



HL Bill 41 of 2023–24

Safety of Rwanda (Asylum and Immigration) Bill

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The government is asking Parliament to pass the [Safety of Rwanda \(Asylum and Immigration\) Bill](#) to confirm Rwanda as a safe country in UK domestic law. This would enable the removal of individuals entering the UK without permission under the terms of legislation previously passed by Parliament. It would also advance the government's 'Rwanda policy', following a Supreme Court judgment that the policy was unlawful based on a risk that those removed to Rwanda under a UK-Rwanda asylum partnership could be returned to countries where they may face persecution or other inhumane treatment. This is known as 'refoulement'.

The bill accompanies a new treaty signed by the UK and Rwanda to strengthen safeguards in an earlier asylum partnership agreement. The treaty has been laid before Parliament and is awaiting ratification. On 22 January 2024, the House approved a resolution tabled by Lord Goldsmith (Labour), chair of the House of Lords International Agreements Committee, that the government should not ratify the treaty "until the protections it provides have been fully implemented, since Parliament is being asked to make a judgement, based on the agreement, about whether Rwanda is safe". After debate, the House approved the resolution by 214 votes to 171. The government can override this if it lays a statement before Parliament.





The House of Commons has passed the bill, although its provisions have been politically controversial. The Labour Party has called the government's Rwanda policy unaffordable, unworkable and unlawful. A number of Conservative backbenchers have argued the bill's provisions are not robust enough to implement the government's removal policy as intended. In addition, a number of legal scholars have said the bill is not compatible with international law. Others disagree, however, arguing the bill as drafted could effect the government's policy as intended while remaining compatible with international law.

The government has published [explanatory notes](#), a [human rights memorandum](#) and a [number of other documents](#) to accompany the bill.



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I. What is the background to the bill?

I.1 What is the government's Rwanda policy?

The UK government's 'Rwanda policy' aims to address an increase over recent years in the number of people crossing the English Channel in small boats and seeking asylum on arrival in the UK.¹ The government intends to send some people arriving in the UK in this way, and via other 'inadmissible' routes, to Rwanda. Under an agreement between the UK and Rwandan governments first reached in 2022 and later upgraded to a treaty in December 2023, those arriving in the UK without permission, with certain exceptions, could be relocated to Rwanda during a trial period. Those making asylum claims would have these heard in Rwanda by the Rwandan authorities, with those granted refugee status staying in the country. They would not be eligible to return to the UK. The recent treaty means individuals relocated from the UK do not have to apply for asylum or be recognised as refugees in Rwanda to get permanent residence in the country.

The Rwanda policy is a key part of the government's aim, first set out in the 'New plan for immigration' published in 2021, to "deter illegal entry into the UK, thereby breaking the business model of people smuggling networks and protecting the lives of those they endanger".²

¹ University of Oxford Migration Observatory, '[Q&A: The UK's policy to send asylum seekers to Rwanda](#)', 10 January 2024; and BBC News, '[What is the UK's plan to send asylum seekers to Rwanda?](#)', 18 January 2024.

² HM Government, '[New plan for immigration: Policy statement](#)', 24 March 2021, CP 412, p 3; and Home Office, '[Migration and economic development partnership with Rwanda: Equality impact assessment](#)', updated 4 July 2022, p 1. See also: HM Government, '[Consultation on the 'New plan for immigration': Government response](#)', July 2021, CP 493.



I.2 UK-Rwanda ‘Migration and economic development partnership’ (MEDP)

The UK and Rwandan governments agreed a new ‘Migration and economic development partnership’ (MEDP) in April 2022.³ The MEDP included an asylum partnership agreement, signed as a non-binding memorandum of understanding (MoU) by the two countries.⁴ The MoU was supplemented later in 2022 by ‘notes verbales’ on assurances in the original agreement.⁵ An addendum to the MoU was signed in March 2023.⁶ The MEDP was set to last for five years initially, with renewal possible upon request.

Speaking shortly after the MEDP was agreed, the then prime minister, Boris Johnson, explained his administration’s aims in signing the MEDP:

[...] our new ‘Migration and economic development partnership’ will mean that anyone entering the UK illegally—as well as those who have arrived illegally since 1 January [2022]—may now be relocated to Rwanda.

³ Home Office, [‘Migration and economic development partnership: Factsheet’](#), 15 November 2023.

⁴ Home Office, [‘Memorandum of understanding between the UK and Rwanda’](#), updated 6 April 2023. See also: House of Lords International Agreements Committee, [‘Memorandum of understanding between the UK and Rwanda for the provision of an asylum partnership arrangement’](#), 18 October 2022, HL Paper 71 of session 2022–23; and House of Lords Library, [‘UK-Rwanda asylum agreement: Why is it a memorandum of understanding and not a treaty?’](#), 26 January 2023.

⁵ Home Office, [‘Migration and economic development partnership: Reception and accommodation’](#) and [‘Migration and economic development partnership: Asylum process’](#), 28 November 2022.

⁶ Home Office, [‘Addendum to the memorandum of understanding’](#), 6 April 2023. See also: Home Office, [‘Collection: Migration and economic development partnership with Rwanda’](#), 29 November 2022.



This innovative approach—driven [by] our shared humanitarian impulse and made possible by Brexit freedoms—will provide safe and legal routes for asylum, while disrupting the business model of the gangs, because it means that economic migrants taking advantage of the asylum system will not get to stay in the UK, while those in genuine need will be properly protected, including with access to legal services on arrival in Rwanda, and given the opportunity to build a new life in that dynamic country, supported by the funding we are providing.

The deal we have done is uncapped and Rwanda will have the capacity to resettle tens of thousands of people in the years ahead.⁷

Mr Johnson said that his government was “confident” the MEDP was “fully compliant” with the UK’s international legal obligations, but that it nevertheless expected the agreement to be challenged in the courts. For this reason he added:

So I know that this system will not take effect overnight, but I promise that we will do whatever it takes to deliver this new approach, initially within the limits of the existing legal and constitutional frameworks, but also prepared to explore any and all further legal reforms which may be necessary.⁸

As part of the agreement, the UK government is providing development funding to Rwanda. The sum transferred in 2022/23, the first year of the MEDP, was £140mn. According to the Home Office,

⁷ Prime Minister’s Office, [‘PM speech on action to tackle illegal migration’](#), 14 April 2022.

⁸ As above.



this comprised:

- An initial investment of £120mn as part of a new economic transformation and integration fund which was created as part of the MEDP.
- A separate advance payment of £20mn to the government of Rwanda to support initial set up costs of the asylum processing arrangements under the MEDP. This amount is a credit to pay for the anticipated future asylum and operational costs.⁹

The UK sent Rwanda an additional £100mn in 2023/24, and the government expects to transfer a further £50mn in 2024/25.¹⁰ The MEDP provides for the UK to pay additional processing and integration costs for each relocated person. The government has set the costs associated with the MEDP against an overall annual cost of the asylum system at the time the MEDP was agreed of over £1.5bn.¹¹

The MEDP agreement was the subject of a ministerial direction in April 2022 to override civil service concerns over the evidential base

⁹ Home Office, '[Home Office annual report and accounts: 2022 to 2023](#)', 19 September 2023, p 76.

¹⁰ Home Office, '[Migration and economic development partnership with Rwanda: Payments](#)', 7 December 2023; and BBC News, '[UK paid Rwanda an extra £100mn for asylum deal](#)', 8 December 2023.

¹¹ Home Office, '[Factsheet: Migration and economic development partnership](#)' and '[Factsheet: Cost of the asylum system](#)', 14 April 2022. A year later, the government estimated the costs of asylum accommodation alone could increase to £11bn per year by 2026 assuming irregular migration trends from 2020 onwards were to continue: Home Office, '[Safety of Rwanda \(Asylum and Immigration\) Bill 2023: Legal position](#)', 11 December 2023, p 1; and Ministry of Justice, '[Illegal Migration Bill: Impact assessment](#)', 26 June 2023, p 7.



to give assurance the policy would provide value for money.¹² The permanent secretary at the Home Office, Matthew Rycroft, wrote to the then home secretary, Priti Patel, to seek a written instruction to proceed. He wrote that accounting officer advice he had received highlighted the “uncertainty surrounding the value for money of the proposal”. He continued:

I recognise that, despite the high cost of this policy, there are potentially significant savings to be realised from deterring people entering the UK illegally. Value for money of the policy is dependent on it being effective as a deterrent. Evidence of a deterrent effect is highly uncertain and cannot be quantified with sufficient certainty to provide me with the necessary level of assurance over value for money.

I do not believe sufficient evidence can be obtained to demonstrate that the policy will have a deterrent effect significant enough to make the policy value for money. This does not mean that the MEDP cannot have the appropriate deterrent effect; just that there is not sufficient evidence for me to conclude that it will.

Therefore, I will require your written instruction to proceed. I consider it is entirely appropriate for you to make a judgement to proceed in the light of the illegal migration challenge the country is facing. I will of course follow this direction and ensure the department continues to support the implementation of the policy to the very best of our abilities.¹³

¹² Home Office, [‘Migration and economic development partnership: Ministerial direction’](#), 16 April 2022.

¹³ Home Office, [‘Letter from Matthew Rycroft to Priti Patel’](#), 13 April 2022.



Ms Patel replied to direct the Home Office to proceed. She wrote that given the ongoing costs of the current asylum system, including the costs of hotel accommodation for those seeking asylum, it would be:

[...] imprudent in my view, as home secretary, to allow the absence of quantifiable and dynamic modelling—which is inevitable when developing a response to global crises influenced by so many geopolitical factors such as climate change, war and conflict—to delay delivery of a policy that we believe will reduce illegal migration, save lives, and ultimately break the business model of the smuggling gangs. I am therefore formally directing you as accounting officer to take forward this scheme with immediate effect, managing the identified risks as best you can.¹⁴

In oral evidence to the House of Commons Public Accounts Committee on 11 December 2023, Mr Rycroft repeated that the Home Office did “not have evidence of a deterrent effect” for the Rwanda policy.¹⁵

1.3 Earlier legislation on ‘inadmissible’ asylum claims

The Nationality and Borders Act 2022 and the Illegal Migration Act 2023 together provide for rules on ‘inadmissible’ asylum claims.

Section 16 of the Nationality and Borders Act 2022 allows for asylum claims from individuals with a connection to a ‘safe third state’ to be

¹⁴ Home Office, ‘[Response from Priti Patel to Matthew Rycroft](#)’, 13 April 2022.

¹⁵ House of Commons Public Accounts Committee, ‘[Oral evidence: UK-Rwanda migration and economic development partnership](#)’, 11 December 2023, HC 410 of session 2023–24, Q 49.



declared inadmissible to the UK's asylum system.¹⁶ This means the government could remove such individuals to a safe third state that agrees to receive them, without first having to consider any asylum claim. The government has said this provision is “aimed at encouraging asylum seekers to claim asylum in the first safe country they reach and to deter onward travel to the UK”.¹⁷

The Illegal Migration Act 2023 strengthened the inadmissibility rules further.¹⁸ It provided for a duty on ministers to arrange for the removal of persons arriving in the UK without permission on or after 20 July 2023, where they did not come directly from a country in which their life and liberty were threatened. The duty would apply regardless of whether an individual had made a claim for asylum. However, the provisions outlining the removal duty and associated requirement to disregard asylum claims from persons meeting the criteria for removal are not yet in force.

1.4 Legal challenges on removals and court rulings

The first flight to remove people to Rwanda under the MEDP was scheduled to depart in June 2022.¹⁹ However, many of the removal directions issued to individuals due to be on board were cancelled ahead of the scheduled flight, either by the Home Office or after individual cases had been considered by the UK courts.²⁰

¹⁶ Home Office, '[Nationality and Borders Act 2022: Explanatory notes](#)', April 2022, pp 32–3. See also: Law Society, '[Nationality and Borders Act 2022](#)', 1 November 2023.

¹⁷ Home Office, '[Illegal Migration Act 2023: Explanatory notes](#)', 20 July 2023, p 7.

¹⁸ As above, pp 4–6. See also: House of Lords Library, '[Illegal Migration Bill: HL Bill 133 of 2022–23](#)', 4 May 2023.

¹⁹ Home Office, '[First migrants set for Rwanda to be given final notice](#)', 1 June 2022.

²⁰ House of Commons Library, '[UK-Rwanda migration and economic development partnership](#)', 6 December 2023, p 22.



The Home Office cancelled the planned flight shortly before departure after the European Court of Human Rights (ECtHR) in Strasbourg granted injunctions to several of those still scheduled to be removed.²¹ The court did so under its ‘rule 39 (interim measures)’ procedures.²² The court ruled that an applicant should not be removed to Rwanda until an ongoing judicial review had been resolved.²³

Following the flight’s cancellation, the judicial review of the MEDP proceeded to the High Court. In December 2022, the court ruled that it was “lawful for the government to make arrangements for relocating asylum seekers to Rwanda and for their asylum claims to be determined in Rwanda rather than in the United Kingdom”.²⁴

However, several of the claimants were later granted permission to appeal the judgment.²⁵ On 29 June 2023 the Court of Appeal ruled, by a majority of two to one, that the government’s Rwanda policy

²¹ BBC News, ‘[Rwanda asylum flight cancelled after legal action](#)’, 15 June 2022. See also: European Court of Human Rights, ‘[European Court grants urgent interim measure in case concerning asylum seeker’s imminent removal from the UK to Rwanda](#)’, 14 June 2022; and ‘[Further requests for interim measures in cases concerning asylum seekers’ imminent removal from the UK to Rwanda](#)’, 15 June 2022.

²² European Court of Human Rights, ‘[Factsheet: Interim measures](#)’, October 2023.

²³ House of Commons Library, ‘[UK-Rwanda migration and economic development partnership](#)’, 6 December 2023, p 23; and European Court of Human Rights, ‘[European Court grants urgent interim measure in case concerning asylum seeker’s imminent removal from the UK to Rwanda](#)’, 14 June 2022.

²⁴ [AAA and others v Secretary of State for the Home Department \[2022\] EWHC 3230 \(Admin\)](#). See in particular: Courts and Tribunals Judiciary, ‘[Rwanda press summary](#)’, 19 December 2022.

²⁵ House of Commons Library, ‘[UK-Rwanda migration and economic development partnership](#)’, 6 December 2023, p 24; and Garden Court Chambers, ‘[Rwanda judgment: Permission to appeal to the Court of Appeal granted](#)’, 18 January 2023.



was unlawful.²⁶ The court's summary of the judgment explained:

The decision of the majority [...] is that the deficiencies in the asylum system in Rwanda are such that there are substantial grounds for believing that there is a real risk that persons sent to Rwanda will be returned to their home countries where they faced persecution or other inhumane treatment, when, in fact, they have a good claim for asylum. In that sense Rwanda is not a "safe third country". That conclusion is founded on the evidence which was before the High Court that Rwanda's system for deciding asylum claims was, in the period up to the conclusion of the Rwanda agreement, inadequate.²⁷

The then Lord Chief Justice, Lord Burnett of Maldon (Crossbench), disagreed with the other two justices of appeal.²⁸ He agreed with the earlier High Court decision that procedures and assurances in the MEDP were "sufficient to ensure that there is no real risk" that asylum seekers relocated to Rwanda under the Rwanda policy would be "wrongly returned to countries where they face persecution or other inhumane treatment".

The Court of Appeal gave permission for the case to go to the Supreme Court.

On 15 November 2023 the Supreme Court unanimously upheld the Court of Appeal's decision that the government's Rwanda policy was

²⁶ [Explanatory notes](#), p 5; and [AAA v Secretary of State for the Home Department \[2023\] EWCA Civ 745](#).

²⁷ Courts and Tribunals Judiciary, '[\[2023\] EWCA Civ 745: Judgment summary](#)', 29 June 2023, p 3. The expulsion of a refugee or person seeking asylum to a country where they are at risk of persecution or ill treatment is known as 'refoulement'.

²⁸ As above.



unlawful.²⁹ The court concluded:

[...] that the Court of Appeal was correct to reverse the decision of the Divisional Court, and was entitled to find that there are substantial grounds for believing that the removal of the claimants to Rwanda would expose them to a real risk of ill-treatment by reason of refoulement. It was accordingly correct to hold that the secretary of state’s policy is unlawful. The secretary of state’s appeal is therefore dismissed.

In its judgment the Supreme Court noted Rwanda’s human rights record, evidence from the UNHCR, the UN Refugee Agency, of “serious and systematic defects in the Republic of Rwanda’s procedures and institutions for processing asylum claims”, and that Rwanda had previously “failed to comply with an explicit undertaking to the government of Israel to comply with the principle of non-refoulement”.³⁰

1.5 Government response

Following the Supreme Court judgment, the government has decided to pursue measures aimed at making the Rwanda policy lawful.

Home Secretary James Cleverly made a statement in the House of Commons a few hours after the Supreme Court delivered its decision.³¹ He said the ruling meant the government “cannot yet lawfully remove people to Rwanda”. However, he added the

²⁹ [R \(on the application of AAA and others\) v Secretary of State for the Home Department \[2023\] UKSC 42.](#)

³⁰ [Explanatory notes](#), p 5.

³¹ [HC Hansard, 15 November 2023, cols 649–71.](#)



“important thing to note is that today’s judgment was made on the basis of facts from 15 months ago”. Mr Cleverly announced that since then the government had been “working with Rwanda to build capacity and to amend our agreement to make it clear that those sent there cannot be sent to any country other than the UK”. He continued:

Our intention is to upgrade our agreement to a treaty as soon as possible, which will make it absolutely clear to our courts and to Strasbourg that the risks laid out by the court today have been responded to, will be consistent with international law and will ensure that Parliament is able to scrutinise it.³²

Speaking at a Downing Street press conference later the same day, Prime Minister Rishi Sunak said the Supreme Court had “judged that the Rwanda policy requires a set of changes in order to be lawful”.³³ He said a new international treaty with Rwanda would “provide a guarantee in law that those who are relocated from the UK to Rwanda will be protected against removal from Rwanda”. He said the government would “finalise the treaty in light of today’s judgment and ratify it without delay”. At the same time, Mr Sunak announced the government would introduce “emergency legislation” which would “enable Parliament to confirm that, with our new treaty, Rwanda is safe”. He suggested this legislation could include a mechanism to disregard ECtHR interventions to block future removal flights.

³² [HC Hansard, 15 November 2023, col 649.](#)

³³ Prime Minister’s Office, [‘PM remarks on Supreme Court judgment: 15 November 2023’](#), 15 November 2023.



1.5.1 UK-Rwanda treaty

Home Secretary James Cleverly and Rwandan Foreign Minister Dr Vincent Biruta signed the new UK-Rwanda treaty in Kigali, Rwanda's capital, on 5 December 2023.³⁴ The government said the treaty “responds directly to the conclusions of the Supreme Court and presents a new long-term solution” to the court's concerns. It continued:

The landmark treaty is binding in international law and ensures that people relocated to Rwanda under the partnership are not at risk of being returned to a country where their life or freedom would be threatened—an act known as refoulement.

It also enhances the functions of the independent monitoring committee [established under the earlier MoU] to ensure compliance with the obligations in the treaty, such as reception conditions, processing of asylum claims, and treatment and support for individuals including up to five years after they have received final determination of their status. The committee is made up of eight independent members.

The monitoring committee will also develop a system which will enable relocated individuals and legal representatives to lodge confidential complaints directly to them. It will have the power to set its own priority areas for monitoring, and have unfettered access for the purposes of completing assessments and reports. It may publish reports as it sees fit on its findings.

³⁴ Home Office, '[Treaty signed to strengthen UK-Rwanda migration partnership](#)', 5 December 2023; and '[UK-Rwanda treaty: Provision of an asylum partnership](#)', 5 December 2023.



To further bolster assurances that relocated individuals will not be returned, under the treaty, Rwanda's asylum system will be strengthened through a new appeal body. The appeal body will consist of a Rwandan and other Commonwealth national co-president, and be composed of judges from a mixture of nationalities with asylum and humanitarian protection expertise (appointed by the co-presidents) to hear individual appeals.³⁵

The government laid the treaty before Parliament the following day.³⁶ Under section 20 of the Constitutional Reform and Governance Act 2010, the scrutiny period for the treaty expires on 31 January 2024.³⁷ The House of Commons has the power to delay the ratification of a treaty. The House of Lords can also resolve that a treaty should not be ratified. However, the government can override this if it lays a statement before Parliament explaining why it believes the treaty should be ratified.

On 22 January 2024 the House of Lords resolved that the treaty should not be ratified.³⁸ For further information on the resolution see section 5 below.

³⁵ Home Office, '[Treaty signed to strengthen UK-Rwanda migration partnership](#)', 5 December 2023.

³⁶ Foreign, Commonwealth and Development Office, '[UK-Rwanda: Agreement for the provision of an asylum partnership to strengthen shared international commitments on the protection of refugees and migrants \(CS Rwanda No 1/2023\)](#)', 6 December 2023, CP 994.

³⁷ House of Lords International Agreements Committee, '[Scrutiny of international agreements: UK-Rwanda agreement on an asylum partnership](#)', 17 January 2024, HL Paper 43 of session 2023–24, p 3.

³⁸ [HL Hansard, 22 January 2024, cols 655–8.](#)



1.5.2 Safety of Rwanda (Asylum and Immigration) Bill

The government also published its Safety of Rwanda (Asylum and Immigration) Bill in draft form on 6 December 2023, the same date that it laid the new UK-Rwanda treaty before Parliament.³⁹

In a statement delivered to the House of Commons early that evening following his return from Kigali, Home Secretary James Cleverly explained that the bill would work in parallel with the new treaty to insulate future removals from further challenges in the domestic courts.⁴⁰ Commenting on the government's reasoning for introducing the new legislation, he said:

Our rule of law partnership with Rwanda sets out in a legally binding international treaty the obligations on both the United Kingdom and Rwanda within international law, and sets out to this House and to the courts why Rwanda is and will remain a safe country for the purposes of asylum and resettlement [...] But, given the Supreme Court judgment, we cannot be confident that the courts will respect a new treaty on its own, so today the government have published emergency legislation to make it unambiguously clear that Rwanda is a safe country and to prevent the courts from second-guessing Parliament's will. We will introduce that legislation tomorrow in the form of the Safety of Rwanda (Asylum and Immigration) Bill, to give effect to the judgement of Parliament that Rwanda is a safe country, notwithstanding UK law or any interpretation of international law.⁴¹

³⁹ Home Office, '[Policy paper: Safety of Rwanda \(Asylum and Immigration\) Bill](#)', updated 8 December 2023.

⁴⁰ [HC Hansard, 6 December 2023, cols 433–53.](#)

⁴¹ [HC Hansard, 6 December 2023, cols 433–4.](#)



The government introduced the Safety of Rwanda (Asylum and Immigration) Bill in the House of Commons on 7 December 2023.⁴²

2. What would the bill do?

The bill seeks to confirm Rwanda as a safe third country in UK domestic law, thereby enabling the removal of individuals entering the UK without permission under the terms of legislation previously passed by Parliament. The government has said the bill would also:⁴³

- confirm in statute that the Rwandan government will fulfil its obligations under the recently agreed UK-Rwanda treaty
- ensure that any domestic court or tribunal conclusively treats Rwanda as safe for the purposes of asylum and removal

In summary, the government has said the bill's provisions, together with those in the Illegal Migration Act 2023, would prohibit domestic courts from acceding to or considering "claims which assert Rwanda is generally unsafe or that an individual will be refouled from Rwanda".⁴⁴ It would do so while still allowing limited scope for individual challenges based on compelling evidence relating to a person's particular individual circumstances.

⁴² [HC Hansard, 7 December 2023, col 523.](#)

⁴³ [Explanatory notes](#), p 3.

⁴⁴ Home Office, '[Safety of Rwanda \(Asylum and Immigration\) Bill 2023: Legal position](#)', 11 December 2023, p 3.



2.1 Overview of provisions

Clause 1 introduces the purpose of the bill. Under subclause (1) this would be to “prevent and deter unlawful migration, and in particular migration by unsafe and illegal routes, by enabling the removal of persons to the Republic of Rwanda under provision made by or under the Immigration Acts”.⁴⁵ In addition:⁴⁶

- subclause (2) would acknowledge the Rwanda treaty had been laid before Parliament to address this purpose and give effect to the “judgement of Parliament that the Republic of Rwanda is a safe country”
- subclause (3) would summarise the UK-Rwanda treaty and the obligations it imposes upon Rwanda, including “that any person removed to the Republic of Rwanda under the provisions of the treaty will not be removed from Rwanda except to the United Kingdom”
- subclause (4) would recognise (a) the sovereignty of the UK Parliament and (b) that the validity of an act of the UK Parliament is unaffected by international law
- subclause (5) would define the term “safe country”, including that such a country does not allow refoulement and treats asylum claims in accordance with obligations under international law
- subclause (6) defines international law for the purposes of the bill

⁴⁵ [Explanatory notes](#), pp 7–9. Under s 61(2) of the UK Borders Act 2007, the “Immigration Acts” include both the Nationality and Borders Act 2022 and the Illegal Migration Act 2023 among several other enactments.

⁴⁶ As above, p 9.



Clause 2 would require ministers, immigration officers, courts and/or tribunals to “conclusively treat the Republic of Rwanda as a safe country” when making decisions “relating to the removal of a person to the Republic of Rwanda under any provision of, or made under, the Immigration Acts”.⁴⁷ This is known as an ‘ouster clause’.⁴⁸ As such, a court or tribunal would be prohibited from considering a review of, or an appeal against, a decision to remove someone to Rwanda on the grounds that Rwanda was not a safe country. A court or tribunal would also be prohibited from considering claims or complaints lodged on the basis that a person removed to Rwanda:

- would be subject to refoulement
- would not receive fair and proper consideration of an asylum, or other similar, claim in Rwanda, or
- Rwanda was not acting in accordance with its obligations under the UK-Rwanda treaty

The clause would apply “notwithstanding” any existing provision of statute, common law or international law, including the Human Rights Act 1998 to the extent disapplied in the next clause.

Clause 3 would provide for the act to apply notwithstanding particular sections of the Human Rights Act 1998, in particular:

- section 2 (interpretation of convention rights)⁴⁹

⁴⁷ As above, pp 9–10.

⁴⁸ Joint Committee on Human Rights, ‘[Legislative scrutiny: Judicial Review and Courts Bill](#)’, 7 December 2021, HL Paper 120 of session 2021–22, p 18.

⁴⁹ ‘Convention rights’ refers to the rights set out in the European Convention on Human Rights (ECHR).



- section 3 (interpretation of legislation)
- sections 6 to 9 (acts of public authorities and remedies)

This would mean that:⁵⁰

- domestic courts and tribunals would not be required to consider any relevant judgment, decision, declaration or advisory opinion of the ECtHR when determining whether Rwanda is a safe country
- the bill must be read and given effect only in the specific manner in which Parliament has provided
- decision makers involved in removal decisions would not be under an obligation to act compatibly with convention rights when making these decisions

In addition, the subject of a decision would not be able to bring a claim in the domestic courts that their human rights had been violated as a result of such a decision or receive a remedy on that basis.⁵¹

The clause would not disapply other provisions of the Human Rights Act 1998. This means a court or tribunal could make a non-binding declaration of incompatibility under section 4 of the 1998 act, which allows for a senior court to draw attention to the incompatibility of legislation with the European Convention on Human Rights (ECHR).⁵²

⁵⁰ [Explanatory notes](#), pp 10–11.

⁵¹ House of Commons Library, '[Safety of Rwanda \(Asylum and Immigration\) Bill 2023–24](#)', 8 December 2023, p 8.

⁵² As above, pp 8–9; and [Explanatory notes](#), p 10. See also: Joint Committee on Human Rights, '[The government's independent review of the Human Rights Act](#)', 8 July 2021, HL Paper 31 of session 2021–22, p 41.



The bill's explanatory notes explain what this could mean in practice:

A declaration of incompatibility, by virtue of section 4(6) of the Human Rights Act 1998, does not affect the validity, continuing operation or enforcement of the provision in respect of which it is made, and is not binding on the parties to the proceedings in which it is made. It is therefore for Parliament to decide whether and how to change the legislation in light of a declaration of incompatibility.⁵³

Clause 4 would permit a decision maker to consider challenges to removal decisions based on “compelling evidence relating specifically to the person’s particular individual circumstances”, rather than on the grounds of whether Rwanda was a safe country in general.⁵⁴ The clause would exclude consideration of whether a person would be subject to refoulement. It would also restrict the ability of courts or tribunals to grant interim remedies to prevent or delay removal so that they could do so only in cases in which the court or tribunal was “satisfied that the person would, before the review or appeal is determined, face a real, imminent and foreseeable risk of serious and irreversible harm” if removed to Rwanda.

Clause 5 would permit ministers to refuse to comply with interim measures of the ECtHR.⁵⁵ It would apply where the ECtHR indicated an interim measure in proceedings relating to the intended removal of a person to Rwanda. The clause would provide that only a minister of the crown, acting in person, would have the ability to decide whether the UK complied with the interim measure. It would also

⁵³ [Explanatory notes](#), p 10.

⁵⁴ As above, pp 11–12.

⁵⁵ As above, p 12. See also: House of Commons Library, ‘[Safety of Rwanda \(Asylum and Immigration\) Bill 2023–24](#)’, 8 December 2023, pp 10–12.



prevent a court or tribunal from having regard to an interim measure as part of an application or appeal against a person's removal to Rwanda.

The Joint Committee on Human Rights has previously said that it is a “binding obligation, as a matter of international law, for the UK to act in accordance with interim measures issued by the ECtHR”.⁵⁶ It said that a similar provision in the Illegal Migration Act 2023 would in effect give ministers “permission, as a matter of domestic law, to breach international law”. The committee said a decision not to comply with an interim measure under such a provision would constitute a breach of the UK's legal obligations and called for the relevant clause to be removed.⁵⁷ The civil service has prepared draft guidance for civil servants should the clause be enacted.⁵⁸

Clause 6 would make consequential amendments to existing legislation. This would include adding the act to the list of acts comprising the “Immigration Acts” as set out in the UK Borders Act 2007, and a section of the Illegal Migration Act 2023.

⁵⁶ Joint Committee on Human Rights, ‘[Legislative scrutiny: Illegal Migration Bill](#)’, 11 June 2023, HL Paper 208 of session 2022–23, p 45.

⁵⁷ The clause remained and is now section 55 of the Illegal Migration Act 2023, though it is yet to be brought into force.

⁵⁸ Cabinet Office, ‘[Civil service guidance: Safety of Rwanda Bill](#)’, 17 January 2024. The draft guidance reads: “As a matter of UK law, the decision as to whether to comply with a rule 39 indication is a decision for a minister of the Crown. Parliament has legislated to grant ministers this discretion. The implications of such a decision in respect of the UK's international obligations are a matter for ministers. In the event that the minister, having received policy, operational and legal advice on the specific facts of that case, decides not to comply with a rule 39 indication, it is the responsibility of civil servants—operating under the Civil Service Code—to implement that decision. This applies to all civil servants”.



Clause 7 concerns interpretation and would define the terms used throughout the bill, including that references to a person do not include Rwandan nationals or holders of Rwandan passports or identity documents.⁵⁹ This would allow Rwandans to be excluded from the bill's provisions, should any Rwandan citizens claim asylum in the UK.⁶⁰

Clause 8 would provide for the bill to extend and apply to the whole of the UK.⁶¹ The government has said the provisions in the bill do not relate to matters within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly.⁶² The clause would also allow for the provisions of the act to be extended, with or without modifications, to any of the Channel Islands or the Isle of Man by orders in council.

Clause 9 would provide for the bill to come into force on the day on which the Rwanda treaty entered into force following the completion of ratification procedures. It would also provide for the bill to apply to any decision by a decision maker relating to the removal of a person to Rwanda on or after the day on which the Rwanda treaty entered into force, irrespective of when the person arrived in the UK.

Clause 10 would provide for the bill's short title.

⁵⁹ [Explanatory notes](#), p 12.

⁶⁰ House of Commons Library, '[Safety of Rwanda \(Asylum and Immigration\) Bill 2023–24](#)', 8 December 2023, p 12.

⁶¹ [Explanatory notes](#), pp 12–13.

⁶² As above, p 8.



2.2 The bill's compatibility with the European Convention on Human Rights

Section 19 of the Human Rights Act 1998 requires ministers to make a statement in both Houses of Parliament to say whether a bill is compatible with rights set out in the ECHR.⁶³ If they are unable to make a statement that a bill's provisions are compatible, they may say the government nevertheless wishes the House to proceed with the bill. When introducing the bill in the House of Commons, Home Secretary James Cleverly made the following statement:

I am unable to make a statement that, in my view, the provisions of the Safety of Rwanda (Asylum and Immigration) Bill are compatible with the convention rights, but the government nevertheless wishes the House to proceed with the bill.⁶⁴

Lord Sharpe of Epsom, the minister in charge of the bill in the House of Lords, later made the same statement concerning the current bill before the House.⁶⁵

⁶³ [Human Rights Act 1998, s 19](#).

⁶⁴ [Safety of Rwanda \(Asylum and Immigration\) Bill, Bill 38 of 2023–24](#).

⁶⁵ [Safety of Rwanda \(Asylum and Immigration\) Bill, HL Bill 41 of session 2023–24](#). The House of Commons Library has observed of such 'section 19' statements: "Prior to 2023, section 19(1)(b) statements [meaning a minister is unable to make a statement of compatibility] had been issued on five occasions in the preceding 24 years since section 19 of the HRA came into force. Each of these concerned legislation which would have continued or expanded an existing policy, the compatibility of which was unclear, or where amendments were added during the passage of the bill which raised doubts as to compatibility. Previous section 19(1)(b) statements have generally identified the provision giving rise to the potential incompatibility". (House of Commons Library, '[Safety of Rwanda \(Asylum and Immigration\) Bill 2023–24](#)', 8 December 2023, pp 3–4).



The government has set out its position on the measures in clauses 1–5 in a human rights memorandum published to accompany the bill.⁶⁶

2.3 Government legal position on the bill

The government published its legal position on the bill on 11 December 2023.⁶⁷ In the document, the government said that it respected the Supreme Court’s decision issued in November 2023. It added:

It is precisely to address the concerns of the Supreme Court that the government has concluded a new treaty with the Republic of Rwanda with additional safeguards and guarantees, as well as preparing an evidence pack on what has changed and how those concerns are being addressed.⁶⁸

The government said the purpose of the bill was to “invite Parliament to agree with its assessment that the Supreme Court’s concerns have indeed been properly addressed; and to enact the measures in this bill accordingly”. This would have the effect of recognising the conclusion that Rwanda is a safe country in domestic law, ousting the courts from making decisions on or considering claims which assert Rwanda is generally unsafe or that an individual would be refouled from Rwanda, while still allowing limited scope for individual

⁶⁶ Home Office, ‘[Safety of Rwanda \(Asylum and Immigration\) Bill 2023: Human rights memorandum](#)’, 6 December 2023.

⁶⁷ Home Office, ‘[Safety of Rwanda \(Asylum and Immigration\) Bill 2023: Legal position](#)’, 11 December 2023, p 1.

⁶⁸ As above. See also: Home Office, ‘[Safety of Rwanda \(Asylum and Immigration\) Bill: Supporting evidence](#)’, 11 January 2024.



challenges based on a person's particular circumstances.

The government has argued this approach is “justified as a matter of parliamentary sovereignty, constitutional propriety, UK law, and the UK's international obligations”. In conclusion, the legal position document said:

[...] the treaty, bill and evidence together demonstrate Rwanda is safe for relocated individuals, that the government's approach is tough but fair and lawful, that it has a justification in the UK's constitution and domestic law, and it seeks to uphold our international obligations. This is a novel and contentious policy, and the UK and Rwanda are the first countries in the world to enact it together. There are risks inherent in such an innovative approach but there is a clear lawful basis on which a responsible government may proceed. For the reasons set out in this paper, a bill that sought to oust all individual claims would not provide such a basis.

3. What was the reaction to the bill?

3.1 Immediate political reaction

Shadow Home Secretary Yvette Cooper responded to Home Secretary James Cleverly's statement in the House of Commons on 6 December 2023 on behalf of the Labour Party.⁶⁹ She began by asking whether the then immigration minister, Robert Jenrick, had resigned from his position over the government's planned bill that same day. It was later reported that Mr Jenrick had resigned on the

⁶⁹ [HC Hansard, 6 December 2023, cols 435–7.](#)



day of Mr Cleverly's statement and the bill's publication in draft form because he thought the proposed legislation would be a "triumph of hope over experience" and would not provide the government with the "best possible chance of success" to implement its Rwanda policy.⁷⁰ Ms Cooper also referenced criticism of the planned bill from Suella Braverman, a former home secretary, before arguing the new bill would tell domestic courts "not just to ignore international law, but to ignore the facts".⁷¹

Ms Cooper continued by arguing the Supreme Court had said the government's Rwanda policy was a "problem because of evidence that Rwanda is not complying with international treaties on the treatment of asylum seekers", but that Rwanda had recently said it would not be able to continue with the MEDP without lawful behaviour by the UK.⁷²

Ms Cooper then asked Mr Cleverly to answer a series of questions on the policy.⁷³ These included on the expected cost of the policy, given the sums already transferred to Rwanda, and on how many asylum seekers or others the policy would cover, given the Court of Appeal had noted that evidence before the High Court indicated Rwanda's physical capacity for housing asylum seekers was limited to 100 people at that time.⁷⁴

Speaking on behalf of the SNP, Shadow Spokesperson for Home Affairs Alison Thewliss began her remarks by saying that "Just by

⁷⁰ BBC News, '[Robert Jenrick resigns as immigration minister over Rwanda legislation](#)', 6 December 2023.

⁷¹ [HC Hansard, 6 December 2023, cols 435–7.](#)

⁷² [HC Hansard, 6 December 2023, cols 435–7.](#)

⁷³ [HC Hansard, 6 December 2023, cols 435–7.](#)

⁷⁴ See [AAA v Secretary of State for the Home Department \[2023\] EWCA Civ 745](#), p 144.



saying that Rwanda is a safe country does not make it so”.⁷⁵ She continued:

Legislating does not make it so. The home secretary says that Rwanda is safe, yet somehow his treaty says that we will accept asylum seekers from Rwanda—from that safe country—so it is both safe and unsafe. He says that he respects the assessment of the Supreme Court, but he is here today to override it. His treaty says that they will not remove children, but the treaty is full of provisions for what happens when children do end up in Rwanda. He says that human rights are important, but they are not there for everybody, and he seeks to disapply them.⁷⁶

Ms Thewliss said the bill was a “dangerous distraction” and called it “part of a march towards fascism”. She asked whether the “toxic piece of legislation” would have the intended deterrent effect, given that, in her view, previous legislation on the issue had not worked.

3.2 Selected legal reaction

A range of bodies have expressed views on the legality of the government’s plans.

UNHCR, the UN Refugee Agency, has previously said the UK-Rwanda asylum partnership will, in its view, “shift responsibility for

⁷⁵ [HC Hansard, 6 December 2023, cols 438–9.](#)

⁷⁶ [HC Hansard, 6 December 2023, cols 438–9.](#)



making asylum decisions and protecting refugees”.⁷⁷ Furthermore UNHCR argues that “externalising asylum obligations poses serious risks for the safety of refugees”. It contends that the UK-Rwanda asylum partnership arrangement “proposes an asylum model that undermines global solidarity and the established international refugee protection system”, and that therefore “it is not compatible with international refugee law”.

In an updated analysis report published on 15 January 2024, the agency said that it maintained its position that the “arrangement, as now articulated in the UK-Rwanda partnership treaty and accompanying legislative scheme, does not meet the required standards relating to the legality and appropriateness of the transfer of asylum seekers and is not compatible with international refugee law”.⁷⁸

Other bodies have also expressed a view that the proposed legislation is incompatible with international law. Much of this analysis argues that recognition of Rwanda as a safe country in UK domestic law “does not matter when it comes to an international or objective assessment as to whether Rwanda is safe in reality, or in determining whether there is a breach of international legal obligations”.⁷⁹

⁷⁷ UNHCR/UN Refugee Agency, ‘[UK-Rwanda asylum partnership](#)’, accessed 23 January 2024. See also: House of Commons Library, ‘[UK-Rwanda migration and economic development partnership](#)’, 6 December 2023, pp 32–43 (Annex: International law issues).

⁷⁸ UNHCR/UN Refugee Agency, ‘[UNHCR analysis of the legality and appropriateness of the transfer of asylum seekers under the UK-Rwanda arrangement: An update](#)’, 15 January 2024.

⁷⁹ House of Commons Library, ‘[Safety of Rwanda Bill: Legal commentary](#)’, 12 January 2024, pp 6–8.



For example, the Bar Council of England and Wales has expressed:

[...] serious doubts as to whether it is appropriate to deem Rwanda to be safe for the purposes of meeting the UK's international obligations under the European Convention on Human Rights and the Refugee Convention. There is an obvious difference between a country that is in fact safe, and one that is not safe but is deemed to be safe. The United Kingdom's obligation under international law is to ensure that asylum seekers are only ever sent to countries that are actually safe (both now and in the future).⁸⁰

The Bar Council concluded that the bill required “very careful consideration by Parliament before it progresses”. It said the bill, “on any view, sails very close to the wind in terms of what is acceptable from a rule of law and European Convention [on] Human Rights perspective. Legal challenges are therefore almost inevitable”.⁸¹

The Bingham Centre for the Rule of Law has also said the bill, if passed, would be unlawful. It published a report in December 2023 in which its preliminary conclusion was that:

[...] the central purpose of the bill, to conclusively deem Rwanda to be a safe country in light of the recently concluded Rwanda treaty, is contrary to the rule of law because it would amount to a legislative usurpation of the judicial function, contrary to the UK's constitutional understanding of the separation of powers, which requires the legislature to respect the essence of the

⁸⁰ Bar Council, '[Safety of Rwanda \(Asylum and Immigration\) Bill briefing for MPs: Second reading](#)', December 2023, p 2.

⁸¹ As above, p 4.



judicial function.⁸²

It added that “Legislating notwithstanding the UK’s international obligations on this scale is unprecedented and represents a new departure in the UK’s recent disregard for international law”.

Mark Elliott, professor of public law at the University of Cambridge, has also questioned whether the bill is constitutional:

It is, after all, an affront to the separation of powers and the rule of law, in that it effectively reverses a Supreme Court judgment, undermines the judicial function and attempts to remove from the courts’ jurisdiction questions about the legality of government decisions. In orthodoxy, the principle of parliamentary sovereignty—which makes whatever Parliament enacts lawful—would be a complete answer to these charges. But in ‘Privacy International’, Lord Carnwath said “it is ultimately for the courts, not the legislature, to determine the limits set by the rule of law to the power to exclude review”. For a court to take the step implied in this comment, by holding, in effect, that Parliament had exceeded its authority by seeking to limit the courts’ constitutional role, would be fraught with risk for the judiciary. It is, however, conceivable that the Rwanda Bill might transform what has largely remained a hypothetical question about the fundamental relationship between Parliament and the courts into a live one.⁸³

⁸² Bingham Centre for the Rule of Law, ‘[Safety of Rwanda \(Asylum and Immigration\) Bill: A preliminary rule of law analysis for House of Commons second reading](#)’, 11 December 2023.

⁸³ Public Law for Everyone, ‘[The Rwanda Bill and its constitutional implications](#)’, 6 December 2023.



He also commented on the bill's compatibility with international law:

Ultimately, the Rwanda Bill is as parochial as it is hypocritical. It is parochial in the sense that it proceeds on the basis of the sleight of hand that the UK Parliament, because it is sovereign, can somehow free the government from its international legal obligations. But this is to conflate the sovereignty of the UK Parliament in domestic law with the UK's sovereignty on the international plane as a state. It is precisely in exercise of its state sovereignty that the UK can enter, and has entered, into binding treaty obligations. The peculiarity that the UK's Parliament, as a matter of domestic law, is sovereign in the sense of being (in orthodoxy, at least) beyond judicial control cuts no ice whatever on the international level. Meanwhile, the bill reveals an astounding level of hypocrisy in the sense that it is premised on a policy that presupposes that Rwanda will honour its obligations in international law while demonstrating that the UK is prepared to breach its own obligations. It follows that the Rwanda Bill, and the policy to which it seeks to give effect, is ultimately a smoke-and-mirrors exercise that promises something which, as a matter of legal fact, it simply cannot deliver.⁸⁴

The civil liberties advocacy group Liberty has called the bill “constitutionally extraordinary and deeply provocative”.⁸⁵ In addition, the law reform and human rights charity Justice, the Immigration Lawyers Practitioners Association and the charity Freedom from Torture also oppose the bill on a number of grounds, including that

⁸⁴ As above.

⁸⁵ Liberty, '[Liberty's briefing for the second reading of the Safety of Rwanda \(Asylum and Immigration\) Bill](#)', December 2023, p 1.



the bill:

[...] legislates a legal fiction, reversing the Supreme Court’s factual assessment of the risk of harm in Rwanda, without properly addressing the court’s concerns about the Rwandan asylum system and ousting our domestic courts’ jurisdiction to consider the issue; it is an abuse of Parliament’s role.⁸⁶

However, other bodies have expressed support for the bill. The Policy Exchange think tank, for example, described the bill as an “intelligent and broadly effective response to the Supreme Court’s recent Rwanda judgment”.⁸⁷ In a report, it said the bill would give effect to Parliament’s judgement that the Rwanda treaty “addresses the concerns” raised by the Supreme Court. However, it proposed amendments to “strengthen” the bill, including measures to disapply further sections of the Human Rights Act 1998.

In addition, the Society of Conservative Lawyers published a report in which Lord Sandhurst KC (Conservative) and Harry Gillow argued there “must be at least a properly arguable case that the Rwanda Bill is compliant with the UK’s international obligations” for it to be effective in its aims.⁸⁸ The authors added:

On balance, it is our view that the Rwanda Bill as drafted represents the best approach we can see at present to resolving

⁸⁶ Justice, Immigration Lawyers Practitioners Association and Freedom from Torture, ‘[Safety of Rwanda \(Asylum and Immigration\) Bill: Joint briefing for second reading in the House of Commons](#)’, 8 December 2023, p 1.

⁸⁷ Policy Exchange, ‘[Safety of Rwanda \(Asylum and Migration\) Bill: A Policy Exchange research note](#)’, 11 December 2023.

⁸⁸ Society of Conservative Lawyers, ‘[Safety of Rwanda \(Asylum and Migration\) Bill: Constitutional and effective?](#)’, December 2023.



the tension between complying with international law, not entirely ousting judicial review and ensuring effective operation of the MEDP.

The legal committee of the European Research Group of Conservative parliamentarians, chaired by Sir William Cash MP, argued that there were “compelling arguments that rule 39 indications do not give rise to an obligation in international law to comply with them”.⁸⁹ However, it concluded that the bill “remains vulnerable to international law arguments, because its “notwithstanding” clauses are unduly narrow”.

Further legal commentary on the bill can be found in a House of Commons Library briefing prepared ahead of the bill’s committee stage in that House:

- House of Commons Library, [‘Safety of Rwanda Bill: Legal commentary’](#), 12 January 2024

4. What happened in the House of Commons?

4.1 Second reading

The House of Commons considered the bill at second reading on 12 December 2023.⁹⁰

⁸⁹ Lawyers for Britain, [‘Rwanda Bill: ERG Legal Committee publishes its opinion’](#), 11 December 2023, p 2.

⁹⁰ [HC Hansard, 12 December 2023, cols 747–864.](#)



Opening the debate on behalf of the government, Home Secretary James Cleverly asserted that “Parliament and the British people want an end to illegal immigration and they support the Rwanda plan”.⁹¹ Mr Cleverly continued by commenting on the bill’s compatibility with international law:

I am confident, and indeed the conversations I have had with the government’s legal advisers reinforce my belief, that the actions we are taking, while novel and very much pushing at the edge of the envelope, are within the framework of international law.

He described the “new treaty that I signed last week with Rwanda and the bill that accompanies it” as “game changing”. Mr Cleverly argued that the “principle of relocating people to a safe country, to have their asylum claim processed there, is entirely consistent with the terms of the refugee convention”. He added that “Both the High Court and the Court of Appeal unanimously confirmed that point”, later saying that the “Supreme Court did not dispute those findings in its own findings”. Mr Cleverly also contended that “other international organisations also rely heavily on Rwanda, including the United Nations High Commissioner for Refugees [UNHCR] and the European Union”. He added “They would not do that if they believed that Rwanda was an unsafe country”.

Returning to the Supreme Court’s judgment, Mr Cleverly noted the decision was “based on the facts as they existed 18 months ago and that the court said the problem could be remedied”. He argued the new UK-Rwanda treaty set out the “obligations of both the UK and Rwanda within international law”.

⁹¹ [HC Hansard, 12 December 2023, col 747–55.](#)



Mr Cleverly took a number of interventions during his speech, including on whether the bill sought to suggest that Parliament had the power to deem itself in compliance with international law and on the ongoing costs of the Rwanda policy. He confirmed that the government was “not seeking to redefine through domestic legislation international law”. On costs, Mr Cleverly said the government stood by its reporting schedule to date.

Mr Cleverly concluded by asserting that the bill, by permitting the swift removal of people arriving irregularly, would “deter illegal migration”. He added this would enable the government to “break the business model of the most evil and perverse trade that we currently can see: the trade in vulnerable people”. He said stopping such activity would “restore confidence in our immigration system and assert full control over our borders”. He added that “other countries were looking at what we are doing and making similar plans of their own”.⁹²

Shadow Home Secretary Yvette Cooper responded on behalf of the Labour Party.⁹³ She opened by moving a reasoned amendment tabled by the opposition which if agreed would have declined to give the bill a second reading. Ms Cooper began by criticising the cost of the policy and estimates that it was “only ever likely to cover a few hundred people—less than 1% of those claiming asylum last year”. Ms Cooper then quoted Robert Jenrick, who resigned as immigration minister over the bill:

In the words of the ex-immigration minister, the right hon.

⁹² See, for example: BBC News, [‘Which other countries send asylum seekers overseas?’](#), 14 April 2022; and Deutsche Welle, [‘Germany’s Rwanda plan: Conservatives debate migration reform’](#), 27 December 2023.

⁹³ [HC Hansard, 12 December 2023, cols 755–65.](#)



Member for Newark (Robert Jenrick), this new law will not work, “doesn’t do the job”, and is “both legally and operationally fundamentally flawed”.

Ms Cooper criticised the government for the cost of the policy to date, saying the sums transferred to Rwanda so far comprised a third of the National Crime Agency’s budget. She said the funds transferred to Rwanda so far “could have been spent on thousands more police to boost our border security and smash the criminal gangs”. She added: “It could have been used to clear the backlog entirely, end hotel use and save us a further couple of billion pounds, or train 1,000 doctors or 4,500 nurses”. Ms Cooper continued:

Of course, if the government manage to send people to Rwanda, they will have to spend further money, probably around £200,000 per person—perhaps the minister could also confirm that figure. That is more than twice as much as it costs here in the UK, so can the government confirm that by the time they have finished, close to half a billion pounds will have been paid to Rwanda for just a few hundred people, around 1% of those arriving in the country?

Ms Cooper later noted that the new treaty provided for Rwanda to “terminate the deal at any time”. She added the treaty provides for the UK to “fund support for asylum seekers and people granted refugee status for five years. That includes accommodation and three meals a day for five years, which is more than here in the UK”.



Ms Cooper also questioned the provision to deem Rwanda a safe country in statute:

So even if Rwanda does what it did over the Israel-Rwanda deal and breaches international law and sends people back for refoulement, even if Rwanda introduces new policies to send people abroad, even if there is a coup in Rwanda, even if Rwanda fails to stop organised gangs moving people to the border, even if asylum seekers are shot at in Rwanda—all things that the Supreme Court found had happened in the past—and even if the treaty is designed in good faith, if it fails, the government are still saying that British courts cannot consider the facts.

She argued this amounted to the government “effectively admitting that they are creating legal fictions. They are saying that rather than following the facts, the courts will have to follow those fictions instead, for the sake of a tiny scheme that costs not just £300mn, but possibly £400mn”.

Ms Cooper was followed by Robert Jenrick, Conservative MP for Newark and immigration minister until he resigned over the government’s decision to proceed with the bill.⁹⁴ He criticised the bill on two grounds. The first was that it permitted individual claims. The second was that, in view the government’s position that rule 39 injunctions from the ECtHR were “binding and that to ignore them would be a breach of international law”, the provision to allow ministers to disregard such interim measures amounted to asking the House to “vote for a provision that it would be illegal to use”. Mr Jenrick called for changes in connection with both issues, arguing: “The bill could be so much better. Let us make it better. Let us make

⁹⁴ [HC Hansard, 12 December 2023, cols 765–8.](#)



it work”.

Alison Thewliss followed on behalf of the SNP.⁹⁵ She argued the bill represented “policy in a death spiral, tougher and tougher, turning the screw and threatening people with rendition flights to Rwanda”. Ms Thewliss argued the policy would “not work, because nothing the government have done before has worked. Why? Because it does not deal with the reason why people are coming here”. She continued:

People will continue to put themselves in small boats because they feel there is no alternative. They come to reunite with family because of historical ties and because of the English language. It is all too easy to dehumanise, to speak of scourges, swarms and hordes, to speak of those who try to come here with no papers as somehow wanting to cheat the system and skip the queue. As the MP with the highest immigration caseload in Scotland, I see many of those people referred to by ministers at my surgeries week in, week out.

Ms Thewliss spoke of constituents with relatives at risk abroad who did not have access to safe routes to reach the UK. She later summarised her party’s position on the bill:

For the SNP, the bill is an abhorrence that undermines the UK’s international obligations and the principles of human rights. It costs a fortune and it is highly unlikely to achieve even its tawdry aims. We shall be tabling a prayer against the Rwanda treaty.⁹⁶

⁹⁵ [HC Hansard, 12 December 2023, cols 769–75.](#)

⁹⁶ See: House of Commons, [‘Early Day Motion: Rwanda treaty \(EDM 205\)](#), 12 December 2023.



She concluded by calling on the House to “reject this cruel, unworkable and illegal bill”.

Alistair Carmichael, the Liberal Democrat spokesperson on home affairs, also called on the House to reject the bill.⁹⁷ During his remarks, he argued for safe and legal routes instead:

Let us not forget that we are dealing with the consequence of the refusal of this government to prosecute the case for safe and legal routes. Why do we not find people from Ukraine or Hong Kong trying to cross the channel in small boats? It is because we offer them safe and legal routes.

Mr Carmichael characterised the government’s Rwanda policy as “unworkable”. He also criticised the government for not having shared more details about the costs of the scheme before objecting to the principle of the bill:

It is wrong in the practicalities, but it is also wrong on the principle. It is a liberal value to take personal responsibility and to live up to one’s obligations. Passing on our asylum responsibilities to another country is the opposite of that value. It is a step back from the world and a move towards isolationism. It suggests that we have no responsibilities to the wider world.

Other speakers or interveners during the debate included Dame Diana Johnson, chair of the House of Commons Home Affairs Committee; Dame Meg Hillier, chair of the House of Commons Public Accounts Committee; Sir Robert Neill, chair of the House of

⁹⁷ [HC Hansard, 12 December 2023, cols 788–9.](#)



Commons Justice Committee; Sir William Cash, chair of the House of Commons European Scrutiny Committee; former home secretary Priti Patel; former lord chancellor Sir Robert Buckland, and former attorney generals Sir Jeremy Wright and Sir Geoffrey Cox, as well as speakers from other parties.

Stephen Kinnock closed for the Labour Party.⁹⁸ He described the bill as the “‘Please, Please, Please Make Rwanda Safe Bill’, which is without doubt the most absurd piece of legislation I have ever seen”. He continued: “It does nothing at all to make Rwanda safe; it just asserts that Rwanda is safe and that our courts are not allowed to say otherwise”. Mr Kinnock then summarised his party’s views on the bill’s alleged deficiencies:

The fundamental contradictions at the heart of the bill are also quite astonishing. First, the home secretary told us from the dispatch box last week that it complied with international law, but the very first page confirms that he is actually not sure that it does. Secondly, the bill says that Rwanda is safe for refugees, but then also states that the government might need to offer refuge to asylum seekers from—checks notes—Rwanda. Thirdly, the bill is meant to be about preventing what the government call “illegal migrants” from seeking sanctuary in the UK, but if one of those asylum seekers commits a crime in Rwanda, that person can be sent back to—checks notes again—the UK.

Mr Kinnock continued by describing the policy as “not only unlawful”, but “also unaffordable and unworkable”. He also called into question

⁹⁸ [HC Hansard, 12 December 2023, cols 844–6.](#)



the government's assertion that it would act as a deterrent:

We are constantly told by Conservative members that the Rwanda scheme will act as a deterrent, but that claim simply does not stand up to scrutiny, because Rwanda can take fewer than 1% of the asylum seekers who cross the channel in small boats. It is inconceivable that people who have already risked life and limb to get as far as northern France will be deterred by a 1% risk of anything. The Labour Party has therefore been steadfast in our opposition to this madness from the very outset. We are absolutely committed to stopping the Tory boats chaos, but we will never vote for a madcap gimmick that is unaffordable, unworkable and unlawful.

Mr Kinnock concluded his remarks by calling for a general election.

Responding on behalf of the government, Minister for Illegal Migration Michael Tomlinson said the bill worked in tandem with the “internationally binding” UK-Rwanda treaty.⁹⁹ He said removals would “start off in the hundreds and scale up into the thousands”. He also criticised Labour for allegedly not offering a plan in lieu of the bill:

Let me end by saying that I have sat through more than six hours of this six and a half hour debate. I heard every single speech from the government benches and most speeches from the opposition benches. I heard every single speech made from the Labour front bench, and what was missing was a plan. Labour has no plan. There was intervention after intervention, but where was the plan? There was chuntering from a sedentary position by

⁹⁹ [HC Hansard, 12 December 2023, cols 847–51.](#)



the home secretary, asking “Where is the plan?” Answer came there none. There was a verbal vacuum—not even a cut-and-paste solution. There was no plan whatsoever. Contrast that with the clear determination of all those on the government side of the Chamber to stop the boats. Madam deputy speaker, I commend the bill to the House.

The House then voted on Labour’s reasoned amendment, which was defeated by 337 votes to 269. The House then divided on the second reading motion, which was approved by 313 votes to 269. The bill’s programme motion was then approved by 332 votes to 61.

4.2 Committee stage

The House of Commons considered the bill in a committee of the whole House on 16 and 17 January 2024.¹⁰⁰ No amendments were made to the bill, so there was no report stage ahead of third reading.

The House divided on four amendments during the first day of committee stage:

- **Amendment 45** tabled by the SNP home affairs spokesperson, Alison Thewliss. This amendment would have amended clause 2(1) to replace the word “safe” with “unsafe”, so that decision makers would have to conclusively treat Rwanda as an unsafe country. The amendment was defeated by 337 votes to 66.¹⁰¹

¹⁰⁰ [HC Hansard, 16 January 2024, cols 703–98](#) and [HC Hansard, 17 January 2024, cols 835–962](#).

¹⁰¹ [HC Hansard, 16 January 2024, cols 773–6](#).



- **Amendment 10** tabled by Sir William Cash (Conservative MP for Stone) and supported by over 60 other Conservative MPs. In his explanatory statement, Sir William said his amendment “specifically excludes the legislation raised in *AAA v Secretary of State for the Home Department* [2023] UKSC 42 as potential blocks to removal and excludes from consideration any international law (including the European Convention on Human Rights and anything put out by its court)”.¹⁰² The amendment was defeated by 529 votes to 68.¹⁰³
- **Amendment 19** tabled by Robert Jenrick (Conservative MP for Newark) and supported by almost 60 other Conservative MPs. Mr Jenrick said in his explanatory statement that the purpose of his amendment was to “remove the ability of individuals to block their own removal through suspensive claims and to limit such claims to rare situations where there is bad faith on the part of decision makers in relation to decisions as to medical fitness to travel”.¹⁰⁴ The amendment was defeated by 525 votes to 58.¹⁰⁵
- **New clause 6** tabled by Shadow Home Secretary Yvette Cooper. This new clause would have placed the monitoring committee provided for in the Rwanda treaty on a statutory basis. The explanatory statement for Ms Cooper’s amendment also said the new clause would place “conditions on when the classification of Rwanda as ‘safe’ can be suspended in accordance with material conditions and/or

¹⁰² House of Commons, ‘[Safety of Rwanda \(Asylum and Immigration\) Bill: Committee stage decisions](#)’, 16 January 2024, pp 3–4.

¹⁰³ [HC Hansard, 16 January 2024, cols 777–81.](#)

¹⁰⁴ House of Commons, ‘[Safety of Rwanda \(Asylum and Immigration\) Bill: Committee stage decisions](#)’, 16 January 2024, p 5.

¹⁰⁵ [HC Hansard, 16 January 2024, cols 787–90.](#)



non-compliance with obligations under the Rwanda treaty”.¹⁰⁶ The new clause was defeated by 336 votes to 262.¹⁰⁷

The House also divided on whether clause 2 and clause 4 should stand part of the bill. These were passed by 331 votes to 262 and 330 votes to 55 respectively.¹⁰⁸

The House divided on a further three amendments during the bill’s second day of committee stage:

- **Amendment 23**, tabled by Robert Jenrick and supported by 60 other Conservative MPs, would have substituted a subclause in clause 5. In his explanatory statement, Mr Jenrick said his amendment would have ensured that the “default position is that rule 39 indications are not treated as binding on the UK and will not prevent removals to Rwanda, but to provide an optional discretion to ministers”.¹⁰⁹ The amendment was defeated by 536 votes to 65.¹¹⁰
- **Amendment 36**, tabled by Shadow Home Secretary Yvette Cooper, would have amended clause 9 of the bill to require the publication of a full impact assessment on the costs involved in removals to Rwanda under the bill in advance of the bill entering into force.¹¹¹ The assessment would include

¹⁰⁶ House of Commons, ‘[Safety of Rwanda \(Asylum and Immigration\) Bill: Committee stage decisions](#)’, 16 January 2024, p 11.

¹⁰⁷ [HC Hansard, 16 January 2024, cols 795–8.](#)

¹⁰⁸ [HC Hansard, 16 January 2024, cols 782–5](#) and [cols 791–3.](#)

¹⁰⁹ House of Commons, ‘[Safety of Rwanda \(Asylum and Immigration\) Bill: Amendments](#)’, 17 January 2024, p 9.

¹¹⁰ [HC Hansard, 17 January 2024, cols 940–3.](#)

¹¹¹ House of Commons, ‘[Safety of Rwanda \(Asylum and Immigration\) Bill: Amendments](#)’, 17 January 2024, p 9.



per-person removal costs and details of any confidential financial memorandum signed by the UK and Rwanda. The amendment was defeated by 339 to 263.¹¹²

- **New clause 8**, tabled by Yvette Cooper. This new clause would have required the secretary of state to lay a statement before Parliament if they approved a request from Rwanda to return someone to the UK owing to that person's participation in serious crime.¹¹³ The new clause would also have required the government to move that this statement be debated on the floor of the House of Commons. The new clause was defeated by 338 votes to 264.¹¹⁴

The House also divided on whether clauses 3, 5–8 and 9–10 should stand part of the bill.¹¹⁵ These were passed by 399 votes to 264 (clause 3), 340 votes to 263 (clauses 5–8) and 340 votes to 264 (clauses 9 and 10).

4.3 Third reading

The House of Commons debated the bill at third reading later the same evening.¹¹⁶ After debate, the House divided on the motion to give the bill a third reading. This was approved by 320 votes to 276.

¹¹² [HC Hansard, 17 January 2024, cols 949–53.](#)

¹¹³ House of Commons, '[Safety of Rwanda \(Asylum and Immigration\) Bill: Amendments](#)', 17 January 2024, p 18.

¹¹⁴ [HC Hansard, 17 January 2024, cols 959–62.](#)

¹¹⁵ [HC Hansard, 17 January 2024, cols 935–62.](#)

¹¹⁶ [HC Hansard, 17 January 2024, cols 964–84.](#)



5. What has happened since?

5.1 Prime minister's press conference

The following morning, on 18 January 2024, Prime Minister Rishi Sunak held a press conference in Downing Street in which he called on the House of Lords to “do the right thing” and pass the bill “as quickly as possible”.¹¹⁷ He is reported to have said:

The House of Commons has spoken, the Conservative Party has come together, the Rwanda bill has passed. It is now time for the Lords to pass this bill too. This is an urgent national priority. The treaty with Rwanda is signed and the legislation which deems Rwanda a safe country has been passed unamended in our elected chamber. There is now only one question: will the opposition in the appointed House of Lords try and frustrate the will of the people as expressed by the elected house? Or will they get on board and do the right thing?¹¹⁸

5.2 House of Lords International Agreements Committee report

The House of Lords International Agreements Committee launched an inquiry on the UK-Rwanda treaty a week after it was laid before Parliament.¹¹⁹ This included two oral evidence sessions, held on

¹¹⁷ BBC News, [‘Rishi Sunak urges Lords to back Rwanda bill’](#), 18 January 2024.

¹¹⁸ Matt Dathan and Steven Swinford, [‘Do the right thing and pass Rwanda bill, Rishi Sunak tells Lords’](#), Times (£), 18 January 2024; and Shanti Das and Toby Helm, [‘Rwanda plan could fail first test in Lords as peers move to thwart Sunak’s bill’](#), Guardian, 21 January 2024.

¹¹⁹ House of Lords International Agreements Committee, [‘Lords committee launches inquiry into Rwanda asylum treaty’](#), 13 December 2023.



18 and 19 December 2023, including a “short session” with Home Secretary James Cleverly.¹²⁰ The committee also received a follow-up letter from Mr Cleverly on 11 January 2024 and took a range of written evidence.

The committee published a report on the treaty on 17 January 2024.¹²¹ It considered “whether the treaty does in fact provide Parliament with a basis for declaring through the [Safety of Rwanda (Asylum and Immigration) Bill] that Rwanda is a safe country”. In addition to a summary of the legal challenges to the government’s Rwanda policy, the report noted the government’s bill, introduced in the House of Commons the day after the treaty was laid before Parliament, was dependent on the treaty’s entry into force. On this, the committee made a preliminary point on the separation of powers:

We agree with those witnesses who urged us to pay close attention to the constitutional principle of the separation of powers. The separation of powers requires both the courts and Parliament to exercise restraint and to respect the proceedings and rulings of the other. It would therefore be constitutionally inappropriate for Parliament to seek through statute to overturn findings of fact by the Supreme Court, especially when the bill includes an ouster clause excluding judicial review. Although the government is arguing that the facts have changed because of the treaty, in our view it is still particularly important that, when assessing the treaty, this committee—and Parliament more widely—should pay close attention to the reasoning of the UK

¹²⁰ House of Lords International Agreements Committee, ‘[Corrected oral evidence: UK-Rwanda asylum agreement](#)’, 18 December 2023, QQ1–18; and ‘[Corrected oral evidence: UK-Rwanda asylum agreement](#)’, 19 December 2023, QQ19–31.

¹²¹ House of Lords International Agreements Committee, ‘[Scrutiny of international agreements: UK-Rwanda agreement on an asylum partnership](#)’, 17 January 2024, HL Paper 43 of session 2023–24.



Supreme Court in finding that Rwanda was not a safe country.¹²²

The report's summary conveyed the committee's key conclusions about the treaty:

The Rwanda treaty underpins the Safety of Rwanda (Asylum and Immigration) Bill by which the government proposes that Parliament should declare through legislation that Rwanda is a safe country, notwithstanding the findings of the Supreme Court. Parliament is asked to make this declaration—which under the bill cannot be challenged in the courts—on the basis of the arrangements provided by the Rwanda treaty.

The Rwanda treaty puts into legally binding form the arrangements previously set out in a 2022 memorandum of understanding with Rwanda, but with some enhancements, notably a new asylum procedure and a commitment that no person relocated under the treaty to Rwanda will be sent to any country other than the UK, if the UK so requests.

On paper the Rwanda treaty improves the protections previously set out in the memorandum of understanding, but there are a significant number of legal and practical steps which need to be taken before the protections could be deemed operational such that they might make a difference to the assessment reached by the Supreme Court. Evidence that these arrangements have bedded down in practice is also needed. In short, the treaty is unlikely to change the position in Rwanda in the short to medium term.

¹²² As above, pp 6–7.



We recommend that the treaty is not ratified until Parliament is satisfied that the protections it provides have been fully implemented since Parliament is being asked to make a judgement, based on the treaty, about whether Rwanda is safe. The government should submit further information to Parliament to confirm that all the necessary legal and practical steps and training which underpin the protections provided in the treaty have been put in place, and then allow for a further debate before proceeding to ratification.¹²³

The scrutiny period for the treaty provided for by section 20 of the Constitutional Reform and Governance Act 2010 expires on 31 January 2024. Under the statutory framework provided for in that act, the House of Commons has the power to delay the ratification of a treaty. The House of Lords can also resolve that a treaty should not be ratified. However, the government can override this if it lays a statement before Parliament.¹²⁴

The committee argued the government's approach to information-sharing had made the scrutiny process more difficult than usual:

The statutory deadline for parliamentary scrutiny of a treaty is 21 sitting days, which is a very short period to allow for proper consideration and debate of a politically significant international agreement such as the Rwanda treaty. The government has made the treaty scrutiny process more difficult by releasing a large quantity of relevant new information more than a month after laying the treaty in Parliament at the same time as revising information which it published only in December [2023], thus

¹²³ As above, p 2.

¹²⁴ As above, p 16.



preventing full scrutiny by witnesses to this inquiry. The government also delayed sending replies to the committee's inquiries. This conduct illustrates more generally the defects and limitations of the current statutory framework for scrutinising treaties under the Constitutional Reform and Governance Act 2010, which is in need of reform.¹²⁵

The House debated the report on 22 January 2024, together with a related motion to resolve that the government “should not ratify the UK-Rwanda agreement on an asylum partnership until the protections it provides have been fully implemented, since Parliament is being asked to make a judgement, based on the agreement, about whether Rwanda is safe”.¹²⁶ After debate, the House approved the resolution by 214 votes to 171.

6. Read more

6.1 Home Office

- [‘Safety of Rwanda \(Asylum and Immigration\) Bill: Collection’](#), 11 January 2024
- [‘Safety of Rwanda \(Asylum and Immigration\) Bill: Policy statement and evidence pack’](#), 11 January 2024
- [‘Safe and legal routes’](#), 11 January 2024

¹²⁵ As above, p 3.

¹²⁶ [HL Hansard, 22 January 2024, cols 596–658.](#)



6.2 House of Lords International Agreements Committee

- [‘Scrutiny of international agreements: UK-Rwanda agreement on an asylum partnership’](#), 17 January 2024, HL Paper 43 of session 2023–24
- [‘Rwanda treaty should not be ratified until its safeguards have been implemented, says Lords committee’](#), 17 January 2024
- See also: [Debate on ‘Asylum: UK-Rwanda agreement’](#), HL Hansard, 22 January 2024, cols 596–658
- [‘Memorandum of understanding between the UK and Rwanda for the provision of an asylum partnership arrangement’](#), 18 October 2022, HL Paper 71 of session 2022–23
- See also: [Debate on ‘Rwanda: Memorandum of understanding’](#), HL Hansard, 6 February 2023, cols 1036–50

6.3 Joint Committee on Human Rights

- [‘Legislative scrutiny: Safety in Rwanda \(Asylum and Immigration\) Bill’](#), accessed 25 January 2024
- [‘Chair’s briefing paper: Safety in Rwanda \(Asylum and Immigration\) Bill’](#), 11 December 2023

6.4 House of Commons Library

- [‘UK-Rwanda migration and economic development partnership’](#), 6 December 2023
- [‘Safety of Rwanda \(Asylum and Immigration\) Bill 2023–24’](#),



8 December 2023

- [‘Safety of Rwanda Bill: Legal commentary’](#), 12 January 2024
- [‘Asylum statistics’](#), 12 September 2023
- [‘Refusing to process asylum claims: The safe country and inadmissibility rules’](#), 8 February 2023

6.5 House of Lords Library

- [‘International Agreements Committee report on the UK-Rwanda treaty’](#), 18 January 2024
- See also: [Debate on ‘Asylum: UK-Rwanda agreement’](#), HL Hansard, 22 January 2024, cols 596–658
- [‘Illegal Migration Bill: HL Bill 133 of 2022–23’](#), 4 May 2023
- [‘UK-Rwanda asylum agreement: Why is it a memorandum of understanding and not a treaty?’](#), 26 January 2023

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