The Safety of Rwanda Act briefing - June 2024

Introduction

1. The UK government has passed new legislation that seeks to facilitate the operation of the UK-Rwanda Migration Partnership and enable the removal of asylum claimants from the UK to Rwanda. This briefing explains how the Safety of Rwanda Act could impact the UK asylum system, asylum seekers, and the key considerations for stakeholders.

Overview of policy development

2. Upon leaving the European Union, the UK reformed its inadmissibility policy outlining which asylum claims can be processed in the UK and which claims can be subject to third country removal. This replaced the previous rules because the UK ended its participation in the Dublin III regulation which outlines the system of responsibility for processing asylum claims and third country removals among EU member states.

3. In response to rising asylum applications and increasing numbers of people crossing the Channel in small boats, the UK government sought to reform the asylum system under its ‘New Plan for Immigration’ and through introducing new legislation. In April 2022, the Nationality and Borders Act 2022 became law, formalising the further development of the UK system of inadmissibility for asylum claims. The Act enables the removal of asylum seekers to a safe third country where they have no prior connection, and for claims to be processed in another country.

4. The UK-Rwanda Migration and Economic Development Partnership (MEDP) was agreed in April 2022. The agreement with Rwanda would facilitate the first of its type in the UK – a formalised system whereby asylum claims declared as inadmissible in the UK are outsourced to a third country who would take responsibility for processing the claims, accommodating, and granting protection status in that country.

5. In July 2023, the Illegal Migration Act was passed, further reforming the UK’s inadmissibility rules. Under this Act, asylum seekers who have entered the UK without permission can be treated as permanently inadmissible to the UK’s asylum system.

6. Legal challenges delayed the Rwanda scheme’s operation, and in November 2023 the Supreme Court ruled that it was unlawful on the grounds that there are few guarantees that Rwanda is a safe country for refugees.

7. In December 2023, the Home Secretary signed the UK-Rwanda treaty and published a new emergency Bill, the Safety of Rwanda Bill 2023, with the aim of addressing issues found at the Supreme Court and clarifying that measures are in place to satisfy concerns that Rwanda is not a safe country. The Safety of Rwanda Act became law in April 2024.

8. In May 2024, the Home Office confirmed it had extended its agreement with Rwanda to now include the relocation of asylum seekers whose claims have been refused and those who have had their claims withdrawn.

9. At the time of writing, no asylum seekers have been removed to Rwanda and reforms under Section 5 of the Illegal Migration Act, which would make some asylum seekers permanently inadmissible, have yet to come into force.

10. The current asylum population in the UK is split into different cohorts impacted by different policies determining whether their claim can be processed in the UK. This is because provisions from Nationality and Borders Act, Illegal Migration Bill and Illegal Migration Act apply from different dates. HO, anyone arriving

after 1 January 2022 who has been declared inadmissible may be subject to removal to a third country which they have no connection to, such as Rwanda.

Safety of Rwanda Act

11. The purpose of the Act is to confirm through legislation that Rwanda is a safe country, limit scope to challenge removals on the grounds that Rwanda itself is unsafe, and remove concerns over the risk of refoulement (returning a person to a place where they could be persecuted).

12. The Act creates the power to block legal challenges to removal from the UK to Rwanda based on the grounds that removal to Rwanda is unsafe, by defining in the legislation that decision-makers must accept the assertion that Rwanda is a safe country. Legal challenges based on individual circumstances are still permitted, such as those presenting evidence that a particular person would be at risk if removed to Rwanda. However, challenges arguing that Rwanda is generally unsafe will not be considered. To achieve this, the Act disapplies elements of the Human Rights Act (HRA), removing requirements in the HRA to adhere to caselaw from the European Court of Human Rights (ECtHR).

13. Moreover, ministers will have the discretion to consider whether to comply with any ‘interim measure’ ordered by the European Court of Human Rights to block removals to Rwanda. Note that in June 2022, the ECtHR blocked individual removals to Rwanda by granting an interim measure.

14. Finally, the Act aims to appease concerns over refoulement by confirming that no relocated individuals can be removed subsequently from Rwanda to any other country other than the UK. This means that where someone is refused protection in Rwanda, they cannot be removed to their country of origin or to any country other than the UK.

The UK-Rwanda Treaty

15. There are new details on the future operation of the UK-Rwanda scheme outlined in the treaty, expanding on details that were included in the original memorandum of understanding between the UK and Rwanda. These include:

- The development of Rwanda's asylum decision-making apparatus through the set-up of a decision-making structure and independent appeal body. A 'First Instance Body' will make determinations on asylum claims and the treaty outlines this decision-making process in more detail. The treaty also requires Rwanda to establish an appeal system that will include a body of decision-makers with representation from Rwanda and at least one non-Rwandan Commonwealth national.

- Whilst the Home Office's inadmissibility policy at the time of writing states that those with dependent children under 18 cannot be relocated to Rwanda, the UK-Rwanda treaty has clear provisions in place for supporting such families. However, the treaty states that unaccompanied children will not be removed to Rwanda. Any unaccompanied child who has been relocated to Rwanda and found by the UK courts to be a child under the age of 18 shall be returned to the UK.

- Further details on the arrangements and support available in reception accommodation for individuals relocated to Rwanda are outlined in the treaty. This includes some information on the requirements for the provision of food, allowances, accommodation (including size and facilities), proximity to schools, and the provision of education, training, and other integration needs.

- Clarity that those provided with refugee or humanitarian protection will be supported for a period of five years under the MEDP and will obtain the right to work, access to social security and other rights in line with the Refugee Convention.

- Confirmation that anyone who does not apply for, or is not granted protection in Rwanda, will still be supported under the MEDP for a period of five years and will be issued permanent residence in Rwanda.

Impacts and considerations for local authorities and communities

16. The passing of the Safety of Rwanda Act raises some important considerations for local authorities and other key stakeholders working with communities. These include:

17. **Understanding the operational timescales and how imminently the scheme could begin to affect asylum seekers in the UK**. Following the passing of the Safety of Rwanda Act, the government outlined its intention to complete the first cohort of removals as soon as possible, stating in early

May 2024 that this could take around 9-11 weeks. A Home Office press statement confirmed that the first detentions of asylum seekers facing removal to Rwanda had already taken place and that these would increase in the coming weeks as it seeks to mobilise its operational response. The Home Office has already increased detention capacity and undertaken recruitment of staff to speed up casework to facilitate these removals. The subsequent announcement of a General Election has further affected these timescales, with the Prime Minister stating that there would be no flights before the election in July.

18. **The immediate impact on asylum seeker health and wellbeing**. While no asylum seekers have so far been relocated to Rwanda, the development of this policy approach has effects on asylum seekers regardless. Partners from the health sector and the voluntary and community sector have already reported cases of worsening mental health and wellbeing among asylum seekers as individuals have become distressed at the prospect of relocation to Rwanda. Service providers could face additional pressures and challenges managing any increase in the demand for their services, supporting vulnerable individuals to manage their wellbeing, and responding to possible safeguarding incidents.

19. **The potential increase in destitution and connectedly, the risk of exploitation**. Where the threat of removal to Rwanda becomes a distinct possibility, it is highly plausible that this could lead to more individuals absconding from the asylum system and leaving the asylum accommodation estate to avoid the risk of

detention and removal. This will mean that individuals are no longer accessing financial support and accommodation, effectively placing them in destitution at risk of street homelessness, but also increased risk of exploitation and modern slavery. This could present additional challenges for destitution and homelessness services, but also potential safeguarding concerns for public services. Some areas may see increased demand for destitution support where there are high dispersal numbers or where destitute asylum seekers gravitate towards larger cities due to the availability of these services and/or established community networks.

20. **The impact on community cohesion and relationships**. Reforms introduced by the Illegal Migration Act 2023 and the terminology used by the government, labelling inadmissible asylum seekers as ‘illegal migrants,’ are further legitimised by the passing of the Safety of Rwanda Act, which aims to implement these prior reforms. There is a concern that the semantics surrounding asylum seekers and their legal status could exacerbate divisions between supporters and opponents of the policy, potentially harming community cohesion. Will residents view asylum seekers living in the community as asylum seekers or as ‘illegal migrants’? Will this affect the integration between communities? Additionally, there could be divisions and conflicts stemming from the activities of campaign groups. Protests are likely to take place at Home Office reporting sites, and community-led action groups may attempt to block removals. Protests against removals may also prompt counter-protests from far-right groups, raising concerns for local authorities and police services regarding community safety and

potential unrest. Furthermore, if migration or the future of the Rwanda scheme features heavily in campaigning for the General Election, it could further exacerbate community tensions.

21. **The availability of legal help in the community**. While the Safety of Rwanda Act limits the scope for challenging removals to Rwanda, individual legal challenges based on circumstances such as family and private life grounds are inevitable. However, the availability of legal aid for immigration and public law matters is already sparse in many parts of the country, raising questions about the capacity of legal practitioners to support these challenges. Additionally, if a large volume of individual challenges does occur, it could impact the existing asylum population. This impact could include increased waiting times for tribunal hearings, potential prioritisation of Rwanda cases by advisers over other asylum cases, or even delays in asylum decision-making by the Home Office if the backlog continues to grow. The demand for legal assistance is likely to increase further, especially with the government's extension of the agreement to include the relocation of refused and withdrawn claimants, making the need for legal help even greater and more complex. It is worth noting that thousands of asylum claims were withdrawn last year due to failure to respond in time to the Home Office's fast-tracked claims process, potentially leaving a substantial number of individuals in this predicament.

22. **The impact on children and families**. The government has changed its position on whether families with children will be removed to Rwanda, with the current policy stating that adults

with dependent children under 18 will not be considered for removal. However, the UK-Rwanda Treaty provides support for relocated families. Policy regarding this scheme could change in the future, especially in regard to this group. It is conceivable that some age-disputed children may face removal to Rwanda in the future, especially since they could be removed before the outcome of judicial review proceedings challenging their age under provisions from the Illegal Migration Act 2023. Additionally, local authority children's services should be aware that under the 2023 Act, the legal duty on the Home Secretary to make arrangements for the removal of inadmissible asylum seekers will apply to unaccompanied children once they turn 18, potentially leading to their detention and removal, including to Rwanda. While both these provisions regarding removals are not yet in force, the passing of the Safety of Rwanda Act increases the likelihood that they could be brought into application in the future. Children's social services might see young people in their care abscond from the asylum system and leave care to avoid the threat of detention and removal, creating risks around safeguarding.

23. **Policy is continually changing and developing, making it difficult to predict what will happen**. We have seen the Rwanda policy change multiple times, such as the inclusion of refused asylum seekers into the scheme, the exclusion of families with children, and the restructuring of the decision-making process in Rwanda. It is reasonable to assume there could be further amendments to the scheme's eligibility or operation. Finally, the upcoming General Election in 2024 throws the programme's long-term future into uncertainty, or at least could

delay its operation in the short-term. The Rwanda policy will inevitably feature in pre-election campaigns and promises, and the Labour Party has stated its intention to abandon the scheme in favour of other measures to tackle Channel crossings, if it wins the General Election. However, they have suggested they could explore other possibilities regarding asylum offshoring and third country removals, while the current government has also recently confirmed negotiations with other countries regarding developing new partnerships like the Rwanda scheme. Therefore, even if the UK-Rwanda MEDP never comes into operation, there may be other similar schemes implemented in the future.

Key information

Failed asylum seekers detained for removal to Rwanda. Home Office. May 2024.

Inadmissibility: safe third country cases. Home Office. April 2024.

Safety of Rwanda guidance. Home Office. April 2024.

Safety of Rwanda Act 2024. UK Parliament. April 2024.

UK-Rwanda Migration and Economic Development Partnership Research Briefing. House of Commons Library. April 2024

UK-Rwanda treaty: provision of an asylum partnership. Home Office. December 2023

About this briefing

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