

Immigration, Asylum & Nationality Bill

Briefing for MPs on ILR change



Background

The proposal to end the practice of granting indefinite leave to remain (ILR) in the UK to people who have been granted refugee status and replacing it with up to five years temporary leave to remain was first outlined in the government's 5 year plan for immigration and asylum, published in February this year.

The Government announced on 19 July that the measure would take effect on 30 August. The right of appeal against a revocation of leave made under this proposal is contained in the bill and will take effect only after Royal Assent.

The Refugee Council has a number of concerns about this proposal which are set out below.

Refugee Council statement

In response to the announcement that from 30 August 2005 people given refugee status will no longer qualify automatically for indefinite leave to remain but instead will be given leave for 5 years Tim Finch, Director of Communications for the Refugee Council said:

"This is a step backwards. The government itself got rid of a similar rule in 1998 which at the time it called unfair, slow and a hindrance to integration. What is being proposed now is worse.

"The re-introduction of a qualifying period for ILR is unnecessary, costly and will make it even harder for people who are trying to put down roots and contribute to life in the UK. Refugees will be left in a cruel limbo - they'll find it more difficult to get jobs, their children will not be able to plan for their future or do things like apply for university.

"We don't understand why the government is intent on introducing a measure that puts at risk other good work on helping refugees to integrate. Not one single reputable, independent expert thinks this proposal will do anything but damage the chances of victims of persecution rebuilding their lives in the UK.

"This is why we're writing to MPs today asking them to support an Early Day Motion calling on the Government to think again."

Reversal of policy introduced in 1998

In its 1998 white paper – Fairer, Faster & Firmer - the Government abolished the previous system in which successful refugees were given ILR after four years.

Section 9.3 of the White Paper read:

These measures will help refugees and others granted leave to remain to integrate more easily and quickly into society, to the benefit of the whole community into which they have been accepted. They bring forward the point at which persons who would inevitably have been granted settlement achieve that status, at the same time making the policy fairer and swifter in application.

<http://www.archive.official-documents.co.uk/document/cm40/4018/chap-9.htm>

The current proposal is more detrimental to refugees than the system in place up until 1998 and the Refugee Council does not understand what has changed to make the government feel it is necessary.

It will mean years of uncertainty for refugees

These are people whom the government has accepted did face persecution in their home countries. They need to start the process of rebuilding their lives. Instead they will be living in a psychological and legal limbo for 5 years.

They won't be able to develop a sense of belonging in the UK and will find it more difficult to settle down, find jobs, buy homes, start businesses and look to the future.

It runs counter to the Government's integration policy

The government has published an Integration Strategy and has developed various induction, mentoring and employment schemes to help those accepted as refugees to integrate into British society. This proposal runs counter, and is damaging to, these welcome measures.

Ministers have long acknowledged the importance of early integration in helping refugees to build new lives in Britain. Speaking in the Commons in 2002, David Blunkett said:

We are seeking a seamless process from induction, through registration, to accommodating asylum seekers, thus speeding the process of integrating those who were welcomed as refugees

Hansard 24 Apr 2002 : Column 347

The key to successful settlement – particularly for those whose lives have been subject to traumatic upheaval – is certainty and stability. Refugees are often well-educated people with good long term employment prospects. But this proposal will make finding a job more difficult.

Research from Australia demonstrates that labour market entry is significantly hampered by temporary leave to remain. Employers are confused about the status of the refugees and worried they may face penalties for employing them. Refugees have more difficulty getting onto training courses, securing grants and funding and getting their professional skills recognised. Evidence shows the majority in Australia have remained on social security benefits, costing the tax payer money, aggravating existing physical and mental health problems through loss of status, and leaving a vulnerable group feeling unsafe and unsupported.

It will uproot families

Members of Parliament will be familiar with the situation in which failed asylum seekers – particularly families – are faced with removal after having lived in the UK for some years. Often they have put down roots in a community, children are settled at a local school, the parents are in employment or are valued members of the church or other local organisation. Despite widespread hostility to asylum seekers generally, there is often considerable local support for people in these circumstances. Clearly this situation is going to be even more difficult and controversial when the people facing removal are recognised Convention refugees.

There is a particular issue over family reunion, which the government has supported. The removal of ILR will put refugees in a situation where they may bring their families here only to be faced with removing them again in five years.

It will mean different treatment for different categories of refugees

It appears that refugees arriving in the UK as part of the Gateway Resettlement programme will not be affected by this proposal and will not be subject to the review of their status after 5 years. This means resettled refugees will be treated differently from “spontaneous arrivals”. This is unfair to the latter group as their asylum claim may be just as well-founded.

It will add to the system another level of decision and administration

The proposal will mean that people who have already been accepted as refugees – possibly after a lengthy and expensive process involving an appeal – will then face another decision stage after 5 years to decide whether their country is safe and they should be removed. Members of Parliament will be aware that asylum cases already make up a lot of their casework. This proposal will add to it.

It is likely that these cases will be emotive and controversial as the refugees involved will have been in the UK for some time. Speaking in

2002, the then Home Secretary Mr Blunkett acknowledged the increased difficulty of returning people who had been here for a number of years:

A sensible debate would acknowledge that the longer a family has been here and the longer children have been integrated and have been receiving an education, the more difficult it is both to remove and to resettle them. It is important that we have a policy for returners that is sensitive to their needs, that is effective

Hansard: 4 Feb 2002 : Column 595

The 2004 Bill's proposals and changes were justified by ministers, in part, on the grounds of finality. This proposal runs counter to that.

It runs counter to the spirit of the 1951 Refugee Convention

The Government has argued that the removal of ILR for refugees does not breach the terms of the Convention. But the UN is clear that refugees should only be returned to their countries when it is absolutely safe:

"The "Circumstances" (in connexion with which he has been recognised as a refugee have ceased to exist) refer to fundamental changes in the country, which can be assumed to remove the basis of the fear of persecution. A mere - possibly transitory - change in the facts surrounding the individual refugee's fear, which does not entail such major changes of circumstances, is not sufficient to make this clause applicable. A refugee's status should not in principle be subject to frequent review to the detriment of his sense of security, which international protection is intended to provide".

UNHCR Handbook on Procedures 1992 Para 135:

Many refugees return home anyway

Refugees are ordinary people. Many will want to go home one day when they feel safe. Others, will have established a new life here in the UK and will want to remain– they'll have careers, children at school, be active in their local communities. Some, especially those caught up in ethnic violence or tortured, will wish to never go back, no matter what happens to their country.

Many of the recent conflicts which have produced a lot of refugees – Iraq, Afghanistan, Sri Lanka – have been long running, often lasting decades. So the five-year review does not make a lot of sense.

FURTHER INFORMATION:

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