

ILPA immigration update 59

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Immigration Bill

The Immigration Bill is nearing the final stage of its passage through the House of Lords. Changes made by the Government in April include placing a maximum limit of 28 days on the number of days families with children can be held in “pre-departure” detention and, in the case of unaccompanied children, a limit of 24 hours. Two significant victories were won in the Lords. The first was the addition of a clause to provide legal guardians for trafficked children, and the second was the removal of a clause which would enable the Government to strip people of their British citizenship in cases where this would make them stateless. As yet neither of these victories is secure – they must be approved by the Commons when the Bill returns there.

All of ILPA’s briefings on the Bill are available at: <http://www.ilpa.org.uk/pages/immigration-bill-2013.html>

Other proposed legislation

The Criminal Justice and Courts Bill has had its second reading in the House of Lords and is now at Committee stage. Our Information Sheet on this Bill is available [here](#). The Joint Committee on the Draft Modern Slavery Bill issued its report on 8 April 2014, available [here](#). In its report the Committee advocated for the provision of guardians for trafficked children, amongst other protection measures recommended. A Bill is expected to be announced in the Queen’s speech next month.

Refugee Action case

The charity Refugee Action brought a public interest test case against the Government’s decision to freeze asylum support rates for the third year in a row. The High Court held that the Government had failed to take relevant information into account in its analysis of essential living needs for asylum seekers: for example the cost of nappies and cleaning products for the home. The Government will now have to reconsider its decision. About 20,000 people currently rely on asylum support to keep them from destitution. For further information about this case see ILPA’s Information Sheet: [Asylum support levels ruled unlawful](#).

Changes for European Nationals’ access to benefits

The Government has announced changes affecting EEA nationals in the UK. From 1 July

2014 EEA nationals will have to wait three months before they can claim child benefit and child tax credit. From 28 April 2014 all claimants for job seekers allowance will face language screening by Job Centre staff and will be required to undertake training if their spoken English is found lacking. Sanctions will apply if the person refuses to attend training or can't "show that they are making an effort."

Court fees raised

Court fees were increased this month for a wide range of legal proceedings. This will make it more expensive for people to access justice through the Court system. For example, the fee for lodging an application for judicial review has more than doubled, rising from £60 to £135, and the fee for proceeding with a judicial review has tripled from £215 to £680. Immigration cases make up the largest proportion of judicial review cases in the High Court, for a variety of reasons; this remedy is often the only one available for people subjected to poor decision making by the Home Office. The fee increases will act as a barrier to accessing this important route of appeal.

Application fees raised

Meanwhile, EEA nationals and their family members will from now on be required to pay fees for their immigration applications. Fees for other applications have been increased this month, for example the fee for a settlement application for a dependent relative has been increased to £1,982.

Legal Aid

New Regulations have come into force this month, which mean that if permission to apply for judicial review is refused, the lawyers involved in the case will not get paid by the Legal Aid Agency (unless the case has settled before a Court decision and the Lord Chancellor thinks it is reasonable to pay their costs). This is likely to mean that in future lawyers will be reluctant to take on judicial review cases for those who cannot otherwise afford them and must rely on legal aid. The Rt Hon Ed Milliband MP had tabled an Early Day Motion (a sort of petition) in parliament to protest against the changes and it is anticipated that the regulations will be debated in parliament.

Residence test

All civil (i.e., non-criminal) legal aid in England and Wales is to be made subject to a test of lawful residence in the UK. This will affect numerous areas of law, including immigration, family and housing. The test is intended to be brought in by way of a Statutory Instrument laid before Parliament on 31 March 2014. The statutory instrument is due to come into force on 4 August 2014, subject to Parliamentary approval which is required before it will take effect. A legal challenge brought by the Public Law Project has been heard and is awaiting judgment. For further information about the residence test and its likely impact, see ILPA's Information Sheet: [Legal Aid 17 - The Residence Test](#).