration, [Missing Migrants Project, English Channel to UK route 01/08/2019 to 15/01/2025](#), accessed on 20 January 2025

⁴⁸ Home Office, Immigration system statistics, year ending September 2024, [How many people come to the UK irregularly?](#), 28 November 2024, section 3

⁴⁹ Library analysis of Home Office, [Immigration system statistics, year ending September 2024](#), 28 November 2024, asylum and irregular migration summary tables

⁵⁰ University of Oxford, Border Criminologies blog, “[Security at the heart”: Criminalisation and Labour’s Border Security, Asylum and Immigration Bill 2025](#)”, 6 February 2025

⁵¹ *R v Ginar* [2023] EWCA Crim 1121, 26 September 2023, paragraph 21

⁵² Crown Prosecution Guidance, [Immigration](#), 13 February 2024, section on public interest considerations; Vicky Taylor, “[No such thing as justice here” – The criminalisation of people arriving to the UK on ‘small boats’](#)”, February 2024, p8

Those steering the boats, while more culpable in the eyes of the criminal law, are generally passengers rather than senior people smugglers. The main organisers who profit from the crossings are “rarely if ever prosecuted”, again according to the Court of Appeal.⁵³ There are some examples of more senior figures being convicted over people smuggling, but it is not clear that these account for a significant proportion of gang leaders.⁵⁴

2.2 How crossings are arranged

The organised criminal gangs

[February 2024 research by the Global Initiative Against Transnational Organized Crime](#), a civil society organisation, explains how people smuggling networks have “industrialised” the small boat method through competitive pricing, persuasive recruitment campaigns, and efficient operations.

It says a typical gang might comprise eight to twelve people.⁵⁵ The head of the gang and a trusted associate usually live overseas, while other members in France coordinate the logistics of bringing convoys of migrants and boats to the shore. Networks of enablers and lower-level operatives perform supporting functions such as acting as recruiters or intermediaries for migrants and smuggling gangs, providing logistical support, staffing the camps in northern France, and acting as ‘guards’.⁵⁶

Boats are typically assembled in Turkey from parts manufactured in China.⁵⁷ They are often stored in warehouses in Germany, Belgium and the Netherlands and taken to departure points in northern France shortly before the scheduled crossing.

Migrants commonly come into contact with facilitators through posts on social media and other online platforms, word of mouth, and encounters at known ‘hub’ points for routes into Europe.⁵⁸ Accounts suggest there isn’t a single approach to the services provided or the price of passage.⁵⁹ People who don’t have the means to pay might try to get work with the smugglers or agree to steer a boat in exchange for free or discounted passage.

⁵³ *R v Ahmed* [2023] EWCA Crim 1521, 19 December 2023, paragraphs 7 and 15

⁵⁴ [“Man known as ‘best smuggler’ jailed for 17 years”](#), BBC News, 8 November 2024; [“People-smuggling ringleader jailed for bringing thousands into UK in boats”](#), BBC News, 18 October 2023

⁵⁵ Global Initiative Against Transnational Organized Crime, [Small Boats, Big Business: The industrialization of cross-Channel migrant smuggling](#), February 2024, p2

⁵⁶ Sophie Watt, [“I’ve spent time with refugees in French coastal camps and they told me the government’s Rwanda plan is not putting them off coming to the UK”](#), The Conversation, 21 March 2024; Global Initiative Against Transnational Organized Crime, [Small Boats, Big Business: The industrialization of cross-Channel migrant smuggling](#), February 2024, p2

⁵⁷ [“Inside the Home Office as mistrust grows over Labour’s small boats plan”](#), the i, 14 January 2025

⁵⁸ Mixed Migration Centre, [Northern France and Belgium: Mixed Migration Trends and Dynamics](#), MMC Research Report, May 2023

⁵⁹ [“How criminal gangs are driving £150m-a-year small-boats industry”](#), The Times, 19 August 2023

Action taken to prevent departures

In France

French authorities' methods to disrupt embarkation attempts include the use of roadblocks and buoys in waterways leading into the Channel. To evade local law enforcement, gangs may launch boats from further along the coast or use 'taxi boats' to collect migrants from inland estuaries and take them to other vessels waiting out at sea.⁶⁰

The French police intercept some boats when they are close to the shore and there have been accounts of them employing "pull back" practices including circling and puncturing boats as they arrive to collect migrants.⁶¹ An absence of legal powers and concerns about potential physical assaults against officers have been cited as reasons why police might not stop migrants from entering the water.⁶²

Once a boat is further out at sea, the French authorities are unlikely to intervene unless the boat is in distress and the passengers are believed likely to cooperate. The boats are usually overcrowded, flimsy and prone to collapsing in on themselves, and there are concerns that unsolicited contact, or attempts to tow the boats, could risk safety of lives at sea.⁶³

In the UK

People in small boats might contact UK emergency response agencies when they enter UK waters or be met by waiting Border Force vessels. Although Border Force is a law enforcement body, its priority in relation to Channel crossings is "search and rescue and the safety of life".⁶⁴

Once onshore, they go through initial processing at the Western Jet Foil short-term holding facility in Kent. This includes medical checks, photographing, searches and administrative arrest.⁶⁵

Most people who arrive on small boats claim asylum soon after arrival. Where possible, they go through asylum screening interviews while they are still in initial holding facilities in Kent.⁶⁶ From there, they will be moved into longer-term accommodation across the UK while their asylum claim is processed.

⁶⁰ "[People smugglers outwit French police with taxi boats](#)", The Times, 3 November 2022

⁶¹ "[Dozens of police officers are powerless on French beaches as people smugglers exploit loopholes to pack dinghy](#)", Sky News, 18 June 2024; "[Sink the Boats](#)", Lighthouse Reports, 23 March 2024

⁶² "[Undeterred, unfazed, and uninterrupted: French police watch on as migrants cross Channel illegally](#)", ITV News, 12 April 2024; Global Initiative Against Transnational Organized Crime, [Small Boats, Big Business: The industrialization of cross-Channel migrant smuggling](#), February 2024, p22

⁶³ [HC Deb 10 September 2024 c268WH](#); InfoMigrants, [English Channel: How are migrant rescues organized?](#), 30 October 2020

⁶⁴ PQ HL5035 [on [Undocumented Migrants: English Channel](#)], answered on 16 June 2020

⁶⁵ Independent Chief Inspector of Borders and Immigration, [A re-inspection of the initial processing of migrants arriving via small boats](#), June 2023, Figure 2, p11

⁶⁶ Home Office, [Irregular or unlawful entry and arrival](#), 14 November 2024

3 Overview of the bill

The [Border Security, Asylum and Immigration Bill](#) [Bill 173 of 2024-25] was introduced in the Commons on 30 January 2025 and is due to have its second reading on 10 February 2025.

The Labour government had proposed the bill in the King's Speech of July 2024.⁶⁷ It was to contain three elements: modernising the asylum and immigration system, establishing a new Border Security Command within the Home Office, and applying powers usually reserved for terrorism to organised immigration crime.⁶⁸

As introduced, the bill is largely focused on law enforcement powers and the Border Security Command. It does not make major changes to the asylum and immigration system, other than to repeal most provisions of the Illegal Migration Act 2023 (passed under the Conservative government but not operational).

The long title of the bill is:

A Bill to Make provision about border security; to make provision about immigration and asylum; to make provision about sharing customs data and trailer registration data; to make provision about articles for use in serious crime; to make provision about serious crime prevention orders; to make provision about fees paid in connection with the recognition, comparability or assessment of qualifications; and for connected purposes.

The Home Office has published [explanatory notes, a delegated powers memorandum, a human rights memorandum and an impact assessment](#) alongside the text of the bill itself.

3.1 Summary of the clauses

The bill as introduced consists of 57 clauses and two schedules.

Border Security Commander

Clauses 1 to 12 would require the Home Secretary to appoint a Border Security Commander in the civil service. The commander's most significant function would be to set strategic priorities in relation to border security.

⁶⁷ [HC Deb 17 July 2024 cc39-43](#)

⁶⁸ Prime Minister's Office, [King's Speech 2024: background briefing notes](#), 17 July 2024, pp54-55

Other relevant agencies would be required to cooperate with the commander so far as possible, and they would be represented on a board that must be consulted when setting the strategic priorities. The Border Security Commander would not be independent but would take direction from the Home Secretary.

New immigration offences

Clauses 13 to 18 would create criminal offences in relation to unauthorised migration. It would be a crime to supply or receive almost any item which the person knows or suspects will be used to facilitate illegal travel to the UK. It would also be a crime to collect information likely to be useful for illegal journeys if there is a reasonable suspicion that it would be used to help other people make such a journey. These are inspired by existing offences in counter-terrorism legislation and could be committed both inside and outside the UK.

Powers to seize mobile phones from migrants

Clauses 19 to 26 would allow for seizure of things on which information about facilitating illegal immigration might be stored electronically. The government's communications about the bill make clear that in practice this means mobile phones. Immigration and police officers would be allowed to search people arriving in the UK without permission, take their phone and download relevant information.

Sharing of HMRC customs data

Clauses 27 to 33 would allow HMRC to share customs information with UK and foreign government agencies. There are various stipulations on onward sharing and use of that information, which must be in line with data protection laws. This part of the bill also permits the Transport Secretary to pass trailer registration information to the Home Office and law enforcement agencies.

Powers to take biometric information

Clauses 34 and 35 would allow immigration officers to take biometric details (fingerprints and a facial scan) from people abroad who are being considered for relocation to the UK. The Home Office says this is intended for urgent evacuation scenarios.

Clause 36 would make a relatively minor change to counter-terrorism powers in Scotland, to enable biometrics to be taken at ports.

Repealing previous asylum legislation

Clauses 37 to 39 would repeal much of the asylum legislation passed under the Sunak government. All of the Safety of Rwanda (Asylum and Immigration) Act 2024 would be abolished, and most of the Illegal Migration Act 2023.

Other asylum and immigration changes

Clause 40 and schedule 1 would make relatively minor changes to how the Immigration Services Commissioner and their deputy are appointed.

Clause 41 would retroactively strengthen the power to put people in immigration detention pending their deportation for criminal offending.

Clause 42 would make minor changes to who is allowed to take fingerprints at a short-term detention facility.

General criminal justice measures

Clauses 43 to 50 and schedule 2 would strengthen law enforcement powers in relation to major offences generally (not necessarily immigration crime).

This would include a new offence of possessing or supplying certain items – a 3D printing firearms template, capsule maker, tablet press or vehicle partition – where there is a reasonable suspicion that they might be used in a serious crime.

The existing scheme of serious crime prevention orders, which restrict the activities of people convicted of or involved in serious crime, would also be expanded. Most of these measures were originally proposed in the [Criminal Justice Bill 2023-24](#).

Other clauses

Clause 51 would retroactively permit the charging of certain fees which the Home Office and Department for Education [put in place without proper legal authorisation](#).

Clauses 52 to 54 would be financial, consequential and secondary legislation provisions.

Territorial extent and application

Under clause 55, the bill as a whole would extend to all four parts of the UK. Clause 36 is only relevant to Scotland, and clauses 46 to 50 are mostly relevant only to England and Wales (see Annex A to the bill's explanatory notes).

Commencement

Under clause 56, most of the clauses would not come into force until the Home Secretary appoints a date in commencement regulations. Clauses 37 to 40 and most of clause 41 would come into force automatically on the day the bill is passed. Clauses 34, 35 and 42 would come into force automatically two months after the bill is passed.

Henry VIII powers

The bill contains three clauses which would enable ministers to amend or repeal provisions of primary legislation using secondary legislation ([‘Henry VIII clauses’](#)).

- Clause 15(3): power to add to the list of items which are excluded from the scope of the new offences in clauses 13 and 14
- Clause 44(3): power to add to the list of items which are included in the scope of the new criminal offence in clause 43
- Clause 53(1): power to make consequential amendments

The delegated powers memorandum identifies and discusses these clauses, along with other provisions allowing for secondary legislation.

4 The Border Security Commander

4.1 Making the role statutory

Clauses 1 to 9

Clause 1 would establish the Border Security Commander as a statutory office holder (a post created by legislation to carry out public functions). The Home Secretary would have a duty to designate a civil servant as the commander and they would work under their direction: clause 2; clause 9.

The government says putting the position into statute “will meet the objective of making the role an enduring one, giving them the authority to be an effective system leader”.⁶⁹

The bill doesn’t articulate specific functions for the Border Security Commander but does assign them certain statutory duties. One of these is to “have regard” to the objectives of maximising the coordination and effectiveness of cross-government activities to minimise threats to border security: clause 3(1).

Their other main statutory duties would be:

- To establish a board to assist them in the exercise of their functions, comprising representatives from partner authorities: clause 6.
- To periodically issue assessments of the principal threats to border security and the strategic priorities which partner authorities should have regard to (a “strategic priority document”), after consultation with the board: clause 3.
- To prepare annual reports of how they have carried out their functions and their views on the performance of the border security system: clause 4.

In practice, the commander is already in post and leads the Border Security Command, as discussed in section 1.2 above. The board has also already been established.

⁶⁹ Home Office, [Border Security, Asylum and Immigration Bill Impact Assessment](#), HO IA 1003, 30 January 2025, para 29

Relationship with other agencies

Clauses 5 and 6 concern the relationship between the Border Security Commander and “partner authorities”. These are defined as other public authorities with functions related to threats to border security: clause 3(5).

Partner authorities would have a statutory obligation to “have regard” to the strategic priorities set by the commander in exercising their own functions: clause 3(3). At the same time, the bill seeks to preserve partner agencies’ operational independence where applicable. Partners would have a duty to cooperate with the commander “so far as appropriate and reasonably practicable” and “only so far as” the cooperation is compatible with their other functions: clause 5.

The intelligence services (the Security Service, the Secret Intelligence Service, and GCHQ) are excluded from the definition of “partner authorities” and by extension, the duty to cooperate: clause 3(6). Instead, the heads of those agencies would be required to establish arrangements for cooperation with the Border Security Commander: clause 5(3). The armed forces also wouldn’t be treated as partner authorities: clause 10.

5 New law enforcement powers

Much of the media coverage of the bill so far has focused on the powers provided for in part 1, chapter 2 and part 3 of the bill. They would create new offences relating to articles or information for use in immigration crime (clauses 13 to 17) and new powers of search and seizure (clauses 19 to 26). There would also be a new offence of endangering other people during a small boat crossing (clause 18).

The government says the new powers would enable law enforcement to act sooner, resulting in more disruptions and prosecutions and better intelligence. The intention is to “make it as difficult as possible for OIC [organised immigration crime] to take place or be facilitated in the UK”.⁷⁰

However, the bill’s impact assessment marks their expected impact as “uncertain”, saying it wasn’t possible to make a well-evidenced assessment.⁷¹ It says the UK would be the first country to try these methods and there isn’t baseline evidence to estimate their potential success.⁷²

The Border Security Command will monitor and evaluate activity once they have been implemented through a new performance monitoring function.⁷³

5.1 Immigration offences

Existing criminal offences of illegal entry and facilitation

The following existing criminal offences of illegal entry and assisting unlawful entry, provided for in the Immigration Act 1971 (hereafter referred to as the ‘IA 1971’), are relevant to clauses 13 to 26:

- Offences of illegal entry or arrival in the UK (hereafter referred to as the ‘illegal entry’ offences), provided for in [section 24\(A1\)\(B1\)\(D1\)\(E1\)](#). They each carry a maximum penalty of up to four years’ imprisonment (five years for an offence under subsection A1: entry in breach of a deportation order).

⁷⁰ Home Office, [Border Security, Asylum and Immigration Bill Impact Assessment](#), HO IA 1003, 30 January 2025, p30, para 40

⁷¹ As above, p14

⁷² As above, para 258

⁷³ As above, p18, paras 45 – 51

- An offence of assisting unlawful immigration (hereafter referred to as the ‘facilitation’ offence), provided for in [section 25](#). The offence is committed if a person does an act, inside or outside the UK, which facilitates a breach or attempted breach of immigration law. It requires the person to know or have reasonable cause to believe that the act facilitates the breach. The maximum penalty for the offence is life imprisonment.
- A separate offence of knowingly facilitating the arrival or attempted arrival of an asylum seeker ([section 25A](#)). The maximum penalty is life imprisonment.

As noted in section 2 above, 455 people are thought to have been convicted of an illegal entry offence following a small boat crossing since June 2022.

Clauses 13 to 17: New precursor offences

Clauses 13, 14 and 16 would introduce new offences, which would extend criminal liability to earlier stages of an illegal entry or facilitation offence being committed.

Briefly, the offences would cover acts of supplying, offering to supply, or handling an article which the person knows or suspects at the time is to be used in connection with an illegal entry or facilitation offence (clause 13 and clause 14), and collecting, possessing, viewing or accessing information where law enforcement has reasonable grounds to suspect it will be used for organising or preparing for an unauthorised journey to the UK (clause 16).

The government has said elements of the offences of supplying or handling items are similar to the offence in [section 57 of the Terrorism Act 2000](#) (possession of an article for terrorist purposes), and that the clause 16 offence has some similarities with the “research” offence in [section 58 of the Terrorism Act 2000](#).⁷⁴

A Home Office press release cites [the investigation and recent conviction of a people smuggler based in the UK](#) to illustrate the anticipated practical effect of the proposed new offences. It says that “instead of needing to prove a definitive link to a migrant facilitation under current legislation, the new offences could have met the threshold for earlier and faster action to be taken”.⁷⁵

Clause 17: Extra-territorial jurisdiction

The offences would apply to acts done “inside or outside” the UK, by people of any nationality, and domestic courts would have jurisdiction over those offences committed outside the UK.

⁷⁴ Home Office, [Border Security, Asylum and Immigration Bill Impact Assessment](#), HO IA 1003, 30 January 2025, paras 42 - 43

⁷⁵ Home Office press release, [Counter terror-style powers to strengthen ability to smash smuggling gangs](#), 30 January 2025

In practice, the usefulness of that measure is likely to depend on the strength of the UK's cooperation agreements with other countries, and other factors such as if the country doesn't have a functioning criminal justice system or an extradition agreement with the UK.

Clauses 13 to 15: Supplying or handling articles for use in immigration crime

Clauses 13 and 14 would create two new criminal offences which are intended to strengthen the ability of law enforcement agencies to tackle the supply chains for people smuggling networks.

The new offences would be:

- Supplying or offering to supply a relevant article to another person which the supplier knows or suspects at the time will be used by any person in connection with an illegal entry or facilitation offence: clause 13(1).
- Handling a relevant article while knowing or suspecting at the time that the article has, is, or will be used by themselves or any other person in connection with an illegal entry or facilitation offence: clause 14(1). 'Handling' an article includes receiving or arranging to receive it; removing or disposing of it for the benefit of another person; or assisting another person to dispose of it.

Selling, offering to supply, or receiving small boat parts and supplying forged identity documents are two examples of acts which would be covered by the offences.⁷⁶

Both offences would carry a maximum penalty of 14 years' imprisonment.

The government says the "reasonably suspects" threshold for the offences will make it easier to take action against people whose acts are too far removed to be prosecuted for the facilitation offence under section 25 IA 1971 and where there is insufficient evidence of belief or intention to be able to prosecute under [section 45 of the Serious Crime Act 2007](#) (encouraging or assisting an offence believing it will be committed) or for conspiracy.⁷⁷

A "relevant article", for these offences, would be "any thing or substance" not listed in clause 15. Clause 15 specifies certain things which would support migrants' wellbeing and safety:

- food or drink

⁷⁶ WS406 [on [Border Security, Asylum and Immigration Bill](#)], 30 January 2025; Home Office press release, [Counter terror-style powers to strengthen ability to smash smuggling gangs](#), 30 January 2025

⁷⁷ Home Office, [Border Security, Asylum and Immigration Bill Impact Assessment](#), HO IA 1003, 30 January 2025, para 42

- anything designed for use in connection with the preparation, supply, consumption or storage of food or drink
- a medicinal product or medical equipment
- clothing
- bedding
- a tent or other form of temporary shelter (but not a vessel designed to be used for transportation by water)
- anything designed solely or principally to preserve the life of a person in distress at sea (but not a vessel designed to be used for transportation by water)
- anything designed solely or principally to enable a person in distress at sea to signal for help

Clause 15(3) would give the Home Secretary a power to add things to that list by regulations (which makes it a [Henry VIII clause](#)) The government says this power will future-proof the list against changes in methods of unauthorised entry and changes to life saving equipment.⁷⁸ The regulations would be subject to the [draft affirmative procedure](#) (meaning they couldn't become law unless draft regulations were approved by both Houses).⁷⁹

Statutory defence

It would be a defence for a person charged with a supplying or handling offence to show that they had a “reasonable excuse” for acting in this way: clause 13(2) and clause 14(3).

Reasonable excuse would include, but not be limited to, if their action was for the purposes of rescuing a person from danger or serious harm or if they were acting on behalf of an organisation which aims to assist asylum seekers and doesn't charge for its services: clause 13(3) and clause 14(4).

The defendant would have to produce sufficient evidence to support the statutory defences. It would then be for the prosecution to prove the contrary beyond reasonable doubt in order to defeat the defence: clause 13(4) and clause 14(5).

This is known as a “reverse burden of proof”. It can be compatible with Article 6 of the European Convention on Human Rights (ECHR), which concerns the right to a fair trial, if it satisfies tests of being within “reasonable limits” and “justified”.⁸⁰ In the government's view, a reverse burden of proof is

⁷⁸ [Memorandum from the Home Office to the Delegated Powers and Regulatory Reform Committee](#) (PDF), para 12

⁷⁹ Clause 54(3)

⁸⁰ *Salabiaku v France* (10519/83 [1988] ECHR 19 (7 October 1988))

reasonable and justified for the defences in clause 13 and 14.⁸¹ It says the burdens are only evidential, and require the defendant to show matters which are within their own knowledge.

Consideration of ECHR compatibility

The government is also satisfied the clauses are compatible with Article 1 of the First Protocol to the ECHR (“A1P1”; protection of property).⁸² The government considers interference with people’s use of their property would be limited. It emphasises that “the clauses will not prevent people continuing to use and possess the items for ... lawful purposes” and that “mere possession of an article would not be an offence. There would need to be some active step taken with regard to the article”.⁸³

In addition, the offences would only apply in circumstances where the defendant knows or suspects the article is to be used in connection with an illegal entry or facilitation offence. The government further considers that any interference with A1P1 rights would be justifiable as in accordance with the law, pursuing a legitimate aim, and proportionate.

The bill’s human rights memorandum also considers the clauses’ compatibility with ECHR Article 14 (prohibition of discrimination) and A1P1. It recognises that a supplier might suspect a prospective customer of purchasing an article to use in an immigration crime on the basis of their race, colour, language or national origin. It says that people from countries associated with high levels of migration to the UK and people subject to mistaken assumptions about their origins or status may be more negatively impacted by the measures.⁸⁴ However the government’s view is that any discrimination would be objectively and reasonably justified for the same reasons as the interference with A1P1 rights.

Clause 16: Collecting information for use in immigration crime

Clause 16(1) would, in certain circumstances, criminalise the collection, recording, possession, viewing, or otherwise accessing by the internet, of information “of a kind likely to be useful to” a person organising or preparing for a journey to the UK which would result in an illegal entry or arrival offence.

Examples of actions potentially caught by the offence are research into viable locations and departure points, dates, times and transport for a journey to the UK.⁸⁵ Information which is also useful to members of the public for other

⁸¹ Home Office, [European Convention on Human Rights Memorandum](#) (PDF), paras 34 - 38

⁸² Home Office, [European Convention on Human Rights Memorandum](#) (PDF), paras 23-30

⁸³ As above, paras 23, 24

⁸⁴ As above, para 32

⁸⁵ Home Office, [Border Security, Asylum and Immigration Bill Impact Assessment](#), HO IA 1003, 30 January 2025, para 43

purposes would be within the scope of the offence: subsection (4). Weather forecasts have been suggested in media coverage as such an example.⁸⁶

For the offence to be committed, there would need to be a “reasonable suspicion” that the information would be used by the person or anyone else for organising or preparing for the journey: subsection (2). The government says this threshold would provide a lower bar for activating investigations into illegal entry offences than is currently possible, thereby offering “the tactical option of prosecuting sooner and disrupting ... before an irregular arrival has been facilitated”.⁸⁷

The maximum penalty for the offence would be five years’ imprisonment: subsection (10).

Statutory defences

A person charged with the offence would have a defence if they could show that:

- They were collecting the information for a journey only they would make: subsection (6). A person planning a journey for members of their family wouldn’t be able to rely on this defence, regardless of whether they would be travelling with their family.⁸⁸
- They had a “reasonable excuse” for having the information: subsection (7).

As with the defences provided for in clauses 13 and 14, a reverse burden of proof would apply: subsection (9).

Subsection (8) provides a non-exhaustive list of circumstances which might constitute “reasonable excuse”. They make allowances for:

- People who didn’t know and had no reason to believe at the time that the document or record contained that type of information (for example, because they unintentionally clicked on a website link).
- People whose action or possession was for certain other purposes. This might include people organising or preparing for a different type of journey; journalists; academic researchers; people carrying out or preparing for a search and rescue mission; people providing or preparing to provide medical care or emergency shelter or supplies.
- People acting on behalf of an organisation which aims to assist asylum seekers and doesn’t charge for its services.

⁸⁶ [“People smugglers face being jailed for up to five years for looking up weather forecast under new terror-style laws”](#), The Sun, 30 January 2025

⁸⁷ Home Office, [Border Security, Asylum and Immigration Bill Impact Assessment](#), HO IA 1003, 30 January 2025, para 45

⁸⁸ Home Office, [European Convention on Human Rights Memorandum](#) (PDF), para 50

The bill’s human rights memorandum considers the clause’s potential impact on ECHR Article 8 (right to respect for private and family life) and, to a lesser extent, Article 6 and Article 14 (with Article 8). In the government’s view, the clause has sufficient safeguards against an arbitrary interference with Article 8 rights, and the intrusions are proportionate to the objective of stopping people taking active preparatory steps towards engaging in organised immigration crime.⁸⁹

5.2

“Endangerment” offence

Clause 18: Endangering another during a sea crossing

Clause 18(1) would create a new criminal offence of endangering another person during an unauthorised sea crossing to the UK. It would do this by inserting new subsections E1A and E1B into section 24 of the IA 1971.

The offence would be committed if a person:

- committed an illegal entry offence by travelling by water from France, Belgium, or the Netherlands and,
- at any time between first leaving dry land and reaching dry land in the UK, did an act which caused or created a risk of death or serious physical or psychological injury to another person.

Therefore the offence doesn’t require a fatality or actual harm to be caused.

Acts done by migrants while they are in shallow waters and boarding a vessel would be included: proposed section 24(E1B) as inserted by subsection (2).

The maximum penalty would be five years’ imprisonment (or six years, where the underlying offence is entry in breach of a deportation order). The government says the measure is intended to deter people from making extremely dangerous sea journeys and acting on those journeys in a way which poses a risk to other people.⁹⁰

The clause doesn’t specify which acts could amount to endangerment. Examples of acts the government has said it wishes to discourage are intimidation or coercive behaviour, physical aggression, overcrowding, and continuing to travel to the UK without accepting assistance from authorities when someone on board has died or been seriously hurt.⁹¹

As is usual practice, [decisions to prosecute would be made on a case-by-case basis](#), taking into account the public interest. The bill doesn’t include an

⁸⁹ As above, paras 43-49

⁹⁰ Home Office, [Border Security, Asylum and Immigration Bill Impact Assessment](#), HO IA 1003, 30 January 2025, para 54

⁹¹ As above, para 53; WS406 [on [Border Security, Asylum and Immigration Bill](#)], 30 January 2025

exemption for parents who bring children on small boat crossings, although the bill's human rights memorandum says parents would be excluded from prosecution "in almost all cases".⁹² Some media coverage has questioned whether this might undermine the effectiveness of the measure.⁹³

Some other issues likely to be raised in debates on the clause are highlighted below.

Adequacy of safeguards

Migrants' rights advocates have criticised the clause for criminalising migrants rather than people smugglers.⁹⁴ The offence would only apply if the person who committed the offence arrived in the UK as a result of the journey (which is unlikely to be the case for gang members).

The absence of specific safeguards within the proposed new offence, such as a statutory defence or provisions to restrict its application to certain groups of people or circumstances, is likely to be an issue of concern to some stakeholders. [Section 31 of the Immigration and Asylum Act 1999](#) provides a statutory defence for refugees and asylum seekers for certain immigration offences (but doesn't apply to the illegal entry offences provided for in section 24 IA 1971).⁹⁵ [Section 45 of the Modern Slavery Act 2015](#) provides a defence for victims of modern slavery or trafficking who commit certain criminal offences (including an offence under section 24) if they are acting under compulsion attributable to their slavery or exploitation and "a reasonable person in the same situation ...would have no realistic alternative to doing that act."

The bill's human rights memorandum focuses on rights under ECHR Article 2 (right to life) and Article 8. Article 2 includes a positive duty on states to protect life.⁹⁶ The government's view is that, by allowing for prosecutions of people who endanger others, the new offence would "enhance the general protection for the lives of irregular migrants".⁹⁷

It recognises that the offence could potentially lead to families being separated, should a parent travelling with their child be prosecuted, but considers that an interference with Article 8 rights would be justified. Part of its reasoning is based on the anticipated approach to prosecutions of parents. It also contends that there are strong social-economic justifications for the offence, citing the costs of search and rescue operations and the existing strain on the UK's judicial system in processing asylum claims.⁹⁸

⁹² Home Office, [European Convention on Human Rights Memorandum](#) (PDF), para 58

⁹³ "[Small boat migrants with children to be exempt from punishment](#)", The Times, 31 January 2025

⁹⁴ Asylum Aid, [Asylum Aid's statement on the Border Security, Asylum and Immigration Bill](#), 30 January 2025

⁹⁵ In practice, prosecutors [may still consider](#) whether the conditions in which an asylum seeker or refugee commits a section 24 offence satisfy section 31 when considering whether to prosecute

⁹⁶ *Öneryıldız v Turkey* ([Application no. 48939/99](#))

⁹⁷ Home Office, [European Convention on Human Rights Memorandum](#) (PDF), para 57

⁹⁸ As above, para 61

Scope of existing offences

The bill's background documents seek to distinguish the proposed new offence from the existing illegal entry offences by saying it would target acts which have given rise to a risk of death or serious harm.⁹⁹

There have been previous attempts to use criminal justice sanctions to deter dangerous behaviour by migrants making small boat crossings. The Nationality and Borders Act 2022 overhauled the illegal entry and facilitation offences and significantly increased the maximum penalties.¹⁰⁰ The government at the time said this would be a deterrent to people wishing to make an unauthorised small boat crossing, and that migrants who caused danger to themselves or others would be targeted for prosecution.¹⁰¹

Prosecution guidelines for the existing illegal entry offences list evidence of violence/harm or risk to life to others as one of the aggravating factors tending in favour of prosecution.¹⁰²

A deterrent effect?

The government says the offence is “intended to disincentivise dangerous behaviour, including the refusal of assistance, and be a strong deterrent” for those contemplating illegal travel. The main measure of success would be “fewer fatalities at sea due to fewer people making small boat crossings”.¹⁰³

However, its impact assessment says it is “uncertain” whether the offence will have the desired behavioural impact.¹⁰⁴ It says the offence is expected to lead to more arrests, charges and convictions but operational sensitivities prevent the publication of information about how many people could be affected.¹⁰⁵

Evidence from academic research suggests that the deterrence effects of policies in destination countries on asylum seekers' decision-making tend to be small.¹⁰⁶ One of the reasons is that asylum seekers don't always have an accurate or detailed knowledge of policies in destination countries. Enver Solomon of the Refugee Council has criticised clause 18 for that reason, saying “when a refugee is clambering into a boat with an armed criminal threatening them, they are not thinking about UK laws but are simply trying to stay alive”.¹⁰⁷

⁹⁹ Home Office, [Border Security, Asylum and Immigration Bill Impact Assessment](#), HO IA 1003, 30 January 2025, para 54

¹⁰⁰ Nationality and Borders Act 2022, [section 40\(2\)](#); [section 41\(2\)](#)

¹⁰¹ [PBC Deb \(Bill 141\) 28 October 2021 cc419-420](#)

¹⁰² Crown Prosecution Guidance, [Immigration](#), 13 February 2024, section on public interest considerations

¹⁰³ As above, para 56

¹⁰⁴ As above, paras 56 and 262

¹⁰⁵ As above, para 229

¹⁰⁶ Migration Observatory, [UK policies to deter people from claiming asylum](#), 23 January 2023

¹⁰⁷ Refugee Council, [Our response to the introduction of the Border Security, Asylum and Immigration Bill](#), 30 January 2025

5.3

Powers for immigration officers

Clauses 19 to 26: Powers to search, seize and access electronic devices

These clauses include new powers to search people who come to the UK illegally for electronic devices which may have information relating to a facilitation offence under section 25 or 25A IA 1971. They include associated powers to seize and retain the items, and access, copy and retain any information stored on them which may relate to such an offence.

Immigration officers already have various powers to search people and premises and seize and retain property. In 2022 the High Court held that the Home Office had acted unlawfully by having an unpublished blanket policy between April and November 2020 of seizing mobile phones from all migrants arriving by small boat and extracting and retaining data from the phones without a legal basis.¹⁰⁸ [Schedule 2 to the Illegal Migration Act 2023](#) subsequently provided some additional powers to search for, seize and retain electronic devices, which were relevant to people affected by the act's removal arrangements duty. Those powers would be repealed by clause 38 of the bill.

The powers proposed in the bill would be subject to a “reasonable suspicion” threshold. The government says they fill a gap in existing powers, which require an individual to be arrested and the officer to believe there is information on the electronic device.¹⁰⁹ It says the new powers would support “intelligence-led profiling of irregular arrivals from whom device seizure may lead to further intelligence gathering and ... disruption opportunities”.

Clause 20: Powers to search for relevant articles

An “authorised officer” would have a power to search a “relevant person” for any “relevant article” they have reasonable grounds to suspect the person possess: clause 20(1). The search could include searching the person's mouth and requiring them to remove their outer clothing.

Clause 19 provides definitions of the key terms for clauses 20 to 23.

A “relevant person” is a person who:

- came to the UK before or after clause 19 comes into force without the required immigration permission, entry clearance, electronic travel authorisation or in breach of a deportation order, and

¹⁰⁸ *R (HM, MA, KH) v SSHD* [2022] EWHC 695 (Admin)

¹⁰⁹ Home Office, [Border Security, Asylum and Immigration Bill Impact Assessment](#), HO IA 1003, 30 January 2025, para 48-49

- hasn't since been granted permission to stay in the UK.

A “relevant article” is any item which appears to be something on which information is (or may be) stored electronically that relates or may relate to the commissioning, at any time, of a facilitation offence under section 25 or section 25A IA 1971. For example, mobile phones and laptops.

An “authorised officer” is an immigration officer or police constable authorised by an officer of superintendent level or above.

Police constables would be able to use reasonable force when exercising the powers of search and seizure: clauses 20(8) and clause 21(3). Immigration officers are already authorised to use reasonable force when exercising immigration act powers, through [section 146 of the Immigration and Asylum Act 1999](#).

The Home Secretary could make regulations to make the powers available in clauses 20 to 23, including use of reasonable force, to other designated people: clause 25. Regulations extending the powers to people designated by the Home Secretary would have to contain safeguards they consider appropriate. The regulations would be subject to approval through the [negative procedure](#) (meaning, they would automatically become law on the day they are signed by a minister and would remain law unless either House approved a motion to reject them within 40 sitting days).

Clause 21: Powers to seize and retain

Authorised officers would have a power to seize and retain any relevant article which is found on a search carried out under section 20 or isn't found but “appears to the officer” to have been in the possession of a relevant person. Articles seized by the police could be passed on to an immigration officer or the Home Secretary (in practice, officials).

Subsection (5) gives a power to retain the seized article for so long as considered necessary for using the powers to access, copy and use information stored on the device (provided for in clause 23) or for use in proceedings for an offence. Subsections (6) and (7) concern arrangements for the article's return or disposal, including in circumstances where there is no one it could be returned to.

Clause 22 sets out arrangements for immigration officers to share retained articles with other appropriate people if they believe the article or information stored on it has been obtained as a result of a non-immigration criminal offence.

Clause 23: Powers to access, copy and use information stored on relevant articles

This clause gives powers to an authorised officer or the Home Secretary to:

- Access and examine any information stored on a relevant article retained under clause 21(5)(a).
- Copy and retain information that relates or may relate to the commission of a facilitation offence under section 25 or section 25A IA 1971 “whether in the past or future”.
- Use any of that retained information for any purpose relating to the prevention, detection, investigation or prosecution of one of those offences.

Clause 24 would extend some provisions of the [Criminal Justice and Police Act 2001](#) to articles seized under the powers in clauses 20 to 23, including protections for legally privileged, excluded and special procedure material.¹¹⁰

Safeguards

The government accepts that the powers are invasive, but says they are narrowly defined and solely for the purpose of recovering information about facilitation offences.¹¹¹

Further safeguards which the government says distinguish the proposed new powers from the previous blanket policy (declared unlawful by the High Court) include:¹¹²

- A person could only be searched under the powers once: clause 20(2). The government says internal Home Office databases would be checked before a person was searched, to confirm they hadn’t already been searched or granted immigration permission.
- The Home Office would issue non-statutory guidance about the use of the powers and training required for authorised officers.
- Any item seized would have to be returned when no longer needed.
- The Home Office already has data-protection-compliant systems in place.

5.4

Law enforcement powers not specific to immigration

Part 3 of the bill would make changes to the law about serious crime in general – not specifically organised immigration crime.

¹¹⁰ These terms are defined in the [Police and Criminal Evidence Act 1984, Part II](#)

¹¹¹ Home Office, [European Convention on Human Rights Memorandum](#) (PDF), para 67

¹¹² As above, para 72

The Home Office believes that these measures will help to disrupt organised crime gangs.¹¹³ It included most of them in the Criminal Justice Bill 2023-24, which had completed Commons committee stage, but the bill fell when Parliament was dissolved before the 2024 general election.¹¹⁴

Clauses 43 and 44: Possession or supply of certain items for use in serious crime

Clause 43 would create two new criminal offences. They would be committed if:

- The person has a “relevant article” and there is a reasonable suspicion that the item will be used in a serious criminal offence, or
- The person imports, makes, adapts, supplies or offers to supply a “relevant article” and there is a reasonable suspicion that it will be used in a serious criminal offence.

Only four things would count as a relevant article initially:

- A 3D printer firearms template, showing how to make gun parts
- A vehicle concealment, for hiding things or people in a car or van
- A tablet press or an encapsulator, for making pills

This list is in clause 44. The Home Secretary would be able to add articles to the list by amending the legislation later using regulations (provided they are actively approved by Parliament). This is a [Henry VIII clause](#).

What counts as a serious criminal offence would be determined by referring to existing legislation: [schedule 1 to the Serious Crime Act 2007](#). For example, drug trafficking is a schedule 1 serious offence, so possession of a tablet press to be used in drug trafficking would be a crime under this clause. Possession of a tablet press where there is no reasonable suspicion that it will be used for drug trafficking (or another schedule 1 offence) would not be a crime caught by this clause.

Assisting unlawful immigration is a schedule 1 offence, as are certain other offences related to people smuggling or human trafficking.¹¹⁵

The maximum sentence for someone convicted of an offence under this clause would be five years’ imprisonment.

The Home Office says that [existing laws on encouraging or assisting crime](#) are not sufficient because they require prosecutors to prove that the person

¹¹³ Home Office, [Border Security, Asylum and Immigration Bill impact assessment](#), HO IA 1003, 30 January 2025, p12

¹¹⁴ See Commons Library briefing CBP-10022, [Criminal Justice Bill: Progress of the Bill](#)

¹¹⁵ Serious Crime Act 2007, sch 1, paras 2, 16B and 18

believed or intended a crime to be committed.¹¹⁶ Requiring only a “reasonable suspicion” lowers the threshold for conviction.

Clauses 46 to 50: Serious crime prevention orders

Existing law

Serious crime prevention orders already exist, under part 1 of the Serious Crime Act 2007. They are civil court orders that can be used against people (or companies) to stop or disrupt their involvement in serious crime.

Only the head of the relevant prosecution service, a chief police officer or (in England and Wales) the head of the Serious Fraud Office can apply for an order.¹¹⁷ They can do so in two ways:

- After the person has been convicted of a serious crime in a criminal court
- As a standalone application to a senior judge, even if the person has not been convicted of a crime

The court can only make an order if it has reasonable grounds to believe that the order would protect the public by preventing, restricting or disrupting the person’s involvement in serious crime.¹¹⁸ Breaching an order is a criminal offence carrying a sentence of up to five years’ imprisonment.

Crime counts as serious in this context if it is listed in schedule 1 of the 2007 act, or if the court considers that it is serious enough to be treated as though it were listed in that schedule.¹¹⁹

Section 5 of the 2007 act gives examples of things a serious crime prevention order can contain, such as restrictions on a person’s business dealings or travel. But these examples “do not limit the type of provision that can be made by such an order”.

Changes proposed

Clause 46 would provide for electronic monitoring of people subject to serious crime prevention orders. The clause does not define electronic monitoring but in practice it means ankle tags.¹²⁰

Such tagging could be included as part of the order to check compliance with its other conditions. For example, if an order banned a person from travelling to a particular area, electronic monitoring could verify their whereabouts.

¹¹⁶ Home Office, [Border Security, Asylum and Immigration Bill impact assessment](#), HO IA 1003, 30 January 2025, p36

¹¹⁷ [Serious Crime Act 2007, section 8](#)

¹¹⁸ Serious Crime Act 2007, sections 1, 19 and 22A

¹¹⁹ [Serious Crime Act 2007, Schedule 1](#)

¹²⁰ Ministry of Justice, [Electronic Monitoring Strategy](#), 30 June 2022; Community Justice Scotland, [Introduction to: Electronic Monitoring](#), 17 January 2024

In Scotland and Northern Ireland, electronic tagging could only be attached to a serious crime prevention order if the order is terrorism related. The Conservative government had decided against extending electronic monitoring to Scotland at all, “at the request of the Scottish Government”.¹²¹

Clause 47 (with schedule 2) would allow for interim serious crime prevention orders, a new concept. These could be put in place while an application for a full order is pending before the courts. The Home Office says this is to address complaints by law enforcement agencies that the court process for obtaining an order is too slow.¹²²

An interim order could include any restrictions on the person’s activity which the court considers appropriate to protect the public by preventing or disrupting serious crime. It does not appear that the terms of the interim order would need to be less restrictive than under a full order.

In Scotland and Northern Ireland, interim orders would again only be possible in terrorism-related cases.

Clause 48 would expand the list of agencies in England and Wales allowed to apply for an order (or interim order). The heads of the National Crime Agency, HM Revenue and Customs, British Transport Police and Ministry of Defence Police would now be allowed to apply, provided they consult the Director of Public Prosecutions first. There would be no change to who is allowed to apply for an order in Scotland or Northern Ireland.

Clause 49 would require people under a serious crime prevention order in England and Wales to notify the authorities of various personal information, including social media profiles, car registration, [bank accounts and passport details](#). Failure to provide this information would be a criminal offence punishable by up to five years’ imprisonment.

Clause 50 would allow the Crown Court in England and Wales to impose a serious crime prevention order following an acquittal in court, not just following a conviction as at present. The judge must be satisfied that the person is nevertheless involved in serious crime.

The Conservative government had proposed extending the measures just described in clauses 48 to 50 to Northern Ireland as well as England and Wales. This was provided for in the Criminal Justice Bill 2023-24 after committee stage amendment, before the bill fell with the general election.¹²³

¹²¹ [Criminal Justice Bill PBC Deb 18 January 2024 c318](#)

¹²² Home Office, [Border Security, Asylum and Immigration Bill Impact Assessment](#), HO IA 1003, 30 January 2025, pp35-36; see also [Home Office press release, Serious crime laws to be overhauled to combat people-smuggling gangs](#), 2 January 2025

¹²³ [Criminal Justice Bill 2023-24](#) [as amended in Public Bill Committee], clauses 43-45; [Criminal Justice Bill PBC Deb 18 January 2024 c318](#)

6 Sharing customs data

As a general rule, HM Revenue and Customs (HMRC) cannot disclose information it gathers for its work.¹²⁴ This includes disclosure within the government and to law enforcement agencies.¹²⁵ Wrongful disclosure of revenue and customs information is a criminal offence.¹²⁶

There are some exceptions to allow information sharing. HMRC explains that it will share information with third parties “in specified circumstances where it is legally allowed to do so”.¹²⁷

The circumstances in which information can legally be shared includes where specific legislation is passed to permit it.¹²⁸ HMRC refers to these as “legal gateways” or “information gateways”. For example, section 40 of the UK Borders Act 2007 permits information sharing with the Home Office for the purposes of immigration control and the exercise of immigration functions.¹²⁹

HMRC says there are over 250 information gateways but each one is “specific to the type of information that can be disclosed and the purpose for which the information will be used”.¹³⁰

The Home Office argues that the current legislation on access to HMRC data is “unhelpfully restrictive” with “complex caveats”. It wants to simplify the data-sharing framework so that government departments and agencies can have easier access to customs data. The impact assessment says this will help with analytical and intelligence work, including “big data analytics”.¹³¹ It is not entirely clear how such data would be helpful in developing intelligence on unauthorised immigration and/or serious organised crime.

¹²⁴ [Commissioners for Revenue and Customs Act 2005, section 18](#)

¹²⁵ HMRC internal manual, [IDG40110 - Sharing information outside of HMRC: legal obligations: General](#), 17 January 2025

¹²⁶ [Commissioners for Revenue and Customs Act 2005, section 19](#)

¹²⁷ HM Revenue and Customs, [Confidentiality and disclosure of information by HM Revenue and Customs \(HMRC\): policy and legal framework](#), 6 January 2025

¹²⁸ [Commissioners for Revenue and Customs Act 2005, section 18\(3\)](#): the duty of confidentiality is “subject to any other enactment permitting disclosure”

¹²⁹ [UK Borders Act 2007, section 40](#)

¹³⁰ HM Revenue and Customs, [Confidentiality and disclosure of information by HM Revenue and Customs \(HMRC\): policy and legal framework](#), 6 January 2025. [A full list of information gateways is in the HMRC internal manual.](#)

¹³¹ Home Office, [Border Security, Asylum and Immigration Bill Impact Assessment](#), HO IA 1003, 30 January 2025, paras 11-23

6.1

Streamlining access to customs data

Clauses 27 to 29

Clause 27 would create a new legal gateway for HMRC data-sharing. It would allow HMRC to supply information held in connection with its customs functions to certain government entities for use in their own functions.

HMRC's customs functions include those relating to the movement of goods and cash in and out of the UK, and to the enforcement of taxes and duties on those movements: clause 27(2). They do not include HMRC functions beyond customs, such as income tax.

Under clause 27(3), there would be a wide range of entities with which customs information could be shared. These would include the Border Security Commander, immigration officers and authorised police officers, but also UK government departments and foreign governments.

As a general rule, information shared in this way could only be used for the purpose for which it was supplied and not shared further: clause 28(1). This applies in particular to information shared with foreign governments. By contrast, there would be significant exceptions to this rule within the UK:

- UK government entities which gather data for a particular purpose could re-use it for another purpose falling within their functions: clause 28(2).
- Home Office personnel could further share information between one another and re-use it in various contexts, including for “immigration purposes” and in connection with domestic and overseas criminal investigations: clauses 28(3), 28(4) and 28(7).
- The Home Office could further share the information with anyone, including outside the UK, so long as it is being used for immigration control and border security purposes: clause 28(8).

However, HMRC could place restrictions on the re-use and onward sharing of data when sharing it initially: clause 29(1). HMRC's current practice is to draw up a more detailed protocol for data-sharing once enabled by a legal gateway.¹³² It may do so for data-sharing enabled by these provisions as well.

The rest of clause 29 would make further provision about onward sharing and re-use of the data.

Under clause 32, any information-sharing enabled by these clauses would have to comply with existing data protection legislation (including UK GDPR) and the Investigatory Powers Act 2016.

¹³² HMRC internal manual, [IDG40320 - Sharing information outside of HMRC: lawful disclosure: legal gateways](#), 17 January 2025

7 Repeal of previous asylum legislation

7.1 Most of the Illegal Migration Act 2023

The Illegal Migration Act 2023 reflected the Conservative government's approach to addressing unauthorised migration. The philosophy was to deter people from making illegal journeys by refusing to process their asylum claim and making their removal from the UK a legal requirement. These core provisions of the 2023 act had not been brought into force before the 2024 change in government.

The Labour government's approach emphasises deterrence of the people smugglers arranging small boat crossings, rather than migrants themselves. It says that it will not implement the 2023 act, which it says only serves to "increase the backlog of asylum cases... and put impossible pressure on asylum accommodation with significant costs to taxpayers".¹³³

Clause 38: Repeal of core provisions

Clause 38 would therefore repeal most, but not all, of the Illegal Migration Act 2023. The core scheme of the 2023 act – the refusal to process asylum claims, the duty to arrange removal and associated provisions – would all be repealed: 56 out of 62 substantive sections.

Six sections would not be repealed:

- Section 12, expanding powers of immigration detention (in force).¹³⁴
- Section 29, strengthening the disqualification from modern slavery protections for migrants who have committed criminal offences or are otherwise considered a threat to public order (not in force).¹³⁵
- Section 52, making First-tier Tribunal judges technically also Upper Tribunal judges (in force).¹³⁶

¹³³ Home Office, [Border Security, Asylum and Immigration Bill Impact Assessment](#), HO IA 1003, 30 January 2025, para 115

¹³⁴ See Garden Court Chambers, [Immigration Blog: The expansion of immigration detention in the Illegal Migration Act 2023](#), 1 November 2023

¹³⁵ See [Nationality and Borders Act 2022, section 63](#) and Home Office, [Modern Slavery: Statutory Guidance for England and Wales \(under s49 of the Modern Slavery Act 2015\) and Non-Statutory Guidance for Scotland and Northern Ireland](#), version 3.12, 16 January 2025, p170

¹³⁶ See [Tribunals, Courts and Enforcement Act 2007, section 5](#). The [explanatory notes to the 2023 act](#) say that this is to allow more flexible deployment of judges within the tribunal system.

- Section 59, expanding the rules on when an asylum or human rights claim to remain in the UK will not be processed because the person is from a safe country (partly in force).¹³⁷
- Section 60, requiring the Home Secretary to make regulations capping the number of people who can enter the UK using “safe and legal routes” such as refugee resettlement programmes (in force).¹³⁸
- Section 62, expanding the circumstances in which the credibility of an asylum seeker’s story should be treated as damaged (in force).¹³⁹

Media reports suggesting that provisions enabling the detention of children would be retained are not accurate.¹⁴⁰

7.2

All of the Safety of Rwanda Act 2024

The Conservative government also intended to send some asylum seekers to Rwanda to claim asylum there. This would have supported the Illegal Migration Act by establishing a country to which they could be sent under its provisions (their home country was mostly not an option because the government would not have examined whether their claim to be at risk of persecution there was true).¹⁴¹

The Safety of Rwanda (Asylum and Immigration) Act 2024 declared that Rwanda must be treated as a safe country for asylum seekers. This was designed to make the relocation plan legal in domestic law.¹⁴²

The Labour government is terminating the arrangement with Rwanda.¹⁴³ That means that the Safety of Rwanda Act is, in effect, a dead letter.

Clause 37: Repeat of the Safety of Rwanda Act

Clause 37 would repeal the 2024 act in full.

¹³⁷ See [Nationality, Immigration and Asylum Act 2002, Part 4A](#) and Commons Library briefing CBP-9724, [Refusing to process asylum claims: the safe country and inadmissibility rules](#)

¹³⁸ See Home Office, [Government consults on safe and legal routes for refugees](#), 20 October 2023 and Commons Library briefing CBP-9630, [Safe and legal humanitarian routes to the UK](#)

¹³⁹ See [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004, section 8](#)

¹⁴⁰ Coram Children’s Legal Centre, [Coram Children’s Legal Centre welcomes scrapping of child detention powers](#), 30 January 2025; Refugee and Migrant Children’s Consortium, [Border Security, Asylum and Immigration Bill](#) (PDF), February 2025, p1

¹⁴¹ See Commons Library briefing CBP-9568, [UK-Rwanda Migration and Economic Development Partnership](#)

¹⁴² See Commons Library briefing CBP-9918, [Safety of Rwanda \(Asylum and Immigration\) Bill 2023-24](#)

¹⁴³ PQ HL263 [on [Asylum: Rwanda](#)], answered on 5 August 2024

Annex: How bills go through Parliament

Bills can be introduced in either the House of Commons or the House of Lords. They can be amended but the entire text has to be agreed by both Houses before they can receive Royal Assent and become law. In both Houses, bills go through the same stages although there are slight differences in the practices of the two Houses.

Commons stages

A bill that is introduced in the House of Commons will go through the following stages.

- First reading sees the formal introduction of a bill, when a clerk reads out the name of the bill in the Commons chamber. This bill had its first reading on 30 January 2025. There is no debate at this stage. Bills cannot be published before their introduction. Government bills are usually published immediately after introduction.
- Second reading debate is the first time MPs debate a bill. They discuss the purpose of the bill. Debates are usually scheduled to take a full day (five to six hours). This bill is due to have its second reading on 10 February. At the end of the debate, MPs decide whether it should pass to the next stage. Sometimes a ‘reasoned amendment’, which sets out the reasons to reject a bill, is tabled. If this is agreed to, or if the bill is simply voted down, the bill cannot make any further progress. No amendments are made to the bill itself at this stage.
- Committee stage is usually conducted by a small number of MPs (usually 17) in a public bill committee but sometimes bills can be considered in detail in the Commons Chamber by all MPs in a Committee of the whole House. The committee debates and decides whether amendments should be made to the bill and whether each clause and schedule should be included.
- Report stage takes place in the Commons Chamber and involves MPs considering the bill as agreed at committee stage. MPs can also propose further amendments which can be voted on.
- Amendments at committee and report stage can leave out words, substitute words and add words, including whole clauses and schedules. They can be proposed by backbench and frontbench MPs. The Speaker or the chair of the committee selects and groups amendments to debate.

- Third reading, usually on the same day as report stage, is the final chance for MPs to debate the contents of a bill before it goes to the House of Lords. It's usually a short debate and changes cannot be made at this stage in the Commons. At the end of the debate, the House decides whether to approve the bill and therefore pass it onto the House of Lords.

Lords stages

Bills introduced in the Lords go through the same process, completing all stages in the Lords before being sent to the Commons.

The House of Lords respects the Commons' primacy on financial matters and does not usually amend Finance Bills (those that implement the Budget) or money bills.

Members of the House of Lords debate the bill, going through the same stages as in the Commons. Key differences between the two Houses are that in the Lords, committee stage usually takes place on the floor of the House and a bill can be amended at third reading.

Most bills are considered by a committee of the whole House in the House of Lords. Some are referred to the Lords Grand Committee – which all members can attend. However, divisions (votes) are not permitted in the Grand Committee and any amendments made have to be agreed to without a division.

The Lords can also make amendments to a bill. Major points of difference should have been resolved before third reading but amendments to “tidy-up” a bill are permitted.

No party has a majority in the House of Lords and government defeats are not uncommon. For bills that have started in the House of Commons, the Lords is essentially asking MPs to think again about the subject of the amendment.

‘Ping pong’

If the Lords amend a bill that was sent from the Commons, the amendments are returned to the Commons and MPs debate the amendments proposed by the Lords. This is potentially the start of “ping-pong”, a process whereby amendments and messages about the amendments are sent backwards and forwards between the two Houses until agreement is reached.

Once agreement has been reached, the Bill receives Royal Assent, becoming law when both Houses have been notified that Royal Assent has been granted.

Amendments

MPs can submit amendments, via the Public Bill Office (PBO), at three different stages of a bill: committee stage, report stage, and when a bill is returned from the Lords. Once the PBO accepts the amendment, it has been 'tabled'. If an MP wants to amend a bill during committee stage but is not a member of the committee, they will need a committee member to 'move' it for debate on their behalf.

In order to be debated, the amendment must be selected by the chair. Similar amendments may be grouped for debate to avoid repetition. For committee stage, selection and grouping is carried out by MPs from the panel of chairs chosen to chair the committee. If there is a Committee of the Whole House, the chair is the Chairman of Ways and Means (the principal Deputy Speaker). For report stage, it is the Speaker.

Amendments might not be selected for debate if they are, for example, outside the scope of a bill, vague, or tabled to the wrong part of a bill. The PBO can advise on whether an amendment is likely to be selected.

Further information on bill procedure

The [MPs' Guide to Procedure](#) has a [section on bills](#).

MPs who have questions about the procedure for bills or want advice on how to amend them should contact the [Public Bill Office](#).

The Library can provide information on the background and potential impact of a bill and of amendments but cannot help MPs with drafting amendments.

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