

LORDS AMENDMENTS TO THE
MODERN SLAVERY BILL

[The page and line references are to HL Bill 51, the bill as first printed for the Lords.]

Clause 1

- 1 Page 1, line 20, leave out “their age,” and insert “the person being a child, the person’s”
- 2 Page 1, line 21, at end insert –
 “(b) to any work or services provided by the person, including work or services provided in circumstances which constitute exploitation within section 3(3) to (6).”
- 3 Page 1, line 21, at end insert –
 “() The consent of a person (whether an adult or a child) to any of the acts alleged to constitute holding the person in slavery or servitude, or requiring the person to perform forced or compulsory labour, does not preclude a determination that the person is being held in slavery or servitude, or required to perform forced or compulsory labour.”

Clause 2

- 4 Page 2, line 4, at end insert “(whether V is an adult or a child)”

Clause 8

- 5 Page 5, line 2, leave out “Crown Court” and insert “court”
- 6 Page 5, line 5, leave out “the Crown Court makes a confiscation order” and insert “a confiscation order is made”
- 7 Page 5, line 7, leave out “Crown Court” and insert “court”
- 8 Page 5, line 10, leave out “it has made a confiscation order” and insert “a confiscation order has been made”
- 9 Page 5, line 33, at end insert –

- “() “the court” means—
- (i) the Crown Court, or
 - (ii) any magistrates’ court that has power to make a confiscation order by virtue of an order under section 97 of the Serious Organised Crime and Police Act 2005 (confiscation orders by magistrates’ courts);”

Clause 10

- 10 Page 6, line 32, leave out “Crown Court” and insert “court (within the meaning of section 8 above)”
- 11 Page 6, line 37, leave out paragraph (e)
- 12 Page 7, line 16, leave out from “order” to end of line 17 and insert “that could have been made under section 8 above by virtue of the confiscation order”

Clause 13

- 13 Page 9, line 31, at end insert—
- “() In sections 8 and 10, references to provisions of the Proceeds of Crime Act 2002 include references to those provisions as amended or otherwise modified by virtue of an order (whenever made) under section 97 of the Serious Organised Crime and Police Act 2005 (confiscation orders by magistrates’ courts).”

Clause 30

- 14 Page 22, line 4, at end insert—
- “(e) a slavery and trafficking prevention order under Schedule 3 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.)), or
 - (f) an interim slavery and trafficking prevention order under that Schedule to that Act,”
- 15 Page 22, line 15, leave out “not exceeding £5,000”
- 16 Page 22, line 19, leave out subsection (5)

Clause 34

- 17 Page 23, line 20, at end insert “(except in section 30(1)(f))”
- 18 Page 23, line 26, at end insert “(except in section 30(1)(e))”

Clause 37

- 19 Page 27, line 10, leave out paragraphs (a) to (c) and insert—
- “(a) section 1 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.)) (slavery, servitude and forced or compulsory labour);
 - (b) section 2 of that Act (human trafficking).”

Clause 40

20 Page 30, line 28, leave out subsection (4) and insert –

“(4) The Secretary of State –

- (a) must before the beginning of each financial year specify a maximum sum which the Commissioner may spend that year,
- (b) may permit that to be exceeded for a specified purpose, and
- (c) subject to paragraphs (a) and (b), must defray the Commissioner’s expenditure for each financial year.

(4A) In this Part, “financial year” means –

- (a) the period beginning with the day on which the first Commissioner takes office and ending with the following 31 March, and
- (b) each successive period of 12 months.

(4B) The Commissioner may appoint staff.”

Clause 41

21 Page 31, line 6, leave out “subsection (1)” and insert “this section”

22 Page 31, line 9, leave out paragraph (b) and insert –

“(b) section 1, 2 or 4 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.)) (equivalent offences in Northern Ireland),”

23 Page 31, line 15, leave out paragraph (e)

24 Page 31, line 28, leave out “people” and insert “public authorities (including the Commissioner for Victims and Witnesses), voluntary organisations and other persons”

25 Page 31, line 29, after second “with” insert “public authorities (including the Commissioner for Victims and Witnesses), voluntary organisations and”

26 Page 31, line 30, leave out “elsewhere” and insert “internationally”

27 Page 31, line 30, at end insert –

“() The matters to which the Commissioner may have regard in pursuance of subsection (1) include the provision of assistance and support to victims of slavery and human trafficking offences.”

28 Page 31, line 38, after “Ministers” insert “, the Lord Advocate”

29 Page 32, line 5, leave out “or prosecution”

30 Page 32, line 6, at end insert –

“() The Lord Advocate may direct the Commissioner to omit from any report before publication any material whose publication the Lord Advocate thinks might prejudice the prosecution of an offence under the law of Scotland.”

Clause 42

31 Page 33, line 1, leave out “calendar” and insert “financial”

32 Page 33, line 39, leave out “or prosecution”

33 Page 33, line 40, at end insert –

- “() The Lord Advocate may remove from an annual report any material whose publication the Lord Advocate thinks might prejudice the prosecution of an offence under the law of Scotland.”

Clause 43

34 Page 34, line 9, at end insert “in relation to that information; but this does not apply in relation to patient information.

- () “Patient information” means information (however recorded) which –
- (a) relates to the physical or mental health or condition of an individual, to the diagnosis of an individual’s condition or to an individual’s care or treatment, or is to any extent derived directly or indirectly from such information, and
 - (b) identifies the individual or enables the individual to be identified (either by itself or in combination with other information).”

35 Page 34, line 10, leave out “But” and insert “Except as provided by subsection (3),”

36 Page 34, line 11, leave out “any other” and insert “a”

37 Page 34, line 13, leave out from second “authority” to end of line 22 and insert “listed in Schedule (*Public authorities under a duty to co-operate with the Commissioner*).

- (6) The Scottish Ministers may by regulations amend that Schedule so as to –
 - (a) add or remove a public authority having only functions which are exercisable in or as regards Scotland (a “Scottish public authority”);
 - (b) amend an entry relating to a Scottish public authority.
- (7) The Department of Justice in Northern Ireland may by regulations amend that Schedule so as to –
 - (a) add or remove a public authority having only functions which are exercisable in or as regards Northern Ireland (a “Northern Irish public authority”);
 - (b) amend an entry relating to a Northern Irish public authority.
- (8) The Secretary of State may by regulations amend that Schedule so as to –
 - (a) add or remove a public authority which is not a Scottish public authority or a Northern Irish public authority;
 - (b) amend an entry relating to a public authority which is not a Scottish public authority or a Northern Irish public authority.
- (9) Regulations under subsection (6), (7) or (8) which add a public authority to Schedule (*Public authorities under a duty to co-operate with the Commissioner*) may contain provision modifying the application of this section in relation to that authority.”

Clause 45

38 Page 34, line 32, at end insert –

- “() the person is aged 18 or over when the person does the act which constitutes the offence,”

39 Page 34, line 33, leave out “the act which constitutes the offence” and insert “that act”

- 40 Page 34, line 34, leave out “that act” and insert “it”
- 41 Page 34, line 39, leave out subsection (2)
- 42 Page 35, line 5, at end insert –
- “(4A) A person is not guilty of an offence if –
- (a) the person is under the age of 18 when the person does the act which constitutes the offence,
 - (b) the person does that act as a direct consequence of the person being, or having been, a victim of slavery or a victim of relevant exploitation, and
 - (c) a reasonable person in the same situation as the person and having the person’s relevant characteristics would do that act.”
- 43 Page 35, line 6, at beginning insert “For the purposes of this section –
- “relevant characteristics” means age, sex and any physical or mental illness or disability;”
- 44 Page 35, line 10, leave out “Subsection (1) does” and insert “Subsections (1) and (4A) do”

After Clause 46

- 45 Insert the following new Clause –

“Civil legal aid for victims of slavery

- (1) Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (availability of civil legal services) is amended as follows.
- (2) In Part 1 (services), after paragraph 32 insert –

“Victims of slavery, servitude or forced or compulsory labour

- 32A (1) Civil legal services provided to an individual in relation to an application by the individual for leave to enter, or to remain in, the United Kingdom where –
 - (a) there has been a conclusive determination that the individual is a victim of slavery, servitude or forced or compulsory labour, or
 - (b) there are reasonable grounds to believe that the individual is such a victim and there has not been a conclusive determination that the individual is not such a victim.
- (2) Civil legal services provided in relation to a claim under employment law arising in connection with the conduct by virtue of which an individual who is a victim of slavery, servitude or forced or compulsory labour is such a victim, but only where –
 - (a) the services are provided to the individual, or
 - (b) the individual has died and the services are provided to the individual’s personal representative.
- (3) Civil legal services provided in relation to a claim for damages arising in connection with the conduct by virtue of which an

individual who is a victim of slavery, servitude or forced or compulsory labour is such a victim, but only where—

- (a) the services are provided to the individual, or
- (b) the individual has died and the services are provided to the individual’s personal representative.

Exclusions

- (4) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.
- (5) Sub-paragraphs (2) and (3) are subject to—
 - (a) the exclusions in Part 2 of this Schedule, with the exception of paragraphs 1, 2, 3, 4, 5, 6 and 8 of that Part, and
 - (b) the exclusion in Part 3 of this Schedule.

Definitions

- (6) For the purposes of sub-paragraph (1)(b) there are reasonable grounds to believe that an individual is a victim of slavery, servitude or forced or compulsory labour if a competent authority has determined that there are such grounds.
 - (7) For the purposes of sub-paragraph (1) there is a conclusive determination that an individual is or is not a victim of slavery, servitude or forced or compulsory labour when a competent authority concludes that the individual is or is not such a victim.
 - (8) For the purposes of this paragraph “slavery”, “servitude” and “forced or compulsory labour” have the same meaning as they have for the purposes of article 4 of the Human Rights Convention.
 - (9) The “Human Rights Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4 November 1950, as it has effect for the time being in relation to the United Kingdom.
 - (10) The definitions of “competent authority”, “employment”, “employment law” and “personal representative” in paragraph 32(8) also apply for the purposes of this paragraph.”
- (3) In Part 3 (advocacy: exclusion and exceptions), in paragraph 13 for “or 32(1)” substitute “, 32(1) or 32A(1)”.

Clause 47

46 Page 35, line 27, after “persons (“” insert “independent”

47 Page 35, line 28, leave out “is reason” and insert “are reasonable grounds”

48 Page 35, line 36, at end insert—

- “() A person appointed as an independent child trafficking advocate for a child must promote the child’s well-being and act in the child’s best interests.
- () The advocate may (where appropriate) assist the child to obtain legal or other advice, assistance and representation, including (where necessary)

by appointing and instructing legal representatives to act on the child's behalf."

- 49 Page 35, line 37, leave out "may" and insert "must"
- 50 Page 35, line 37, after "about" insert "independent"
- 51 Page 35, line 38, leave out "may" and insert "the regulations must"
- 52 Page 35, line 40, leave out second "a" and insert "an independent"
- 53 Page 35, line 41, leave out second "a" and insert "an independent"
- 54 Page 35, line 42, at end insert –
“() requiring an independent child trafficking advocate to be appointed for a child as soon as reasonably practicable, where there are reasonable grounds to believe a child may be a victim of human trafficking;”
- 55 Page 35, line 43, after "of" insert "independent"
- 56 Page 36, line 1, leave out from "authorities" to end of line 2 and insert "which provide services or take decisions in relation to a child for whom an independent child trafficking advocate has been appointed to –
(i) recognise, and pay due regard to, the advocate's functions, and
(ii) provide the advocate with access to such information relating to the child as will enable the advocate to carry out those functions effectively (so far as the authority may do so without contravening a restriction on disclosure of the information).”
- 57 Page 36, line 3, leave out subsection (5)

Clause 48

- 58 Page 36, line 14, leave out "is reason" and insert "are reasonable grounds"
- 59 Page 36, line 16, leave out "a person is to be treated as" and insert "there are reasonable grounds to believe that a person may be"
- 60 Page 36, line 22, at end insert –
“() If the Secretary of State makes regulations under section (*Regulations about identifying and supporting victims*), the references in subsection (1) to "arrangements" include arrangements under the regulations.”

After Clause 48

- 61 Insert the following new Clause –

“Regulations about identifying and supporting victims

- (1) The Secretary of State may make regulations providing for assistance and support to be provided to persons –
(a) who there are reasonable grounds to believe may be victims of slavery or human trafficking;
(b) who are victims of slavery or human trafficking.

- (2) The Secretary of State may make regulations providing for public authorities to determine (for the purposes of regulations under subsection (1) or other purposes specified in the regulations) whether –
- (a) there are reasonable grounds to believe that a person may be a victim of slavery or human trafficking;
 - (b) a person is a victim of slavery or human trafficking.
- (3) Regulations under subsection (2) may in particular make provision about the public authorities who may make such determinations, and the criteria and procedure for doing so.”

Clause 49

- 62 Page 36, line 26, leave out “reason” and insert “reasonable grounds”
- 63 Page 36, line 27, leave out “reason” and insert “reasonable grounds”
- 64 Page 36, line 34, leave out “there is reason” and insert “are, or who there are reasonable grounds”
- 65 Page 36, line 35, after “in” insert –
- “(a) any regulations made under section (*Regulations about identifying and supporting victims*)(1);
 - (b) ”

Clause 50

- 66 Page 36, line 39, leave out from beginning to “has” and insert “If a public authority to which this section applies”
- 67 Page 36, line 40, leave out “reason” and insert “reasonable grounds”
- 68 Page 36, line 40, at end insert “it must notify –
- (a) the Secretary of State, or
 - (b) if regulations made by the Secretary of State require it to notify a public authority other than the Secretary of State, that public authority.”
- 69 Page 37, line 1, leave out “The regulations” and insert “Regulations under subsection (2)”
- 70 Page 37, line 7, leave out subsection (4) and insert –
- “() Regulations under subsection (2) –
- (a) may provide that a public authority which includes information in a notification in accordance with the regulations does not breach any obligation of confidence owed by the public authority in relation to that information;
 - (b) may not require or authorise the inclusion of information which contravenes any other restriction on the disclosure of information (however imposed).”
- 71 Page 37, line 9, leave out subsection (5) and insert –
- “(5) This section applies to –
- (a) a chief officer of police for a police area,
 - (b) the chief constable of the British Transport Police Force,
 - (c) the National Crime Agency,

- (d) a county council,
 - (e) a county borough council,
 - (f) a district council,
 - (g) a London borough council,
 - (h) the Greater London Authority,
 - (i) the Common Council of the City of London,
 - (j) the Council of the Isles of Scilly,
 - (k) the Gangmasters Licensing Authority.
- (6) The Secretary of State may by regulations amend subsection (5) so as to—
- (a) add or remove a public authority;
 - (b) amend the entry for a public authority.”

After Clause 50

72 Insert the following new Clause—

“Protection from slavery for overseas domestic workers

All overseas domestic workers in the United Kingdom, including those working for staff of diplomatic missions, shall be entitled to—

- (a) change their employer (but not work sector) while in the United Kingdom;
- (b) renew their domestic worker or diplomatic domestic worker visa, each such renewal being for a period not exceeding twelve months, as long as they remain in employment and are able to support themselves without recourse to public funds;
- (c) a three month temporary visa permitting them to live in the United Kingdom for the purposes of seeking alternative employment as an overseas domestic worker where there is evidence that the worker has been a victim of modern slavery.”

Clause 51

73 Page 37, line 27, at end insert—

- “() An organisation’s slavery and human trafficking statement may include information about—
- (a) the organisation’s structure, its business and its supply chains;
 - (b) its policies in relation to slavery and human trafficking;
 - (c) its due diligence processes in relation to slavery and human trafficking in its business and supply chains;
 - (d) the parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk;
 - (e) its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate;
 - (f) the training about slavery and human trafficking available to its staff.
- () A slavery and human trafficking statement—
- (a) if the organisation is a body corporate other than a limited liability partnership, must be approved by the board of directors (or

equivalent management body) and signed by a director (or equivalent);

- (b) if the organisation is a limited liability partnership, must be approved by the members and signed by a designated member;
- (c) if the organisation is a limited partnership registered under the Limited Partnerships Act 1907, must be signed by a general partner;
- (d) if the organisation is any other kind of partnership, must be signed by a partner.”

74 Page 38, line 1, leave out second “guidance” and insert “further provision”

75 Page 38, line 26, leave out paragraph (ii) and insert –

“(ii) section 1, 2 or 4 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.)) (equivalent offences in Northern Ireland),”

76 Page 38, line 32, leave out paragraph (v)

Before Clause 52

77 Insert the following new Clause –

“Gangmasters Licensing Authority

The Secretary of State must –

- (a) before the end of the period of 12 months beginning with the day on which this Act is passed, publish a paper on the role of the Gangmasters Licensing Authority, and
- (b) consult such representative bodies and other persons as the Secretary of State considers appropriate about the matters dealt with by that paper.”

Clause 52

78 Page 39, line 10, at end insert –

““child” means a person under the age of 18;”

Clause 54

79 Page 39, line 38, at end insert –

“() regulations under section 43(8) which remove a public authority from Schedule (*Public authorities under a duty to co-operate with the Commissioner*) (public authorities under a duty to co-operate with the Commissioner), other than in consequence of the authority having ceased to exist;”

80 Page 39, line 38, at end insert –

“() regulations under section 43(8) which contain the provision mentioned in section 43(9) (modification of section 43 in its application to public authority added to Schedule (*Public authorities under a duty to co-operate with the Commissioner*));”

81 Page 39, line 40, at end insert –

“() regulations under section (*Regulations about identifying and supporting victims*) (identifying and supporting victims);”

- 82 Page 39, line 40, at end insert –
“() regulations under section 50(6) which remove a public authority from section 50(5), other than in consequence of the authority having ceased to exist;”
- 83 Page 39, line 41, at end insert –
“() the first regulations under section 51(3) (definition of turnover for purposes of section 51);”
- 84 Page 40, line 1, leave out from “section” to end of line 2 and insert “43(6) –
(a) are subject to the affirmative procedure if they contain –
(i) provision removing a public authority from Schedule (*Public authorities under a duty to co-operate with the Commissioner*) (public authorities under a duty to co-operate with the Commissioner), other than in consequence of the authority having ceased to exist, or
(ii) the provision mentioned in section 43(9) (modification of section 43 in its application to public authority added to Schedule (*Public authorities under a duty to co-operate with the Commissioner*));
(b) otherwise, are subject to the negative procedure.”
- 85 Page 40, line 4, leave out “43” and insert “43(7)”
- 86 Page 40, line 7, leave out “43” and insert “43(7)”
- 87 Page 40, line 8, at end insert “, unless they are regulations to which subsection (7B) applies.
(7A) The Department of Justice in Northern Ireland may not make regulations to which subsection (7B) applies unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
(7B) This subsection applies to regulations under section 43(7) which contain –
(a) provision removing a public authority from Schedule (*Public authorities under a duty to co-operate with the Commissioner*) (public authorities under a duty to co-operate with the Commissioner), other than in consequence of the authority having ceased to exist, or
(b) the provision mentioned in section 43(9) (modification of section 43 in its application to public authority added to Schedule (*Public authorities under a duty to co-operate with the Commissioner*)).”

Schedule 1

- 88 Page 42, line 27, at end insert –
“Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.))
7A An offence under section 1, 2 or 4 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (slavery, servitude and forced or compulsory labour; human trafficking).”

After Schedule 2

89 Insert the following new Schedule—

“PUBLIC AUTHORITIES UNDER A DUTY TO CO-OPERATE WITH THE COMMISSIONER

Law enforcement and border security

A chief officer of police for a police area in England and Wales.

The chief constable of the British Transport Police Force.

The National Crime Agency.

An immigration officer or other official of the Secretary of State exercising functions in relation to immigration or asylum.

A designated customs official (within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009).

Local government

A county council in England or Wales.

A county borough council in Wales.

A district council in England.

A London borough council.

The Greater London Authority.

The Common Council of the City of London.

The Council of the Isles of Scilly.

Health bodies

A National Health Service trust established under section 25 of the National Health Service Act 2006 or section 18 of the National Health Service (Wales) Act 2006.

An NHS foundation trust within the meaning given by section 30 of the National Health Service Act 2006.

A Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

Regulators

The Gangmasters Licensing Authority.”

Schedule 4

90 Page 62, line 6, leave out paragraph (a)

91 Page 62, line 16, at end insert—

“Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)

- 9A In Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012, in paragraph 32(8) (civil legal services for trafficking victims: definitions), in the definition of “exploitation” for the words from “section” to the end substitute “section 3 of the Modern Slavery Act 2014 (meaning of exploitation for purposes of human trafficking offence in section 2 of that Act);”.
- 92 Page 63, line 39, at end insert –
- “14A In section 19(8) of the Proceeds of Crime Act 2002 (no order made: reconsideration of case), at the end insert “in relation to it”.
- 14B In section 20(12) of the Proceeds of Crime Act 2002 (no order made: reconsideration of benefit), at the end insert “in relation to it”.
- 93 Page 63, line 41, leave out “so far as they relate to such orders” and insert “in relation to it”
- 94 Page 63, line 43, leave out “so far as they relate to such orders” and insert “in relation to it”

In the Title

- 95 Line 1, leave out from “labour” to “to” in line 2 and insert “and about human trafficking, including provision for the protection of victims;”

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