

19 June 2024

PCS threatens new Rwanda legal challenge

PCS has threatened further legal action over the UK Government's Rwanda scheme.

Working with solicitors Duncan Lewis, we have sent a pre-action letter to secretary of state for defence Grant Shapps, putting him on notice of a legal challenge if he attempts to arrange for the Ministry of Defence to assist in flying asylum-seekers to Rwanda.

The government in April passed the Safety of Rwanda (Asylum and Immigration) Act 2024 that obliges the home secretary and Home Office officials to treat Rwanda as a safe country, despite a ruling by the Supreme Court that it is not.

The government has been struggling to convince a commercial airline to participate in the scheme and it is widely expected that it will turn to the Ministry of Defence to assist – even though the MoD is not covered by the act.

PCS believes any attempt by Shapps to assist with the flights would be in breach of domestic law, including the prohibition on torture or inhuman or degrading treatment or punishment, and that he does not have the power to do so under the government's own latest piece of legislation due to its deficiencies.

The union has taken a keen interest in the Rwanda scheme because it is PCS members who would have to implement the enforced removal of individuals.

PCS has given Shapps 7 days to respond. In the event of an unsatisfactory response, the union will take steps to issue judicial review proceedings.

Paul O'Connor, head of bargaining at PCS, said: "Following the ruling from the Supreme Court that the Rwanda policy is unlawful, the government has tried to legislate the decision out of existence in denial of the facts. Rwanda does not magically become safe just because the government passes legislation requiring an assumption that it is.

“This legislation is incompatible with a range of international laws and conventions. Furthermore, our latest challenge exposes a gaping hole at the heart of the new legislation.

“While it places an obligation on the home secretary and Home Office officials to assume that Rwanda is safe, it places no such obligation on the secretary of state for defence, who must therefore abide by the Supreme Court's ruling.

“We believe that the government will not therefore be able to engage the Ministry of Defence to assist in organising any flights to Rwanda.

“The government has lurched from one disaster to another over this cruel, inhumane and wholly unnecessary policy, at colossal expense to the UK taxpayer.

“It should abandon this ridiculous scheme and engage with us on our safe passage proposals, which are the only sensible solution to the small boat crossings.”

Maria Thomas from Duncan Lewis said: “PCS’s proposed legal action illustrates how ill thought through the Rwanda legislation is, and how it remains entirely unworkable, irrespective of whether 4 July brings a change of government.

“The insistence on a first flight taking off on 24 July in the event the Conservative government remains in power simply won’t be possible pursuant to the Safety of Rwanda Act, devised exclusively to circumvent the Supreme Court’s judgment, in circumstances where the government may be dependent on the MOD to give effect to their legislation.”

(PCS), Care4Calais and Detention Action, along with a number of asylum seekers facing removal to Rwanda brought a judicial review challenging the government’s Rwanda Policy in September 2022.