



**Border Security, Asylum and Immigration Bill
Public Bill Committee**

**Conditions on leave to enter or remain – Gov New Clause 30
March 2025**

Dame Angela Eagle

Gov NC30

To move the following Clause—

“Conditions on limited leave to enter or remain and immigration bail

(1) The Immigration Act 1971 is amended in accordance with subsections (2) and (3).

(2) In section 3(1)(c) (conditions which may be applied to limited leave to enter or remain in the United Kingdom)—

*(a) (b) omit the “and” at the end of sub-paragraph (iv), and
(b) at the end of sub-paragraph (v) insert—*

*“(vi) an electronic monitoring condition (see Schedule 1A);
(vii) a condition requiring the person to be at a particular place
between particular times, either on particular days or on any day;
(viii) a condition requiring the person to remain within a particular
area;
(ix) a condition prohibiting the person from being in a particular
area;
(x) such other conditions as the Secretary of State thinks fit.”*

(3) Before Schedule 2 insert—

“SCHEDULE 1A

ELECTRONIC MONITORING CONDITIONS

Section 3(1)(c)(vi)

1. For the purposes of section 3(1)(c)(vi), an “electronic monitoring condition” means a condition requiring the person on whom it is imposed (“P”) to co-operate with such arrangements as the Secretary of State may specify for detecting and recording by electronic means one or more of the following—

(a) P’s location at specified times, during specified periods of time or while the arrangements are in place;

(b) P’s presence in a location at specified times, during specified periods of time or while the arrangements are in place;

(c) P's absence from a location at specified times, during specified periods of time or while the arrangements are in place.

2. *The arrangements may in particular—*

(a) require P to wear a device;

(b) require P to make specified use of a device;

(c) require P to communicate in a specified manner and at specified times or during specified periods;

(d) involve the exercise of functions by persons other than the Secretary of State.

3. *If the arrangements require P to wear, or make specified use of, a device they must—*

(a) prohibit P from causing or permitting damage to, or interference with, the device, and

(b) prohibit P from taking or permitting action that would or might prevent the effective operation of the device.

4. *An electronic monitoring condition may not be imposed on a person unless the person is at least 18 years old.*

5. *In this Schedule “specified” means specified in the arrangements.”*

(4) In Schedule 10 to the Immigration Act 2016 (immigration bail), in paragraph 2(1) (conditions of bail), after paragraph (e) insert—

“(ea) a condition requiring the person to be at a particular place between particular times, either on particular days or on any day;

(eb) a condition requiring the person to remain within a particular area;

(ec) a condition prohibiting the person from being in a particular area;”

Member's explanatory statement

This new clause makes provision about the conditions which can be imposed on a grant of leave to enter or remain in the United Kingdom or a grant of immigration bail.

BRIEFING:

The primary purpose of this new clause is to permit the Home Office to impose a range of highly restrictive conditions on someone who is granted permission to enter or stay in the UK. These restrictions are to include electronic tagging, curfews, and other potentially severe restrictions on freedom to go about daily life by moving from one place to another.

The breadth of the new powers to restrict people – who are lawfully in the UK having satisfied the Home Office that they meet the Home Secretary's immigration rules – is extraordinary. These are to extend far further than conditions currently permitted to be imposed upon someone who is in the UK on immigration bail pending either a decision on whether or not they may be permitted to stay or their removal from the country. Paragraph (4) of the new clause is, therefore, to extend the powers of the Home Office to restrict people on immigration bail to match the extent of powers over people, who are permitted to be in the UK, that is to

be given by paragraph (2). The full extent of the power that ministers seek is unknown. It is to include:

“(x) such other conditions as the Secretary of State thinks fit.”

That so much of the political and sometimes public discourse around immigration and immigration policy – including in this Committee – exhibits a distaste or distrust of human rights law is heavily ironic when considered against measures like these. Successive administrations of different political colours have long sought – and been granted – legislative powers in this area, which are similarly opaque and open-ended.¹

Ministers will often offer assurances that these will be exercised with great care and where only strict necessity demands the use of such powers. But who is there to hold ministers – or officials (because it will generally be officials who exercise the power on behalf of ministers) – to account when the time comes? Parliament cannot sit on the proverbial shoulder of each immigration officer or other Home Office official; and that is not its role. That role falls to the judiciary. Yet, when Parliament empowers ministers to act as they see fit, it deprives the judiciary of any direct means by which to supervise the exercise of power. Ministerial assurances are not generally to be relied upon in a court of law for determining the limits of statutory language;² and while the Secretary of State may abide by any assessment she may now offer as to the extent to which she and her officials may see fit to exercise power, who can say what may impress her tomorrow or may impress her successor as fit in the future?

Of course, it is not only the catchall provision that lacks any reasonable or rational limitation. The powers of curfew and other impositions on freedom of movement are all extremely wide. There is, for example, no constraint on such matters as the purpose for which they may be exercised, the time period during which or other circumstances in which they may be exercised, or on whose authority they may be exercised.

It is inevitable that legislative power of this type attracts the attention of human rights lawyers and legal challenges on human rights grounds. This is because there is little of anything else to constrain oppressive use of power. The same can, incidentally, be said of much of what is the target for Opposition amendments in Committee that seek to exclude human rights considerations in appeals that are now – because of Government legislation when the Opposition were in power – only available to people on human rights grounds.³

The Keeling Schedule that is appended to this Briefing shows the revision that is to be made to section 3(1) of the Immigration Act 1971 (“the 1971 Act”). The Committee can then see the existing conditions and how these compare to what the Home Secretary seeks to add to her arsenal. It is useful, however, to reflect on the original formulation of the power to set conditions. At the time of its passing, section 3(1)(c) of the 1971 Act stated merely:

“if [a person] is given limited leave to enter or remain in the United Kingdom, it may be given subject to conditions restricting his employment or occupation in the United Kingdom, or requiring him to register with the police, or both.”

¹ Usually, however, this approach is moderately constrained by the need for the Secretary of State to make regulations, for which there will be some degree of parliamentary oversight, as to how the particular power may be used. In this instance, however, there is not even that modest level of constraint.

² In *R (PRCBC & O) v Secretary of State for the Home Department* [2022] UKSC 3, the Supreme Court briefly considered the limited circumstances in which reliance on such assurances is permitted for statutory interpretation: see paragraph 32.

³ Immigration Act 2014, section 15 restricted appeals to appeals against refusals of asylum or of human rights claims, which appeals can only be brought on asylum or human rights grounds.

It is important to recall that the 1971 Act is concerned with immigration policy and immigration powers. It is immigration officials who implement that policy and exercise those powers. The 1971 Act is not a policing instrument; and those it empowers are not police or security officers. The Committee will likely hear for the first time such justification as ministers may advance in favour of the new powers sought to be added to the 1971 Act. There are two broad areas for questions to the Minister.

First, what is truly a matter of immigration administration in what is intended by these new powers. What is more accurately a matter of policing or security that is being again extended into the armoury of immigration officials whose powers have already grown, over several decades, far beyond the reaches of legitimate management of immigration? Second, assuming there to be some degree of reasonable or rational constraint within the intentions that lie behind the Government's new clause, where is that reflected and how is it to be made real in limiting how immigration officials may exercise these powers if passed?

APPENDIX – KEELING SCHEDULE

Immigration Act 1971

3 General provisions for regulation and control.

(1) Except as otherwise provided by or under this Act, where a person is not a British citizen—

(a) he shall not enter the United Kingdom unless given leave to do so in accordance with the provisions of, or made under, this Act;

(b) he may be given leave to enter the United Kingdom (or, when already there, leave to remain in the United Kingdom) either for a limited or for an indefinite period;

(c) if he is given limited leave to enter or remain in the United Kingdom, it may be given subject to all or any of the following conditions, namely—

(i) a condition restricting his work or occupation in the United Kingdom;

(ia) a condition restricting his studies in the United Kingdom;

(ii) a condition requiring him to maintain and accommodate himself, and any dependants of his, without recourse to public funds;

(iii) a condition requiring him to register with the police;

(iv) a condition requiring him to report to an immigration officer or the Secretary of State;

(v) a condition about residence;

(vi) an electronic monitoring condition (see Schedule 1A);

(vii) a condition requiring the person to be at a place between particular times, either on particular days or on any day;

(viii) a condition requiring the person to remain within a particular area;

(xi) a condition prohibiting the person from being in a particular area;

(x) such other conditions as the Secretary of State thinks fit.