

Refugees (Family Reunion) Bill [HL] HL Bill 12 of 2017–19

Summary

The [Refugees \(Family Reunion\) Bill \[HL\]](#) is a private member's bill introduced by Baroness Hamwee (Liberal Democrat). The Bill received its first reading in the House of Lords on 27 June 2017, and is scheduled to receive its second reading on 15 December 2017. The Bill would “make provision for leave to enter or remain in the United Kingdom to be granted to the family members of refugees and to refugees who are family members of British citizens”. Setting out the purpose of the Bill, Baroness Hamwee explains:

Mass movement of refugees often leads to the separation of family members. There has recently been increasing awareness of this, and in particular the dangers to unaccompanied children whose lives and wellbeing are at the mercy of smugglers and traffickers; many have been orphaned but have close relatives in the UK who can care for them. Refugees can currently only sponsor spouses/partners and children under 18 to join them (a 19 year-old daughter could be left in a dangerous situation, for instance), and child asylum seekers who reach the UK are not permitted to sponsor a parent or carer to come here. My Bill will allow refugees in the UK to be joined by members of their wider, but still close, family, and enable British citizens to sponsor family members who are refugees elsewhere. It will provide for legal aid in relation to these applications.¹

Clause 1 would amend the UK Immigration Rules in relation to applicants for refugee status or humanitarian protection, to extend the list of eligible family members who may also be sponsored in their application, to include:

- (a) their spouse;
- (b) their civil or unmarried partner;
- (c) their child under the age of 18;
- (d) their grandchild under the age of 18;
- (e) their unmarried child aged 18 or over;
- (f) their parent;
- (g) their sibling under the age of 18;
- (h) their niece or nephew under the age of 18; or
- (i) any dependent relative not otherwise listed in this subsection.

Clause 1(3) would make provision that, in the case of an applicant under the age of 18, a family member includes an aunt or an uncle. Clause 1(4) defines family member as “a relative of full blood or half blood”. Clause 2 would make provision where an existing British citizen (or other settled person) has family members outside the UK registered with the UN High Commissioner for Refugees or another internationally recognised organisation, extending the list of eligible family members for whom an application may be made to enter and remain in the UK. Both clause 1 and 2 would make provision that

any such application must be granted unless the Secretary of State is satisfied that it is in the interest of national security to refuse it. Clause 3 provides that the Secretary of State may, by way of regulations made by statutory instrument laid before Parliament, amend clauses 1 and 2 to extend the list of eligible family members. Clause 4 would amend schedule 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, to provide for legal aid to be made available for such family reunion application cases. Lastly, clause 5 would apply the Bill's territorial extent to the whole of the United Kingdom.

A private member's bill with a similar intention, the [Refugees \(Family Reunion\) \(No. 2\) Bill](#), has been presented in the House of Commons by Angus MacNeil (Scottish National Party MP for Na h-Eileanan an Iar). The first reading took place on 19 July 2017 and the second reading is scheduled for 16 March 2018.

Refugees: Family Reunion

Background

Demands from campaigners to extend the scope of the UK's refugee family reunion rules have been made in the context of increased migration flows across Europe in recent years, in part due to factors such as instability in Syria, Iraq and North Africa. European Union statistics show a significant increase in the number of asylum applications, from approximately 300,000 in 2012 to "around 1.3 million in both 2015 and 2016".²

Under the current UK [Immigration Rules](#), individuals making an asylum application may include in their application a defined list of dependent family members: spouse, civil partner, unmarried partner, or children under the age of 18.³ If the principal application is granted, the dependents are granted leave to enter or remain in the UK for the same duration as the sponsor.⁴

The UK Government has implemented a number of refugee resettlement schemes. The Mandate and Gateway schemes work in collaboration with the UN High Commissioner for Refugees to identify refugees who could be resettled.⁵ In January 2014, in response to the escalating civil war in Syria, the Coalition Government established the Syrian Vulnerable Persons Resettlement Scheme (SVPRS), which committed to resettle an unspecified number of the most vulnerable migrants fleeing the conflict.⁶ In September 2015, the then Prime Minister, David Cameron, announced an expansion of the scheme, and a commitment to resettle 20,000 people by 2020.⁷ In May 2017, the Home Office reported that "a total of 7,307 people have been granted humanitarian protection under the Syrian Vulnerable Person Resettlement Scheme since the scheme began".⁸ The Home Secretary, Amber Rudd, has announced that, from 1 July 2017, all those admitted under the scheme will be granted refugee status.⁹

During the passage of the 2016 Immigration Act through Parliament, a number of amendments to extend the refugee family reunion rules were tabled. However, despite being debated in both Houses, none of the proposed amendments on the issue were added to the legislation. With regard to unaccompanied children, section 67 of the Act (sometimes referred to as the 'Dubs amendment', due to the campaign for its inclusion by Labour Peer Lord Dubs) committed the Government to resettle a number of unaccompanied children, many of them Syrians, already registered as refugees in Greece, Italy and France.¹⁰

Comment and Criticism

A number of charities, NGOs and other campaigners have continued to call for the refugee family reunion application rules to be simplified and made more flexible. In 2015, the British Red Cross examined the experience of a number of family reunion applicants, and published its findings in the report *Not So Straightforward: The Need For Qualified Legal Support In Refugee Family Reunion*. The report found that, of the 91 cases studied, “the majority of sponsors were adult men, while 95 percent of applicants were women and children”.¹¹ The report also found that “62 percent of sponsors required English language support with their refugee family reunion applications”. The British Red Cross continued to highlight the issue as part of its *Torn Apart* campaign in 2016.¹² There have also been similar campaigns run by Refugee Action.¹³ In addition, Oxfam, Amnesty International and the Refugee Council have produced a joint agency report, *Together Again*, which recommends the definition of ‘family member’ be extended and legal aid be reinstated for family reunion cases.¹⁴

In July 2016, the House of Commons Home Affairs Committee report, *The Work of the Immigration Directorates (Q1 2016)*, stated:

The bureaucratic hurdles that are being put in front of refugees after a decision has been made allowing them to enter the UK to be reunited with family members are totally unacceptable, particularly as many of those affected are fleeing conflict and will have already undergone severe hardship. The UK Government should be doing all it can to help people in these circumstances rather than hindering their chance to reach safety.¹⁵

On the subject of unaccompanied child refugees, the report continued:

It seems to us perverse that children who have been granted refugee status in the UK are not then allowed to bring their close family to join them in the same way as an adult would be able to do. The right to live safely with family should apply to child refugees just as it does to adults. The Government should amend the immigration rules to allow refugee children to act as sponsors for their close family.¹⁶

The Government published its response to the Committee’s report on 3 November 2017. With regard to the Committee’s comments relating to “the bureaucratic hurdles that are being put in front of refugees”, the Government stated:

All family reunion applications are carefully considered on their individual merits and without unnecessary delay. In 2015, the average time taken to resolve an application was 40 days. Some applications are decided more quickly and some may take longer, for example if further information is needed to reach a decision, or if a case is subject to an appeal hearing. We have also revised Home Office policy guidance on family reunion to streamline the process and make clearer for caseworkers, applicants and sponsors what is expected of them, including the types of evidence that can be provided to support an application. We have worked closely with external partners, including the British Red Cross, to improve our guidance and have committed to monitoring how the policy is applied in practice to make sure there is no unnecessary bureaucracy.¹⁷

With regard to the Committee's recommendation in relation to unaccompanied children sponsoring close family members, the Government stated:

We do not accept this recommendation. Our current family reunion policy meets our international obligations and we do not believe that widening the criteria is necessary. We must not create perverse incentives for children to be encouraged, or even forced to leave their families and risk dangerous journeys hoping relatives can join them later. This has the potential to play into the hands of criminal gangs seeking to exploit vulnerable people and goes against our safeguarding responsibilities. Those who need international protection need to claim in the first safe country they reach—that is the fastest route to safety—rather than travelling into and across Europe to reach the UK. Where an entry clearance application fails under the Immigration Rules, we consider whether there are exceptional circumstances or compassionate reasons to justify granting a visa outside the Rules. This caters for extended family members, including parents of children recognised as refugees here, in exceptional circumstances.¹⁸

On 16 October 2017, a debate on the refugee family reunion rules took place in the House of Commons. The Government was asked by Layla Moran (Liberal Democrat MP for Oxford West and Abingdon) whether it was “taking steps to broaden the criteria under which refugee family reunions are permitted”.¹⁹ The Minister for Immigration, Brandon Lewis, replied:

The family reunion policy allows immediate family members of those granted protection in the UK to reunite with them here. In addition, the family provisions in the immigration rules also provide for relatives with protection in the UK to sponsor children when there are serious and compelling circumstances. Our policy is clear: where an application fails under the rules, we consider whether there are exceptional reasons to grant leave outside the rules.²⁰

In the same debate Layla Moran also asked whether the Government would “support the Refugees (Family Reunion) Bill, introduced in the other place by my colleague Baroness Hamwee, and allow these vulnerable children a chance to have the loving upbringing that every child surely deserves?”.²¹ Mr Lewis replied:

We are working with the [UN High Commissioner for Refugees] and with UNICEF on this issue, and we want to ensure that the application of these rules and this policy works in practice. I ask the hon. Lady to look again at the rules that I have outlined, because we can consider whether there are exceptional reasons to grant leave outside the rules.²²

Yvette Cooper (Labour MP for Normanton, Pontefract and Castleford) contributed to the debate by asking Mr Lewis, in regard to the scheme established to resettle unaccompanied child refugees under the ‘Dubs amendment’, whether he accepted that:

[T]he Home Office has designed the scheme in a way that is too restrictive and that makes it too difficult for Italy and Greece to send children here, despite the fact that there are still 280 pledged local authority places that remain unfilled? Will he now agree to revise the scheme to ensure that those 280 places can be filled before Christmas?²³

Mr Lewis replied:

I was in Italy and Greece over the summer to talk about these programmes, and we are working

with the Greek and French authorities to ensure that more children can come over and that we fulfil our duty. Let us bear in mind that when we get to the 480, the United Kingdom will have done more than other European countries, and we should be proud of that.²⁴

Legal Aid

Family reunion cases were removed from the scope of legal aid, with effect from April 2013, under the provisions of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Campaigners have argued that, given some of the issues identified above, family reunion applications can be complex and may require access to specialist legal advice and translation services. This was the conclusion of the 2015 British Red Cross *Not So Straightforward* report, which stated:

Many of the processes involved in refugee family reunion applications depend on legal expertise, experience and professional networks, and are rarely 'straightforward'.²⁵

The report recommended that the Government reinstate legal aid for refugee family reunion applications and appeals. However, in March 2017, in answer to a written question from Lord Hylton (Crossbench), Baroness Williams of Trafford, Minister of State for Countering Extremism, set out the Government's position on the matter:

Legal aid is paid for by tax payers and resources are not limitless. It is therefore provided to those who most need it, including those who claim asylum. For those eligible to sponsor and apply for family reunion, we have already improved our guidance to caseworkers to ensure that applicants better understand the process and what is required of them so the provision of legal aid is not necessary.²⁶

Statistics

As stated by the then Minister of State for Security and Immigration, James Brokenshire, in answer to a written question in June 2016, refugee family reunion applications are not separately recorded in the Home Office Immigration Statistics, but comprise the majority of the applications in the 'Family: Other' category.²⁷ The most recent statistical release shows that the number of applications resolved peaked in the year ending September 2016, at 9,936. This represented a 58 percent increase compared to the year ending September 2013. The number of applications resolved has since declined, standing at 8,041 in the year ending September 2017. The rate of resolved applications granted in the year ending September 2017 was 65 percent.

Table 1: Entry Clearance Visa Applications and Resolutions in the 'Family: Other' Category, Year Ending September 2013 to Year Ending September 2017²⁸

Year	Applications	Resolved	Granted	%	Refused	%	Withdrawn / lapsed
YE Sept 2013	6,221	6,278	4,192	67	1,977	31	109
YE Sept 2014	5,576	6,528	4,643	71	1,764	27	121
YE Sept 2015	7,622	7,433	4,504	61	2,786	37	143
YE Sept 2016	9,155	9,936	6,179	62	3,697	37	60
YE Sept 2017	7,439	8,041	5,197	65	2,793	35	51

Further Information

- Home Office, [Family Reunion: For Refugees and Those With Humanitarian Protection](#), 29 July 2016
- House of Commons Library, [The UK's Family Reunion Rules: Striking The Right Balance?](#), 28 November 2016

¹ This text was provided by Baroness Hamwee on request from the Library.

² Eurostat, [Asylum Statistics](#), accessed 5 December 2017.

³ Home Office, [Immigration Rules](#), part 11, paragraph 349.

⁴ *ibid.*

⁵ Prime Minister's Office, [Syria Refugees: UK Government Response](#), 8 October 2015.

⁶ House of Commons, [Written Statement: Syrian Refugees](#), 29 January 2014, cols 863–5.

⁷ House of Commons, [Written Statement: Syria: Refugees and Counter-terrorism](#), 7 September 2015, cols 23–7.

⁸ Home Office, [National Statistics: How Many People Do We Grant Asylum Or Protection To?](#), 25 May 2017.

⁹ House of Commons, [Written Statement: Syrian Vulnerable Persons Resettlement Scheme and Vulnerable Children's Resettlement Scheme—Arrangements](#), 22 March 2017, HCWS551.

¹⁰ Home Office, [Policy Statement: Section 67 of the Immigration Act 2016](#), April 2017, p 1.

¹¹ British Red Cross, [Not So Straightforward: The Need For Qualified Legal Support In Refugee Family Reunion](#), 2015, p 7.

¹² British Red Cross, [Torn Apart: How Reuniting Families Can Provide Solutions To The Refugee Crisis](#), 2016.

¹³ Refugee Action, [Support Family Reunion for Refugees](#), accessed 5 December 2017.

¹⁴ Oxfam et al, [Together Again: Reuniting Refugee Families In Safety—What The UK Can Do](#), February 2017.

¹⁵ House of Commons Home Affairs Committee, [The Work of the Immigration Directorates \(Q1 2016\)](#), 27 July 2016, HC 151 of session 2016–17, p 20.

¹⁶ *ibid.*

¹⁷ House of Commons Home Affairs Committee, [The Work of the Immigration Directorates \(Q1 2016\): Government Response to the Committee's Sixth Report of Session 2016–17](#), 3 November 2017, HC 541 of session 2017–19, p 7.

¹⁸ *ibid.*

¹⁹ [HC Hansard, 16 October 2017, col 563.](#)

²⁰ *ibid.*

²¹ *ibid.*

²² [ibid, cols 563–4.](#)

²³ [ibid, col 564.](#)

²⁴ *ibid.*

²⁵ British Red Cross, [Not So Straightforward: The Need For Qualified Legal Support In Refugee Family Reunion](#), 2015, p 8.

²⁶ House of Lords, [Written Question: Refugees: Families](#), 20 March 2017, HL5829.

²⁷ House of Commons, [Written Question: Asylum: Families](#), 6 June 2016, 38033.

²⁸ Home Office, [Immigration Statistics: July to September 2017](#), Table vi_01_q.

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