

Immigration Bill

Factsheet: Immigration Bail (clause 3)

Immigration Minister Mark Harper:

“We have always been clear that those with no right to be here should return home at the earliest opportunity. If individuals refuse to leave voluntarily, we may be forced to detain them while their removal is arranged.

“In certain cases, individuals abuse the system by filing repeat or late bail applications with the hope of avoiding or delaying their removal and the current system does not do enough to discourage this.

“This is why we are taking action to tighten up the immigration bail process, restricting how often individuals can apply for bail without a change in circumstance.”

Background

People who are held in immigration detention may apply to an immigration judge in the First-tier Tribunal for bail. Bail may be appropriate where removal is not imminent or where the migrant is likely to comply with bail conditions.

Currently there is no limit on the number of times a person may apply to the First-tier Tribunal for bail, which can and does encourage abusive repeat applications. A detainee refused bail is able to reapply the following day on the same grounds.

It is also possible for the Tribunal to grant bail to someone even when removal or deportation is scheduled within the next few days. People who require enforced removal, rather than pursuing voluntary departure, are not likely to comply with bail conditions in these circumstances.

What we are going to do

- Require changes to the Tribunal Procedure Rules to prevent repeat bail applications in the absence of a material change in circumstances.
- Allow the Home Office to maintain detention where removal is scheduled within the next 14 days.

How we are going to do it

- We will require the Tribunal to reject bail applications on the papers if they are made within 28 days of a previous application for bail which was refused, in the absence of a material change in circumstances.

- The Secretary of State will be required to consent to a grant of bail where removal is within 14 days of the First-tier Tribunal hearing the application. If the Secretary of State does not consent to bail, the individual will be refused bail.

Benefits

- Improve the efficiency of the immigration tribunal system by reducing the number of vacated or unnecessary immigration bail hearings.
- Reduce barriers to, and improve the efficiency of, enforced removal. This will result in fewer absconders from immigration bail, when removal is imminent.
- Faster removal of criminals is in the public interest.

Next steps

- The changes will be implemented once the Bill has completed its passage through Parliament.

Q & A

How many cases will the changes effect?

We estimate around 500 cases per year will be affected.

When would the Secretary of State grant consent to bail when removal is imminent?

It will be a decision made on a case by case basis, but only in exceptional circumstances would bail be granted.

**Home Office
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