

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

Fourth Sitting

Tuesday 4 March 2025

(Afternoon)

CONTENTS

CLAUSES 5 TO 17 agreed to.
Adjourned till Thursday 6 March at half-past Eleven o'clock.
Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 8 March 2025

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The Committee consisted of the following Members:

Chairs: DAWN BUTLER, DAME SIOBHAIN McDONAGH, DR ANDREW MURRISON, † GRAHAM STUART

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|---|---|
| † Bool, Sarah (<i>South Northamptonshire</i>) (Con) | † Murray, Chris (<i>Edinburgh East and Musselburgh</i>) (Lab) |
| † Botterill, Jade (<i>Ossett and Denby Dale</i>) (Lab) | † Murray, Susan (<i>Mid Dunbartonshire</i>) (LD) |
| † Eagle, Dame Angela (<i>Minister for Border Security and Asylum</i>) | † Stevenson, Kenneth (<i>Airdrie and Shotts</i>) (Lab) |
| Forster, Mr Will (<i>Woking</i>) (LD) | † Tapp, Mike (<i>Dover and Deal</i>) (Lab) |
| † Gittins, Becky (<i>Chwyd East</i>) (Lab) | † Vickers, Matt (<i>Stockton West</i>) (Con) |
| † Hayes, Tom (<i>Bournemouth East</i>) (Lab) | † White, Jo (<i>Bassetlaw</i>) (Lab) |
| † Lam, Katie (<i>Weald of Kent</i>) (Con) | † Wishart, Pete (<i>Perth and Kinross-shire</i>) (SNP) |
| † McCluskey, Martin (<i>Inverclyde and Renfrewshire West</i>) (Lab) | Robert Cope, Harriet Deane, Claire Cozens,
<i>Committee Clerks</i> |
| † Malhotra, Seema (<i>Parliamentary Under-Secretary of State for the Home Department</i>) | † attended the Committee |
| † Mullane, Margaret (<i>Dagenham and Rainham</i>) (Lab) | |

Public Bill Committee

Clause 6

Tuesday 4 March 2025

(Afternoon)

[GRAHAM STUART *in the Chair*]

Border Security, Asylum and Immigration Bill

Clause 5

DUTIES OF COOPERATION ETC

Question (this day) again proposed, That the clause stand part of the Bill.

2 pm

The Chair: Would everyone please ensure that all electronic devices are turned off or switched to silent? We now continue line-by-line consideration of the Bill. The grouping and selection list for today's sitting is available in the room, as well as on the parliamentary website. I remind Members about the rules on declarations of interests, as set out in the code of conduct.

Matt Vickers (Stockton West) (Con): It is a pleasure to serve under your chairmanship on your first outing, Mr Stuart. Clause 5(3) requires those who are co-operating with the commander in the exercise of their functions to put in place arrangements governing co-operation between the commander and that person. Does the Minister have a view about what those agreements will look like and what sort of obligations will fall on both parties?

The Minister for Border Security and Asylum (Dame Angela Eagle): It is a pleasure to serve under your chairmanship, Mr Stuart. It will be the first occasion of many, I am sure. I hope you enjoy chairing Bill Committees as much as I enjoyed doing so in the previous Parliament.

Clause 5 places a duty on partner authorities to co-operate with the commander in the carrying out of their functions. The commander is tasked with maximising the effectiveness of our collective response to border security threats. That requires a whole-of-Government response, which will be enabled by this clause. It is recognised that partner authorities have wide-ranging functions that extend well beyond tackling border security threats. The duty set out in the clause extends only so far as it is appropriate and compatible with partner authorities' other functions. That ensures that partner authorities across the system work in lockstep to enhance border security while continuing to enable the vital work undertaken by partners in other contexts, beyond border security matters.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill.

THE BOARD

Question proposed, That the clause stand part of the Bill.

Dame Angela Eagle: Clause 6 places a duty on the Border Security Commander to establish and maintain a board to assist with the exercise of their functions. That unique forum enables senior representatives from across the border security system to convene to shape our collective response to organised immigration crime and other border security threats. The commander will consult the board when developing strategic priorities for border security, which makes the board a crucial forum in shaping the whole-of-Government response to these threats.

Matt Vickers: Clause 6 states:

“The Commander must establish and maintain a board to assist the Commander in the exercise of the Commander's functions.”

It is all quite open-ended: the chair will be the commander, and the board will be made up of one or more representatives from each relevant partner authority. Will the Minister explain on what basis the commander might decide to have representatives from partner authorities? Why do all partner authorities not need to be represented?

Subsection (6) states:

“The Commander must hold meetings of the Board at such intervals as the Commander thinks appropriate.”

Does the Minister have any views about how regular the meetings should be? What sort of matters does she envisage the board will deal with?

Dame Angela Eagle: The Bill is a framework within which the Border Security Commander operates, but it is not prescriptive because the people who drafted the Bill could not see what the priorities will be in the future. It is a framework that enables the Border Security Commander to respond to what is going on at the time, without limiting him.

There has been a common theme throughout the speeches from the Opposition. They seem to feel that somehow the commander does not have sufficient empowerment to command the border security system, that he is not independent enough, and that he somehow cannot get things done, but the functions outlined in these clauses are not the sole capabilities of the commander's role as empowered by the Home Secretary and the Prime Minister.

The Border Security Command is not an operational entity, but a strategic leader for border security. Representatives on the board would be Departments such as the Foreign, Commonwealth and Development Office, His Majesty's Revenue and Customs, the Department for Transport, the Department for Environment, Food and Rural Affairs and the Cabinet Office, as well as operational partners such as the National Crime Agency, the UK intelligence community and security services, Border Force, Immigration Enforcement and policing. Those kinds of people will be convened for a strategic purpose. It makes sense, if we think about it, that the commander can bring these

people together as and when he or she sees a need for them to meet, depending on what is on the agenda and what is going on.

The commander is already using the role and its associated capabilities to deploy key functions to lead on border security across Government, including deploying additional resources across partners, such as the additional £150 million for border security that has been announced by the Government, and developing border security legislation to be used by operational partners, such as the powers in this Bill. In last week's evidence sessions, we heard from operational partners such as the police, the NCA and the Crown Prosecution Service on how useful they felt the powers in the Bill would be in their everyday operational capacity. The operational commander can also lead on international engagement diplomatically, and has accompanied both the Prime Minister and the Home Secretary on journeys to Italy, Germany and Iraq to ensure that we have meetings at the highest levels with people in other jurisdictions, to try to get more co-operation going to deal with the cross-border issues of border security.

The Bill provides a new significant wide-ranging power to lead the border security system strategically, which is being done for the first time. All partner authorities, defined as those public bodies with functions in relation to border security, must, as a legal duty, have regard to the strategic direction set by the commander. However, this works best if there is not a battle between different bits of the Government—if there is co-operation and co-ordination—and that is what these structures are designed to try to achieve. The Bill will, for the first time, provide a clear and long-term vision for border security, bringing together and providing leadership to all parts of the system that work to maintain the integrity of our border and immigration systems both domestically and internationally.

I hope that that has provided a little more explanation for the Opposition on the thinking and approach behind some of the powers set out in the clauses we are considering, and most specifically in clause 6.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 7

DELEGATION BY THE COMMANDER

Question proposed, That the clause stand part of the Bill.

Dame Angela Eagle: Clause 7 ensures that the functions of the Border Security Commander can be delegated to an authorised civil servant when required. Flexibility in the exercise of these functions will support the most efficient and effective delivery of the Government's actions to tackle border security threats.

Matt Vickers: Clause 7 makes provision about the delegation of the commander's functions. Subsection (1) provides that

“The functions conferred on the Commander by this Chapter may be exercised by any civil servant authorised by the Commander for that purpose.”

This is further evidence, were any needed, that the post of commander might not be a serious one. We have already seen that the Bill does not specify any minimum qualifications or experience for the commander, and we have seen why: they are not really in charge of anything.

There are serious questions to answer on the delegation of functions. What sort of functions does the Minister envisage the commander potentially delegating under this clause? Can any specific functions be named? The Bill does not specify any level of seniority for those the commander might delegate functions to. Is there any grade within the Home Office that the Minister thinks it would not be appropriate for the commander to delegate to? What oversight will there be of any delegation process?

Dame Angela Eagle: I set out in some detail in my reply on the previous clause some of the things that the commander is involved with, including some of the meetings he is involved in convening and the purpose of those strategic meetings. During the evidence we heard last week from operational partners, both the NCA and the police chiefs set out some of the benefits they felt there would be.

Margaret Mullane (Dagenham and Rainham) (Lab): Does the Minister agree that we seem to be having repetition in our discussions about the commander and his abilities within his role? The role is respected, and that came up in the evidence we heard. Does she feel that there is repetition of this point, with the Opposition picking up on it at every moment?

Dame Angela Eagle: The Opposition have asked which bits of the commander's functions may be delegated and to what level. In theory, it can be any of them. We are trying to ensure that there are no issues in primary legislation that would mean something is prevented from being delegated that would have been effective.

I do not think that the hon. Member for Stockton West would expect me to go into great detail about what might happen with delegation in the future, but I can give an example. If there was to be a high-level visit to Iraq to conclude a memorandum of understanding on returns and activity against organised immigration crime, and the commander was detained elsewhere, it would be possible to delegate that function to somebody who would then go in his place.

We are trying to get to the stage in legislation where we create the commander and give flexibility as to how the job can be put into effect in scenarios that may crop up, without being too prescriptive. I hope that the hon. Member for Stockton West will accept that example of the sort of thing that may crop up.

Chris Murray (Edinburgh East and Musselburgh) (Lab): It is quite interesting to hear the points that the Minister is making, considering the conversation we had this morning about the commander being functionally a civil servant. Although I was never officially a civil servant in the proper sense, from my experience it is really important that senior leaders within the civil service are able to avail themselves of delegation capacities as needed.

[Chris Murray]

It can be done for many reasons. It could be a bandwidth issue, where someone has multiple priorities and needs to delegate to someone else because they are not able to be in two places at once—and looking at the responsibilities of the commander as set out in the legislation, there are a lot. It could also be a resourcing issue or because of a conflict of interest. That brings me to the point I was making about this being a civil service role; there need to be proper conflict of interest considerations. That is what we are taking account of here.

Dame Angela Eagle: My hon. Friend is right that circumstances often crop up that require this kind of provision. All clause 7 does is allow it, so I commend the clause to the Committee.

Question put and agreed to.

Clause 7 accordingly ordered to stand part of the Bill.

Clause 8

DESIGNATION OF AN INTERIM BORDER SECURITY COMMANDER

Question proposed, That the clause stand part of the Bill.

Dame Angela Eagle: Clause 8 ensures that the functions of the Border Security Commander can continue to be exercised in the event that the post of commander is vacant for a period, or if the commander is incapacitated or temporarily unavailable. This ensures that the work to enhance our border security and undermine the people smuggling gangs threatening our borders continues in the event that the post either falls vacant or is effectively vacant for a period.

2.15 pm

Matt Vickers: Clause 8 allows for an interim Border Security Commander to be designated. I would be grateful if the Minister could confirm that this is essentially a stopgap either because a Border Security Commander is going to step down without a replacement yet secured, or for reasons of temporary incapacity to carry out their functions.

Subsection (2) specifies that the interim Border Security Commander can be designated
for such period as the Secretary of State thinks appropriate.”

I would like the Minister to explain whether there is a limit to what could be regarded as appropriate. This is, on the face of it, a temporary measure, so what counts as temporary for these purposes? What are the safeguards against an interim appointment carrying on indefinitely?

Subsection (3) says that the temporary designation can last no

“longer than the period for which no Commander is designated or (as the case may be) the Commander is incapacitated or unavailable”,

but no time limit is set out in the Bill. Are there any minimum qualifications the Minister would expect an interim commander to have?

Dame Angela Eagle: Clause 8 is clearly there in the event of the commander being incapacitated or ill and unable to do the job for a while. It is not unusual that people have life experiences that mean they have to take time off work. In that kind of instance, an interim commander could be appointed, pending the return of the role holder, who may be receiving medical treatment or may be incapacitated in some way. There may also be a gap between the resignation or retirement of a commander and reappointment, although one would hope that planning ahead would mean that that would be minimised. The clause addresses the practical issue of having an interim in case there were an issue with appointment.

The interim commander would, obviously, be expected to have the skills to do the job to the full extent. No time limit has been put into primary legislation because if there were a hard timeline it would make it harder in practical terms to get a replacement. It is very much a horses for courses thing, allowing there to be an interim in the case of incapacity, retirement or replacement while the replacement is advertised for and appointed in the usual manner.

Question put and agreed to.

Clause 8 accordingly ordered to stand part of the Bill.

Clause 9 ordered to stand part of the Bill.

Clause 10

EXCLUSION OF APPLICATION TO THE ARMED FORCES

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to consider clauses 11 and 12 stand part.

Dame Angela Eagle: Clause 10 states that the duties in this chapter of the Bill do not apply to the armed forces, clause 11 makes amendments to the Data Protection Act 2018, and clause 12 provides definitions of the terms used. The work of the armed forces and the Ministry of Defence makes a significant contribution to the security of the United Kingdom. The Border Security Commander will work across Government, including with the Ministry of Defence, to enhance our border security. Clause 10 recognises the unique work of the armed forces. While the Border Security Commander will work closely with the armed forces, including through the military aid to the civil authorities process, it is correct that the important duty of our armed forces remains independent from the functions outlined in this chapter. That is achieved by clause 10.

Clause 11 amends the Data Protection Act 2018 to ensure that the Border Security Commander may process data for law enforcement purposes. That information is vital to build a shared understanding of the nature of border security threats and inform the priority setting process. Clause 12 provides definitions for the terms used in chapter 1 of the Bill for the reader’s understanding and to ensure clarity on definitions during the implementation and operation of the legislation.

Matt Vickers: Clause 10 makes it clear that this chapter does not apply to the naval, military or air forces of the Crown. Clause 11 is an amendment to the Data Protection

Act 2018 to allow the Border Security Commander to be added to the list of competent authorities in relation to the processing of personal data carried out for a law enforcement purpose. Given how toothless the Border Security Commander appears to be, will the Minister explain why this measure needs to be added to schedule 7 of the Data Protection Act, as well as what law enforcement purposes the commander will have and for what purpose they will be processing personal data?

Dame Angela Eagle: The hon. Member asked why the Border Security Commander should be processing data collected from electronic devices. He will know that later in the Bill, there are some new powers that involve collecting, in an intelligence-led way, data from suspected organised immigration criminals. The point is to ensure that data is collected in a lawful manner, and that is why clause 11 allows the Border Security Commander to process data for law enforcement purposes. Some of that is about the counter terrorism-style powers, which we will discuss in relation to later clauses—I do not want to have that debate here—but it is really an enabling power to put beyond doubt the legality of the collection of such material.

Question put and agreed to.

*Clause 10 accordingly ordered to stand part of the Bill.
Clauses 11 and 12 ordered to stand part of the Bill.*

Clause 13

SUPPLYING ARTICLES FOR USE IN IMMIGRATION CRIME

Pete Wishart (Perth and Kinross-shire) (SNP): I beg to move amendment 3, in clause 13, page 7, line 12, at end insert—

‘(1A) For the purposes of subsection (1), P cannot commit an offence if P is an asylum seeker.’

This amendment would specify that the offence created by clause 13 (“Supplying articles for use in immigration crime”) cannot apply to asylum seekers.

The Chair: With this it will be convenient to discuss the following:

Clause stand part.

Amendment 4, in clause 14, page 8, line 11, at end insert—

‘(2A) For the purposes of subsection (1), P cannot commit an offence if P is an asylum seeker.’

This amendment would specify that the offence created by clause 14 (“Handling articles for use in immigration crime”) cannot apply to asylum seekers.

Clauses 14 and 15 stand part.

Pete Wishart: It is an absolute pleasure to serve under your chairing this afternoon, Mr Stuart. I welcome you to the Committee.

Clauses 13 to 18 are where we start to get into the serious business of the Bill, and where some of its most concerning and controversial aspects are revealed. Nowhere is that more certain than in clauses 13 and 14.

The Government tell us that their whole intention and focus is exclusively on smashing the gangs, disrupting their business and bringing to justice as many of the people associated with and involved in this vile trade as possible. In everything we do in the Committee and in the House, the community must ensure that the

Government are supported in that ambition and intention. That is one thing that unites the whole House, and we wish the Government every success in disrupting the gangs, smashing their business operations and bringing them to justice.

As we look at clauses 13 and 14, the first thing we have to do is assess and judge whether they assist in that process. I think we have to come to the conclusion that they do not, and they could make the situation a lot worse. They will certainly make the conditions of those who seek to come to our shores—some of the most wretched people in the world—much harder and more intolerable.

Jo White (Bassetlaw) (Lab): Does the hon. Member hold the view that an asylum seeker cannot be above the law when it comes to participating in smuggling gangs?

Pete Wishart: I do not think anyone would assert, contend or propose that. Everybody is subject to the laws. Clauses 13 and 14 are designed to create new ways to criminalise people. I have listened carefully to the Government’s rhetoric, and I believe the focus and ambit of these new laws is to smash the gangs and disrupt their business, but they will not do that. The only people who will be ensnared, entrapped and put on the wrong side of these laws are asylum seekers. I say candidly to the hon. Lady that we are creating new ways to further criminalise the most wretched people in the world, and that is a grotesque ambition for this Government.

I tried to find out from the senior law officers who gave evidence how many members of gangs would be apprehended and brought to justice as a result of these new clauses. The law officers could not tell me. I do not blame them for that; they probably did not know. I suspect it would be really difficult even to make some sort of guess about how many criminals would be brought to justice as a result.

I also asked what would be the ratio of ordinary asylum seekers to gang members—the ones who secure this vile trade—but the law officers could not tell me. However, I know and suspect, as I am sure they do, that nearly everybody who falls foul of the clauses will be an asylum seeker. I suspect they know—I do, and probably everybody else does—that very few gang members will be brought in front of any of our judiciary as a result of the provisions.

Chris Murray: There is an issue around taxonomy and categorisation here. Anyone is entitled to claim asylum. It is a universal human right. Anyone from any nationality and background, whatever their criminal history, is entitled to make a claim to be an asylum seeker. It is possible to be a member of a criminal gang and plan on claiming asylum. From my 15 years of working in the asylum and immigration service, I know it is an undeniable point of fact that some people exploit that to delay or get around the system, and we must act on such abuse.

Does the hon. Member agree that we have to be careful in our classifications? There is a distinction between an asylum seeker who has a genuine claim to refugee status but who might not be eligible, and someone exploiting the system.

The Chair: Before the hon. Member responds, that was far too long, Mr Murray. Please try to keep interventions short. Of course everyone is welcome to speak in the debate.

Pete Wishart: Thank you, Mr Stuart. That is a reasonable point; I think the hon. Gentleman is on to something. Of course some gang members will pretend to be asylum seekers, but it is up to the fine people who came in front of our Committee to determine and ascertain the truth. We should not create further ways to criminalise people that focus almost exclusively on asylum seekers. We must find ways to differentiate; we cannot have blanket, broadly defined clauses that include everybody.

The hon. Member for Edinburgh East and Musselburgh has a fine history and record of working with asylum seekers and refugees. He has seen the briefings, as I and all Committee Members have. He will therefore know that practically every charity and organisation that works with, and tries to improve the lives of, asylum seekers and refugees tells us that ordinary asylum seekers—those fleeing conflict, oppression and extreme poverty—will be the ones caught up in these new measures.

My amendments are very straightforward. Let us exclude asylum seekers from the provisions of clauses 13 and 14. I want to do that for a number of reasons, but the one the Minister might be most attracted to is that doing so will actually help the Border Security Commander. It will allow him exclusively to focus, laser-like, on the Bill's main target: the gangs that ply this evil trade. Let us forget about the riff-raff and the chaff. Let us focus our attention on those who arrange and organise this vile trade across the channel, and go for them.

2.30 pm

Tom Hayes (Bournemouth East) (Lab): Does the hon. Gentleman agree with what Rob Jones, the director general of operations at the National Crime Agency, said in his oral testimony last Thursday? He said:

“We are not looking to pursue asylum seekers who are not involved in serious and organised crime. That is not what we do. This is about tackling serious and organised crime and being as effective as we can be in doing that.”—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee, 27 February 2025; c. 35, Q35.*]

If we read the tea leaves, it is almost as if the hon. Gentleman is saying that there is an intent to pursue asylum seekers. Moreover, the NCA's remit is already to be laser-focused and go after those gangs, as he recommends.

Pete Wishart: Rather lengthy interventions are a feature of this Committee, but I am happy to go with that if everyone else is. The hon. Gentleman is right to refer to the National Crime Agency. I listened carefully to what Mr Jones had to say to the Committee, and I have no doubt about his intention. I do not think he really wants to ensnare asylum seekers; I do not think that is his focus. But he has these two badly drafted and broadly defined clauses as the net that will scoop everything up. As the hon. Member for Edinburgh East and Musselburgh said, everybody will be in that net, and it will be a matter of trying to sieve them.

Why not start with the presumption that we will go for the gangs exclusively and leave aside those who come our shores to apply legitimately for asylum in the United

Kingdom? Let us not waste time criminalising such people. The main problem, as I have said, is that the clauses are so broad in scope. They are not just a fishing net; they are a trawling net, trying to lift out everybody who comes across the channel.

The clauses cover not only direct acts of people smuggling, but incidental activities that may not involve any criminal intent. In combination with other clauses, they would make it a crime to supply or receive almost any item that one suspects could be used to facilitate illegal travel to the UK. The proposed legislation criminalises collecting or even viewing information that could be useful in making irregular journeys, if there is reasonable suspicion that it could assist others in migration. Although the Government couch a lot of this in humanitarian language, the provisions will not prevent deaths and harm at sea. Instead, they will criminalise people on the move who have no alternative route to the UK.

Let us look at the provisions in a little bit more detail. Supplying, offering to supply and handling articles for use in immigration crime will now get someone a maximum sentence of 14 years' imprisonment. Although there are some limited humanitarian exemptions—for example, offering food and drink—the provisions considerably broaden the potential prosecution of migrant assistance and support. Importantly, with all the proposed new offences, there appears to be no explicit defence for those who are on the move.

Then there are the provisions about collecting information for use in immigration crime. Such information includes arranging departure points, dates and times; in other words, information that it would be necessary to gather if someone attempted to make such a journey themselves. The Bill makes it clear that evidence could include someone's internet history and downloads. The Government contest this, but even looking up a weather map could put someone on the foul side of these clauses. I expect the Government will tell me, “No, of course that won't happen,” but nothing in the clauses that we are debating states that that activity is exempt.

Becky Gittins (Clwyd East) (Lab): It is a privilege to serve under your chairship, Mr Stuart. Did the hon. Member feel that the Crown Prosecution Service gave that assurance at our evidence session last week? The witness categorically stated that such circumstances would not pass the criminal test or the public interest test. Does the hon. Member think it is important that we do not make such inferences when we discuss the Bill, so that we can see clearly how our criminal justice system applies these things?

Pete Wishart: That is a helpful and useful intervention, and the hon. Lady is right that the CPS did say that. I listened again very carefully to what was said, because concerns about these provisions have been raised repeatedly. I am sure that the CPS is serious about that, but I challenge the hon. Lady to look at the provisions and tell me how such a scenario could not be caught. The Bill is badly drafted because it provides the conditions to allow such a perception to develop. I know the Government do not want to arrest people who are looking at weather maps. I am certain that is not their intention at all, but when we examine the Bill we can see that it will allow that very thing to happen.

The Minister refers to the provision in section 25 of the Illegal Immigration Act 1972 or 1973—

Dame Angela Eagle: 1971.

Pete Wishart: 1971—there we go. Section 25 of that Act offers the protection of allowing for a reasonable explanation of why people are caught up in such activity. That is useful when it comes to this Bill, but why do we have to rely on something like that? We are creating a new Bill, which does something specific and unhelpful for some of the poorest and most wretched people who exist on our globe. We have a responsibility for those people under our international obligations and conventions, and this new legislation does nothing to assist them.

The collection of data from people's phones is facilitated by the Bill, which creates new broad powers to enable the search and seizure of electronic devices. I will come back to the main point I made on Second Reading. We did not get much time to elaborate on this, but I think it is pertinent to the clauses that we are debating, and the Committee must consider it properly.

The gangs have a monopoly and an exclusive right to the irregular migration market. There is no other way for asylum seekers to get to the UK. It just is not possible. There are safe routes available for a small number of countries, but for the vast majority of potential asylum seekers in war-torn regions, areas and countries around the world, the only way to claim asylum in the United Kingdom is to put themselves at the mercy of the gangs, and to go on a small boat to get across the channel.

Business is booming. I do not know if anyone saw the shots today from the camps in France—I think it was on Sky News. What a hell on earth they are! What a disgrace that is for us, who are part of the problem. We cannot get the situation resolved, and we are keeping some of the poorest people in such circumstances. Shame on us, and shame on everyone in the international community who allows such conditions to develop and thrive. Business is booming for the illegal gangs.

I will tell you something else, Mr Stuart. It will only get better for the gangs when the Government cut the international aid budget. What do they think will happen? Do they think that conditions in those areas will get better? Of course they will not. That will lead to so many more people making the journey to the UK, and it will be down to the Government.

Mike Tapp (Dover and Deal) (Lab): Will the hon. Member give way?

Pete Wishart: I hope the hon. Gentleman has some sort of reason for that.

Mike Tapp: I have an important intervention on that point. The Russians invading Ukraine and going further into Europe would create a much more serious refugee crisis than the one we are facing now. Increasing defence spending is very important.

Pete Wishart: I do not know whether the hon. Gentleman has noticed, but for the last three years we have had a refugee crisis from Ukraine—and there is such a distinction between how we have responded to Ukraine and how

we have responded to everybody else. We put forward legal routes to allow Ukrainians to come to our country. My local authority, Perth and Kinross council, has the largest number of refugees from Ukraine in the whole of Scotland except the city of Edinburgh. I am immensely proud of the generosity of spirit of the people I represent who are taking part in that scheme.

Is it not so different when we allow schemes like that? That is what we are asking the Minister for. We will have a depopulation crisis towards the middle of the century, and immigrants might be at a premium by 2060 or 2070. Why have we not been inventive and creative? Why are we not looking to do things other than leave that mess—that disgrace—on the shores of France, as we have done to date?

I am sure the Minister will tell us that there is the defence of “reasonable excuse”. I accept that, and I know that it applies to each of these new offences—in other words, if a person has a reasonable excuse for engaging in the relevant conduct, they will not be guilty of the offence. I know that that is exactly what she will tell me, and she is already indicating that that is the case. But the burden lies on the defence to adduce sufficient evidence of a reasonable excuse, and if they have done so, it is for the prosecution to prove the contrary beyond reasonable doubt.

To be fair, the Bill sets out a non-exhaustive list of circumstances in which the defence of reasonable excuse would apply. Under clause 13, for example, a person will have a reasonable excuse if

“their action was for the purposes of carrying out a rescue of a person from danger or serious harm”.

They will also have a reasonable excuse if they were acting on behalf of an organisation that aims to assist asylum seekers and does not charge for its services. All that is purely a matter of judgment, and there does not seem to be a specific threshold for conviction. The maximum sentences for each of the new offences is pretty stiff and those for offences in clauses 13 and 14 in particular are disproportionately high. To put it in context, the offence of possession of articles used in terrorism has a maximum sentence of 15 years' imprisonment, but someone could get 14 years for falling foul of the provisions in clauses 13 and 14.

The Bill is likely to have an impact on the prison population—I think I heard the hon. Member for Stockton West address some issues about the prison population with the Minister.

Tom Hayes: It is a pleasure to serve under your chairpersonship, Mr Stuart, as I should have said earlier. Is the hon. Gentleman saying that the proposed sentence for the facilitation of small boat smuggling and criminal activity is too high? Did I hear that correctly? Please do correct me if I am wrong.

Pete Wishart: The hon. Gentleman is wrong, and he did not hear me correctly. I am talking about the new offences in clauses 13 and 14, falling foul of which could result in a maximum of 14 years' imprisonment. He might contend that that might get some gang member, but I am suggesting otherwise. I suspect that practically nobody from gangs involved in this vile trade will be caught up in these offences, but ordinary asylum seekers will be.

[Pete Wishart]

Lastly on the prison population, there is a notable lack of robust evidence that lengthier custodial sentences achieve a deterrent effect or a reduction in reoffending. That is explicitly not acknowledged in the impact assessment for the Bill, which states:

“There is limited understanding of the behavioural impact of this intervention, so the deterrence effect on dangerous behaviour may not be realised as intended.”

I do not know whether the Minister believes that the new laws she is creating will make the slightest bit of difference to those who are in areas of conflict or fleeing oppression. I am not entirely sure that asylum seekers sitting down on the beach, or in the deserts of Sudan, in Afghanistan or in Iran, are the least bit cognisant of the developing, hardening and draconian laws of this country, put in place in Committees like this one. I suspect that they do not know about them—and, if they did know about them, they would not care less. Their sole and exclusive priority is saving their family’s and their children’s lives, and getting the hell out of that place.

That is the irritation; those asylum seekers could not care less about the Border Security, Asylum and Immigration Bill that is being debated here today. They want out, and they will do anything possible to rescue their family. Imagine that, after all that journey, after sitting in these boats, after being in the hands of the people smugglers and those gang members, they arrive in the good old United Kingdom, only to be apprehended on the basis of clauses 13 and 14 of the Bill.

2.45 pm

We heard from a variety of witnesses on Thursday that the laws of the destination country make absolutely no difference whatsoever to asylum seekers and do not work in the least as a deterrent, so I do not want to hear about the deterrence from the hon. Members opposite, because there is no evidence to suggest that that works or to support that contention. Come on! Let us take these wretched souls out of the equation, remove them from the legislation and go for the gangs that profit from this vile trade. Let us make sure that we have a Bill that we can be proud of, that we know what the Bill will do and that it will not entrap lots and lots of innocent people.

Mike Tapp: Thank you for your passionate speech; I am sure it gripped us all—

The Chair: His!

Mike Tapp: His speech—my apologies; I will not make that mistake again. It is really important that we look at what is covered in the Bill, and how it enables our Border Security Command, the National Crime Agency, the police, the border forces and the security services to act. We said before the election, in our manifesto, that we were going to take this on in a counter-terror style, so that we can get to those who are looking to launch the boats before they launch them. These clauses go some way to achieving that; I will not quote the NCA director general again, but he was very enthusiastic about that. The further clauses include acts taking place abroad and not just in the United Kingdom.

On the specific amendments, we must be clear. We do not know who is a genuine asylum seeker at the point that they seek to cross; we will not know for some time.

The elephant in the room is that, even if they are genuine asylum seekers, they are in France. They are not in danger, as they would be in Sudan, and putting others at risk by preparing these crossings, facilitating them or being involved is not acceptable. Asylum seekers are not above the law, and these clauses ensure that they will be held to account.

Katie Lam (Weald of Kent) (Con): As hon. Members will have read, clause 13 creates a new offence of

“Supplying articles for use in immigration crime”.

The offence has two limbs. First, that the person supplies or offers to supply those articles to another person, and secondly that, when they do so, they know or suspect that the item will be used in connection with any offence under sections 24 or 25 of the Immigration Act 1971—illegal entry and assisting unlawful immigration, respectively. I have a question for the Minister on the reasonable excuse elements of the clause. It is a defence for a person charged with this offence to show that they had a reasonable excuse. Subsection (3) defines a reasonable excuse as explicitly including that,

“(a) their action was for the purposes of carrying out a rescue of a person from danger or serious harm”,

which seems reasonable, or,

“(b) they were acting on behalf of an organisation which—

- (i) aims to assist asylum-seekers, and
- (ii) does not charge for its services.”

That second defence seems to the Opposition to create a large loophole in the law. Does the Minister accept that these defences will have the effect of exempting non-governmental organisations from criminal charges for helping asylum seekers to cross the channel? Why would the Government seek to do that?

The defence categorises organisations that aim to assist asylum seekers into those that do not charge for their services and those that do. Surely this criminal offence is a criminal offence regardless of who is responsible; why would it be any less criminal if someone does it voluntarily? Why is making money from something the determinant of whether it is a crime? As we heard in evidence, charities can be “mischievous”—I think that was the word used—in their activities and in how close they come to facilitating illegal crossings to the UK. Does the Minister accept that the activities of some charities can veer close to the line of facilitating illegal entry? If so, what do the Government intend to do about it?

The threshold for the defence is low. The accused simply needs to provide sufficient evidence to raise an issue, and the contrary must not be proved beyond reasonable doubt. Might that be why the Home Office impact assessment considers that between four and six prison places—I believe the central estimate is five—will be required per year once this steady state is reached? The Home Office has lauded the new powers and offences in the Bill as being key to smashing the criminal smuggling gangs, but it does not appear to consider that many people will be convicted under the new offences. How can both those things be the case?

Clause 14 creates the new criminal offence of handling articles for use in immigration crime. The person has to receive or arrange to receive a relevant article, remove or dispose of an article for the benefit of another person, or assist another person to remove or dispose of

a relevant article. Again, the clause provides the same defence to the offence as clause 13 does—namely, that the action of the accused was

“for the purposes of carrying out a rescue of a person from danger or serious harm”,

or that they were acting

“on behalf of an organisation which—

- (i) aims to assist asylum-seekers, and
- (ii) does not charge for its services.”

I therefore have the same questions for the Minister about this defence as I did for the defence in clause 13.

Clause 15 provides a definition of “relevant article” for the purposes of the new offences in clauses 13 and 14. There are exemptions for food and drink, medicines, clothing, bedding, tents or other temporary shelters, and anything to preserve the life of a person in distress at sea or to enable such a person to signal for help. Will the Minister set out the kinds of articles that she therefore expects to be captured by the offences in clauses 13 and 14? It would be useful to know what items the Home Office, Border Force and the police specifically wish to disrupt. There is also a power in clause 15 for the Secretary of State to amend the list of relevant articles. Will the Minister explain what purpose that power serves? The list of what counts as a relevant article is almost limitless, so does she envisage that the power will be used primarily to create exemptions?

The hon. Member for Perth and Kinross-shire has tabled amendment 3 to specify that if a person is an asylum seeker, they cannot commit the offence in clause 13: supplying articles for use in immigration crime. It would be good to understand why the Scottish National party does not think it is possible for asylum seekers to commit that offence. How are law enforcement officers supposed to know that a person is genuinely an asylum seeker—and even if they are, what happens if their application is subsequently rejected?

The hon. Gentleman also tabled an amendment to require the commander to include in their annual report information about how they have paid due regard to the Human Rights Act 1998 and the European convention on action against trafficking. My views are the same as those set out by my hon. Friend the Member for Stockton West on amendment 1.

Chris Murray: I apologise for my longer interventions, Mr Stuart; I will try to bundle them all into this speech.

One of the most important things that we heard during evidence was from Dr Walsh from the Migration Observatory. He said that demand for cross-channel crossings is essentially inelastic. Even if the price of a crossing doubles, there will still be demand for it; people rise to meet that price. That tells us that deterrence and disruption of the demand alone will never be enough to tackle the horrors that we are seeing in the channel at the moment. We must also disrupt the supply of ability to cross the channel. That is an important part of the Bill, and these clauses go right to the heart of it.

On the point about criminalising all asylum seekers, ahead of oral evidence, I read carefully the submissions we have had from organisations I have worked with in the past. I found the testimony of the Crown Prosecution Service very convincing. It stated clearly that in addition to the primary legislation, the CPS will produce guidance that will set out both the public interest threshold and

evidential test that it would seek in order for a case to go to prosecution. It was very clear that the kind of hypothetical examples set out by the hon. Member for Perth and Kinross-shire would not meet that threshold.

On the point about decriminalising all asylum seekers, to clarify the point I was trying to make in my interventions, during a crossing anyone can declare themselves an asylum seeker. That then breaks down into different categories: someone who is genuinely eligible for asylum in the UK and will, when they go through the process, get refugee status; someone who is genuinely seeking asylum, but will not meet the threshold when they go through the process and will not get such status; and someone who knows that they are ineligible, or might be eligible on some counts, but is engaged in the criminal act of facilitating illegal entry into the UK and putting those other people’s lives in danger. At that moment, it is not possible to distinguish between those people; the asylum process is there to do that.

Were we to accept the premise of the hon. Gentleman’s amendment, it would be a wrecking amendment. I know it is not intended that way, but it would in reality be a wrecking amendment to any kind of intervention on a crossing at sea.

Pete Wishart: The hon. Gentleman neglects to mention one thing. He is correctly summarising what is happening with the amendments, but it is already illegal to arrive into the UK illegally—that is what is happening. That is why so many people have been arrested and are now being processed and sent back. It is illegal to come to the UK just now if you have no means to support yourself when you are here. All the Bill is doing is finding new ways to criminalise people. I do not know what the point of the new clauses is, when all that is already happening.

Chris Murray: The hon. Gentleman is making an important point, but I do not accept that the proposal is creating new criminal offences for all asylum seekers or for all people; it is creating new criminal offences for those engaged in the exploitation of people and the trafficking or smuggling of them across the channel in great danger. We cannot allow that to continue if we care about those people’s lives at all.

In the constituency of every single MP in this room, there will be a cannabis factory where a probably under-age Vietnamese child is working at cultivating cannabis. If they arrived in the past two years, they came across in one of those boats. Significant, serious organised crime networks are exploiting the vulnerability of those people in order to facilitate such crossings. This proposal is how we stop them doing it, and that affects every one of our communities.

I am aware that I am testing people’s patience, but I want to make two final points. The first is about the criminalisation of organisations that help asylum seekers. That is an important point, and the distinction has to be clear. I did have concerns about this measure being in the Bill, but the evidence sessions completely reassured me. The testimony of the CPS was that asking about the weather in Dover when in Calais, and those kinds of things, would not be facilitating immigration crime. The testimony that the National Crime Agency is using these measures to tackle serious and organised crime makes it clear what the purpose of the clauses is.

[Chris Murray]

The hon. Member for Kent—

Katie Lam: Weald of Kent.

Chris Murray: Weald of Kent, sorry—that is quite far south for me. The hon. Lady made a point about the sector and charging for services. Some organisations out there are charitable and provide services for free, and some organisations charge enormous fees and are extremely exploitative. That is where that distinction comes from. That would be my interpretation of the legislation.

Katie Lam: Presumably, though, it seems reasonable to think that there could be a third category, which is people who charge fees that are not exorbitant.

Chris Murray: That is absolutely right—but, in my experience of the channel coast and of working in the refugee sector, those do not exist. Anyone who was to do that would probably be giving immigration advice, which is a regulated component under UK legislation. That would be structured differently from someone on the coast or on a boat or vessel, in the way that this legislation sets out. I am happy to be corrected, but that would be my interpretation.

Finally, I come to the point about mobile phones and the different things listed that can be seized when a vessel is disrupted. Last week, we heard so much evidence—there is so much evidence out there—that the crossing of the channel is the final stage in a very long process involving criminal gang networks, organised crime networks and just immigration networks that stretch through Europe, including allied countries and countries very difficult for us to have relationships with. We know that those smuggling networks are all orchestrated by mobile phone, so it is important that the Bill incorporates that.

On the concerns that the hon. Member for Perth and Kinross-shire about criminalising the most wretched people in the world, the exemptions in the Bill are clearly humanitarian. They are clearly the kinds of things that people need to survive on a dangerous sea crossing or on their arrival. The only exception is their phone. It is because we know that the data taken from those phones is critical in the fight that phones are excluded. That is why it is important that that component remains in the Bill.

3 pm

Sarah Bool (South Northamptonshire) (Con): It is an honour to serve under your chairmanship, Mr Stuart.

These provisions relate to the supplying or handling of articles, the majority of which will, I assume, be held outside the UK. Clause 17, which we will come to, tries to ensure that the offences have effect outside the UK, but how does the Minister see that working in practice? The majority of people will be out of the realms of this law, so how will we enforce it?

On clause 14, on the handling of articles, the Law Society has great concerns that asylum seekers may be victims if they are forced to handle goods. How does the Minister propose to address that point?

Dame Angela Eagle: We have had an interesting debate, and Members have come at this complex problem from different angles. The hon. Member for Perth and Kinross-shire would give everyone who gets on the boats the benefit of the doubt, the hon. Member for Weald of Kent was somewhere towards the opposite end of that spectrum, and we had everything in between.

The important thing that we need to get right in this Bill is that we must give those who are trying to prevent dangerous boat crossings all the tools they tell us they need to help them deal with the criminal gangs that have been allowed to take hold across the channel and who are currently perpetrating this evil trade. We all agree that we want to stop that.

I am starting by talking about what we agree on, and I will then explain how the clauses will assist. We all agree that the right way to go about this is to ensure that the decisions about who is allowed to come into our country are taken by the authorities in the country, rather than by sophisticated, internationally organised criminal gangs with supply chains that go across many jurisdictions, and which make millions out of their illegal trade.

I want to give the Committee a couple of examples to put some flesh on the bones of what we are trying to do with the clauses in this group. Although people may think they are wide-ranging, their purpose is not to criminalise every asylum seeker, or even the vast majority of asylum seekers. Our approach will be intelligence-led. The National Crime Agency and others who police our borders have told us that these powers will assist them in doing the things they most want to do. The NCA gave evidence last week in which it said that its strategy is to prevent, which is to deter participation in organised immigration crime; to pursue, which is to disrupt the way that organised criminals work; to protect, which is to detect and act before the damage has been done—not wait until there are deaths in the channel, but stop small boats being launched in the first place—and to prepare, which is to manage and deal with the issues.

I am going to read into the record a couple of examples, to give Members an insight into what we are trying to achieve. These powers are short of those in section 25 of the Immigration Act 1971, because they relate to preparatory acts, which is what these clauses deal with. These are two case studies from the National Crime Agency. The first relates to the offence of handling articles. In November 2024, a man called Amanj Hasan Zada, who organised cross-channel small boat crossings from his home in Lancashire, was jailed for 17 years after being found guilty of people smuggling charges following an investigation by the National Crime Agency. Investigators were able to link him to three separate crossings made from France to the UK in November and December 2023, and he was convicted under section 25. Each crossing involved Kurdish migrants who had travelled through eastern Europe into Germany, Belgium and then France.

It is possible that the reasonable suspicion element meant that investigators would have met the requirements to arrest and charge him earlier, ahead of the section 25 powers becoming an option, if the new offences had been on the statute book when this was going on. This man was also moving between the UK and Iraq regularly, meaning that these powers would have assisted investigators. He was overseas, but he had access to some of these

articles when he was in the UK, so he would have been in the scope of the offence, and we would have been able to interdict and arrest him earlier and prevent those crossings from happening. Part of the idea of the new offences is that they are intelligence-led, but they relate to preparatory acts. They are attempting to disrupt before the more serious section 25 offence happens, and therefore they will prevent some of the damage done if that is allowed to happen because the authorities do not have enough evidence to arrest on the more serious offence.

Let me tell the Committee about another case study. An investigation into an Albanian organised crime gang using small boats to facilitate illegal immigration to the UK led to the arrest of an individual who was identifying rigid-hulled inflatable boats for sale on behalf of that gang. The gang subsequently bought and used the identified boats for organised immigration crime purposes. The individual was never directly involved in the movement of migrants or the purchase of those boats; he simply sourced them. The NCA provided evidence that they were on the periphery of the organised criminal gang and were researching for the gang to support their criminality. Despite that evidence, he was never directly involved in the actual facilitation, so the case could not go through to charging.

The preparatory acts offence would have enabled prosecution in that case, as the individual took part in the research and planning of acts to facilitate organised immigration crime, despite not being directly involved in the facilitation and illegal entry of migrants. Both the type of information and the circumstances the information was collected under would be captured by the new offence, and the evidence that the NCA had would have been sufficient for a sentence of up to five years.

We are talking about doing prevention work, to disrupt, to interdict and to stop some of this stuff happening before it has reached its full maturity and people's lives have been put at risk in the channel. It is a different approach. To sit, watch and wait until something has happened and people have perhaps died is one way of doing it, but the entire approach of the counter-terrorism style powers, of which the powers in this clause are an example, is what the NCA and other people have asked us to assist them with. They see the pattern in their information gathering: how these things are organised, what the patterns are, who is involved and how they do their business. They have demonstrated to me and others that these kinds of powers would be really useful in a preventive way and may very well save lives. I hope that giving those two examples will mean that we have more of a handle on the kind of things that the clauses are trying to do.

The hon. Member for Perth and Kinross-shire was worried that the powers will criminalise all asylum seekers. That is not the intention. The intention of these powers is to be completely intelligence-led and focused on perpetrators, whether they are on the periphery or directly involved. More than 95% of people whom we know of who arrive illegally on small boats claim asylum. The hon. Member's amendments, which would take all people who claim asylum out of consideration of these offences, would be an obvious way of avoiding the offences being brought to bear and could be used by any of the people who are involved in organised immigration crime to avoid the powers being used against them.

Therefore, while I am sure it was not his intention at all, the effect of the amendments is to wreck the approach to prevention and disruption that these powers represent in the Bill.

I want to be clear—it is important that I put this on the record, so I will say it again—that it is not the intention to target asylum seekers with these new offences. The offences do not penalise individuals for entering illegally any more than they are penalised already, but they criminalise the conduct of activities connected to facilitation and illegal entry offences through the supply or handling of articles. In practice, the focus will be intelligence-led and targeted at those who law enforcement believe to be working in connection with organised criminal networks. Believe you me, Mr Stuart, those networks exist in the UK and they come across on small boats themselves. They also travel between the UK and some of the countries of origin they are working with. We know that that is exactly what happens because we can track and follow some of them. It is therefore important that we can bring these powers to bear. We know there are individuals who have claimed asylum in the UK and operated criminal activity from within the UK as part of a wider criminal gang with networks overseas in order to facilitate smuggling into the UK—I have just given the Committee an example. That is a phenomenon we are aware of today and we cannot exclude anyone with an asylum claim from the scope of these new offences, as the hon. Member for Perth and Kinross-shire would want us to, regardless of the circumstances.

Excluding asylum seekers fuels abuse and exploitation of the asylum system, as well as the intentional frustration of our criminal justice system, with those involved in the supply and handling of articles able to claim asylum on arrival or arrest and therefore evade prosecution. I am sure that that was not the hon. Member's intention, but I hope he will also take at least some comfort from what I have said about this power not being applied to everybody, but instead being very focused and intelligence-led. We cannot provide blanket exemptions. I hope given the explanation, he will therefore withdraw the amendments.

Turning more broadly to what the clauses will achieve in practice, clause 13 creates a new offence of supplying or offering to supply an article where the individual knows or suspects that the article is to be used in relation to an offence under section 24 of the Immigration Act 1971, which covers illegal entry, or section 25, which covers the facilitation of unlawful immigration.

Criminal smuggling gangs are using wide international and transnational networks to supply items for their criminal ventures. The new offence is intended to allow law enforcement to target those who act in a way that removes themselves from the direct act of people smuggling, so as to allow them to be caught under existing legislation. It will allow for earlier intervention, as in the example I have just used, potentially before boats have even been launched and lives risked. That is the prevention side.

3.15 pm

Clause 14 creates a new offence of handling items where the individual knows or suspects that those articles have been, are being or will be used in relation to an offence under section 24, on illegal entry, or section 25, on facilitating unlawful immigration entry, of the

Immigration Act 1971. Those who have that knowledge or suspicion and who receive or arrange to receive a relevant article, remove or dispose of a relevant article for the benefit of another, or assist another person to remove or dispose of a relevant article would be caught.

The clauses include important safeguards, some of which have been mentioned in the debate on this group. They include but are not limited to a person's actions being for the purpose of carrying out the rescue of a person from danger or serious harm, or that they were acting on behalf of an organisation that aims to assist asylum seekers and does not charge for its services. The new offences will allow for earlier intervention by law enforcement, who will be able to use intelligence-led methods to target individuals who are a number of stages removed from people smuggling, and allow them to be caught under existing legislation. These clauses enable law enforcement to act earlier and more quickly in tackling immigration crime and the wider criminal network involved in supporting this trade. The maximum sentence is 14 years' imprisonment, as colleagues have pointed out.

Clause 15 defines what articles are not in scope for the purposes of clauses 13 and 14, which concern supplying and handling articles for use in immigration crime. It specifies that relevant articles include any thing or substance that does not fall into the list of excluded items. The clause is deliberately wide in scope, to ensure that law enforcement can stay ahead of the rapidly changing modus operandi of these criminal people-smuggling gangs.

Clauses 13 and 14 rely on a test of what an individual supplying or handling items knew or suspected at the time of their actions, ensuring that although they are broad categories of item, those acting legally and in good faith will not be caught by the offences. Various colleagues have referred to the Crown Prosecution Service's evidence on the relevant guidance and codes, as well as the public interest test, which provides further protection to ensure that people who are innocently trying to assist are not caught up in these offences.

Clause 15 contains that carve-out for articles that will not be considered relevant for the offences in clauses 13 and 14, including food, medication and safety equipment such as proper lifejackets—as we know, many of those who get into the boats are given fake ones, which sink and do not keep anything afloat.

The clause also gives the Secretary of State the power to amend the list of carved-out items by regulation, but only to add items to the carve-out—the hon. Member for Weald of Kent talked about that. This is a Henry VIII power, which none of us particularly likes to see, but it is a power to add to the list of excluded items. It can be used only to add items that we wish to carve out from the offence, not to take them away. For example, the Henry VIII power could not be used by a subsequent Minister—not me—who would want to take food or medication out of that list. The idea behind that is to ensure that the offence can be kept up to date if trends change and different things start to be used. Any regulations would be subject to the affirmative process and would undergo scrutiny by each House before they could be made and the list amended. I hope that that gives the hon. Lady some reassurance on the questions that she asked.

Pete Wishart: I wish I could say that I was reassured by the Minister's response. There were things she said that encouraged me and that I think she was genuine and sincere about. She, and everybody who has contributed today and who we have heard from over the past couple of weeks, is right that we do not want to arrest asylum seekers. That is the last thing we want to do, and I accept that that is the case in practically everything that anybody has said. However, more asylum seekers will be arrested because of these clauses. More will be facing justice, whatever way it applies, right across the United Kingdom because of these new offences.

What we have forgotten is that it is already illegal to enter the UK irregularly. In 2020, 6,477 people were arrested because they arrived in the UK irregularly. With clauses 13 and 14 we are not addressing the illegality of issues such as people coming to the United Kingdom; we are finding new ways of ensuring that those people will be subject to court proceedings—to being on the wrong side of UK law—and that is the thing that concerns us most.

Many people have referred to agencies that gave us support today. I listened to the NCA's evidence, and some of it was very interesting and compelling. I accept that it wants to target the gang members and those involved in this violent trade, and that is what we should be helping it to do. Obviously, asylum seekers will get caught up in all that, but let us enable the NCA to focus exclusively on trying to apprehend the gang members and secure justice rather than trying to find new ways to criminalise people coming to the UK.

Dame Angela Eagle: Will the hon. Gentleman not take my word that the offences will be intelligence-led? They are not targeting all asylum seekers, but they certainly would target someone coming over on a boat who may claim asylum, who has been involved in an organised immigration gang, and who has been organising the supplies for it.

Pete Wishart: I obviously accept the Minister's word when it comes to all this, but we need to look at what is in the Bill. There are measures that we do not like and that we do not think will help to achieve the major objective, which is to disrupt the gangs' business model and ensure that they are brought to justice. That just does not happen with these new clauses. The measure to which amendment 3 refers does not offend me in the same way that the subject of amendment 4 does. I will withdraw the amendment, but I reserve the right to push the next amendment to a vote. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 13 ordered to stand part of the Bill.

Amendment 4 negatived.

Clauses 14 and 15 ordered to stand part of the Bill.

Clause 16

COLLECTING INFORMATION FOR USE
IN IMMIGRATION CRIME

Question proposed, That the clause stand part of the Bill.

Dame Angela Eagle: The provisions in clause 16 create an additional tool to act earlier to disrupt criminal gangs smuggling people into the UK. The new offence targets specified preparatory activities associated with people smuggling. These activities relate to the collection, recording and possession, viewing or accessing of information that is likely to be useful to a person organising or preparing for a journey of more than one person into the UK, where their entry or arrival constitutes an offence under section 24 of the Immigration Act 1971. These specified activities must also be conducted in circumstances giving rise to reasonable suspicion that the information being collected, recorded, possessed, viewed or accessed will be used in organising or preparing for such a journey.

This clause is levelled strongly against people-smuggling gangs and their associates. It includes a defence for someone of undertaking these specified activities for their own journey only. Also included as a defence is a non-exhaustive list of reasonable excuses, where one express excuse is conducting these activities to carry out or to prepare to carry out the rescue of a person from danger or serious harm. The maximum sentence for this offence is five years' imprisonment.

Katie Lam: Clause 16, as the Minister has just set out, creates a new offence of collecting information for use in immigration crime. A person commits such an offence if a person:

“collects or makes a record of information of a kind likely to be useful to a person organising or preparing for a relevant journey or part of such a journey...possesses a document or record containing information of that kind, or...views, or otherwise accesses, by means of the internet a document or record containing information of that kind.”

This is an extremely wide set of information that is being criminalised. We understand the desire to keep these offences broad in order to capture as many offenders as possible, and we support that aim. However, if the definition is too wide, there is a risk that it becomes meaningless and therefore self-defeating. So, it is important to understand how the Minister believes law enforcement will assess whether the information is of a kind likely to be useful to a person organising or preparing for a relevant journey. Could she please explain how this test will be met in practice? It would also be helpful, for similar reasons, to know when the CPS will publish its guidance on what might meet the threshold for an offence to be committed under this clause. Finally, it is again a defence for an organisation that aims to assist asylum seekers if it does not charge for its services. So, we have the same questions and concerns about this defence as we did in relation to the preceding clauses.

Mike Tapp: I will quickly talk about this clause, because it is one of my favourite clauses in the Bill. Having worked in a counter-terror role in the past, I know that one of the most effective ways of preventing terror attacks on the streets of the United Kingdom is by identifying hostile reconnaissance, whether it is physical or online. That is why I am so happy to see this clause in the Bill, because it gives our authorities the opportunity to get to these vile criminals before they take to the seas.

Dame Angela Eagle: I take my hon. Friend's point. This clause is very much about being able to capture preparatory work for any effort to evade our immigration

laws and bring people over in small boats, illegally putting their lives at risk and potentially costing lives in return for money.

This clause is about a wide range of potential research, but there are also explicit safeguards within it that are sufficient to protect individual migrants and refugees, or families of refugees, trying to help family members to flee danger or serious harm. The defence that a person is conducting these activities exclusively in preparation for their own journey protects individuals from falling foul of this law. The clause is explicitly focused on and aimed at the work done by gang-affiliated facilitators of immigration offences.

The express reasonable excuse of

“carrying out, or preparing for the carrying out of, a rescue of a person from danger or serious harm”

may—depending on the circumstances—protect the families of refugees wanting to help their loved ones flee. There is also an express reasonable excuse for a person

“acting on behalf of an organisation which...aims to assist asylum-seekers, and...does not charge for its services.”

The list of reasonable excuses in the Bill is not exhaustive, so it is very much a question of looking at the information that has been gathered and making a judgment, knowing that the idea of this offence is to focus specifically on organised immigration criminality, not the individuals who may be asylum seekers or may be being trafficked.

3.30 pm

The gangs organising these journeys do not care about the safety and wellbeing of the people whom they are smuggling to the UK. They only care about profiting from this trade. Given the threat to life and bodily harm that these perilous journeys into the UK present to migrants, tragically including children, it is not appropriate to provide an explicit reasonable excuse that can be relied on by someone putting their child, or anyone's child, in that kind of danger.

Practically, there are questions of operational benefit and public interest. As I said in the earlier debate, it is not our aim further to penalise migrants who come to the UK illegally with their children on such journeys. Those who are worried that, just by the mere fact of getting into a boat, one would fall foul of this clause are wrong. This is focused particularly on the activities of those who are affiliated with organised immigration gangs that are seeking to profit. With that reassurance, I hope that colleagues will be happy to add the clause to the Bill.

Question put and agreed to.

Clause 16 accordingly ordered to stand part of the Bill.

Clause 17

OFFENCES COMMITTED OUTSIDE THE UNITED KINGDOM

Question proposed, That the clause stand part of the Bill.

Dame Angela Eagle: Clause 17 provides for the offences set out in clauses 13 and 14—the supply and handling of articles for immigration crime—and clause 16—the collecting of information for immigration crime—to

[*Dame Angela Eagle*]

apply to activities committed both inside and outside the UK, regardless of the nationality of the person by whom they are done. The activities criminalised by these offences are often carried out overseas, as well as in the UK, by perpetrators of various nationalities to facilitate people smuggling to the UK. This clause will strengthen the offences, enhancing the ability to disrupt those involved in this trade, indiscriminate of their nationality and the location of their crime.

Clause 17 also makes provisions for, where an offence under clauses 13, 14 or 16 is committed outside the UK, proceedings to be taken in the UK. For application in Scotland, this clause provides that those proceedings are to be made in accordance with the relevant processes and bodies of the devolved Administration. Finally, this clause provides that section 3 of the Territorial Waters Jurisdiction Act 1878, which requires consent from the Secretary of State for certain prosecutions of non-UK nationals on territorial waters, does not apply. In doing so, the impacts of these offences are not narrowed and law enforcement is able to pursue perpetrators of these offences when committed on territorial waters.

Katie Lam: Clause 17 sets out that the offences of supplying articles for use in immigration crime, handling articles for use in immigration crime and collecting information for use in immigration—so the clauses that we have just discussed—apply to things done both inside and outside the United Kingdom, regardless of the nationality of the person by whom they are done. In essence, clause 17 makes these three new offences extraterritorial. Subsection (2) provides that where the offence is taken outside the United Kingdom, proceedings may be taken in the United Kingdom.

When we heard evidence from Sarah Dineley, the head of international at the Crown Prosecution Service and the national CPS lead, she said that this provision and subsection (7) of clause 18, which extends the offence of endangering lives at sea to acts committed outside the UK, create challenges. She said,

“we can obtain intelligence and evidence from our overseas counterparts at both judicial and law enforcement level...the Crown Prosecution Service has a network of liaison prosecutors based across the world...we can issue what are called international letters of request. They require the recipient country to execute the action, or to provide the information that we have asked for.”—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee, 27 February 2025; c. 31-33, Q30.*]

However, she also said that, for these new offences to work, there has to be “dual criminality”; that is to say,

“there has to be the equivalent offence in the country that we are making the request to, and there are some gaps across Europe in establishing dual criminality for all the immigration offences that we currently have on our books.”—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee, 27 February 2025; c. 33, Q33.*]

Can the Minister reassure the Committee that offences equivalent to those in clauses 13, 14 and 16 exist internationally in relevant partner countries so that we can be assured that the extraterritorial scope of the offences will be effective in tackling organised immigration crime? Can she name those offences or share a list? We fully support the aims of the Government but are keen to establish the efficacy of these measures in disrupting the vile work of people-smuggling gangs.

Dame Angela Eagle: I thank the hon. Lady for her observations. In practice, the clause allows for prosecution where an offence was committed overseas. It may well rely on evidence sharing from an international partner. She is right to talk about the network of CPS prosecutors across other jurisdictions.

In the time that I have been in the Home Office, we have been strengthening those ties and growing them further. We have done a lot of work via arrangements such as the agreement we came to with the Italians; the German agreement; the work we have done with the Calais group; the information we are sharing in and around the Balkan countries about the routes that go through those countries; the work that the Home Secretary and the Border Security Commander have done in not only Italy, but Iraq, the Kurdish region and Tunisia and some of the other countries that tend to be countries of transit. We are focusing more and more on how we can co-operate operationally.

Some of that work involves cross-country and cross-jurisdiction work to hit particular organised immigration crime across the piece on a set day. There have been some very good examples of cross-jurisdictional days of action. The muscles in this area are strengthening and being worked more. This clause is an added power that will make it easier for us to continue that work.

Tom Hayes: I draw attention to what Sarah Dineley, the head of international at the Crown Prosecution Service, said in her testimony:

“I will start with how we rebuild relations with key allies.”—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee, 27 February 2025; c. 38, Q41.*]

That implies that relations with key allies have been strained and need rebuilding. She then said:

“I have talked about our network of liaison prosecutors.”—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee, 27 February 2025; c. 38, Q41.*]

She then talked about how there is regular engagement and said that engagement events with overseas prosecutors have increased in recent months. Does the Minister agree that one of the reasons we have had an asylum backlog in recent years, and our asylum system has been described as a disaster, a meltdown and worse in oral testimony, is that we strained our relations with key allies?

Dame Angela Eagle: Yes. When things are cross-jurisdictional and cross-country, one has to be able to co-operate with other jurisdictions with some respect for their particular prosecutorial approach in order to be able to share information and work together operationally and diplomatically to deal with the significant challenges that organised immigration crime presents. The Government certainly want to renew and strengthen their approach in that area, and have made a good start.

People should not underestimate how often people who break this law and would fall foul of this increase in jurisdiction come to visit the UK. It is possible that we could pick them up and charge them here and, in some instances, follow them and wait for them when they arrive. The extension of jurisdiction, which is the essence of clause 17, will provide us once more with what we hope will be an extremely effective new tool that will help us to disrupt and begin to dismantle some of the organised immigration criminal gangs.

Question put and agreed to.

3.40 pm

Clause 17 accordingly ordered to stand part of the Bill.

*Ordered, That further consideration be now
adjourned.—(Martin McCluskey.)*

*Adjourned till Thursday 6 March at half-past Eleven
o'clock.*

Written evidence reported to the House

BSAIB16 JUSTICE

BSAIB17 Jesuit Refugee Service UK

BSAIB18 Taskforce on Survivors of Trafficking in
Immigration Detention (“Detention Taskforce”)

BSAIB19 Asylum Matters

BSAIB20 Asylos, Helen Bamber Foundation, Asylum
Aid, ILPA, Migrant and Refugee Children’s Legal Unit
(MiCLU), Public Law Project, Rainbow Migration,
Women for Refugee Women and Shpresa Programme
(joint submission)

BSAIB21 Southampton and Winchester Visitors Group

