

Modern Slavery Bill

FOURTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE

The amendments have been marshalled in accordance with the Instruction of 25th November 2014, as follows –

Clauses 48 to 53
Schedule 4

Clauses 54 to 58

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

After Clause 48

LORD ROSSER
BARONESS ROYALL OF BLAISDON

86N Insert the following new Clause –

“Establishment and function of the National Referral Mechanism

- (1) The Secretary of State must establish a National Referral Mechanism (“NRM”) to –
 - (a) identify trafficked, enslaved or exploited persons within the United Kingdom;
 - (b) provide assistance and support to a person who may have been trafficked, enslaved or exploited from the time at which that person is first referred into the NRM until such time as a final and conclusive determination is made that they are not such a person; and,
 - (c) ensure that the rights of such persons are protected and promoted in a manner which discharges the Government’s obligations under the Trafficking Convention and the Trafficking Directive regarding the identification and protection of victims, including measures for assistance and support.

**Amendment
No.**

After Clause 48 – continued

- (2) The Secretary of State must, in regulations, specify the procedures to be followed to implement the NRM and the procedures to be applied by the NRM including to give effect to the right to a renewable residence permit provided for under subsections (5) and (6).
- (3) The regulations must provide for a right of appeal by an individual in respect of a decision in the NRM process that they are not a trafficked, enslaved or exploited person.
- (4) A person (including a child) must give their free and informed consent to being referred into the NRM before a referral is made on their behalf.
- (5) A person who is determined in the NRM process to be a trafficked, enslaved or exploited person shall be entitled to a one year renewable residence permit permitting them to remain in the United Kingdom where one or other, or both, of the following situations apply –
 - (a) a competent authority in the NRM considers that their stay is necessary owing to their personal situation; or
 - (b) a competent authority in the NRM considers that their stay is necessary for the purpose of the person’s co-operation with the authorities in connection with their investigations or criminal proceedings.
- (6) A residence permit for child victims shall be issued where it is in accordance with the best interests of the child and, where appropriate, renewed under the same conditions.
- (7) The protection, assistance and support provided to trafficked, enslaved or exploited children (including those to whom the presumption of age applies) in accordance with the provisions in this Act shall be at least equivalent to the protection, assistance and support provided to adults, save that where other legislation provides for greater protection for children that legislation shall, to the extent of any inconsistency with this Act, prevail.”

87 [Withdrawn]

Clause 50

LORD BATES

88 Page 36, line 39, leave out from beginning to “has” and insert “If a public authority to which this section applies”

BARONESS HAMWEE

88A Page 36, line 39, leave out “specified”

LORD BATES

89 Page 36, line 40, at end insert “it must notify –
(a) the Secretary of State, or

**Amendment
No.**

Clause 50 – continued

- (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.”

- 90** Page 37, line 1, leave out “The regulations” and insert “Regulations under subsection (2)”
- 91** Page 37, line 7, leave out “The regulations” and insert “Regulations under subsection (2)”

BARONESS HAMWEE

- 91A** Page 37, line 9, leave out subsection (5)

LORD BATES

- 92** Page 37, line 9, leave out subsection (5) and insert –
“() The Secretary of State may by regulations specify the public authorities to which this section applies.”

After Clause 50

LORD WARNER
LORD JUDD

- 93** Insert the following new Clause –

“National Referral Mechanism replacement

- (1) The Secretary of State shall within 12 months of the passing of this Act establish by order a body to identify and support potential victims of modern slavery, having regard to the experience of the current National Referral Mechanism and the findings of the 2014 review of that Mechanism.
- (2) In establishing such a body, the Secretary of State shall ensure that its activities are governed by regulations covering –
- (a) identification of victims of modern slavery and the tests to be applied,
 - (b) how victims secure access to support and legal aid,
 - (c) the minimum level of support that victims should receive,
 - (d) the decision-making processes relating to victims and potential victims, including rights of review and appeal,
 - (e) the governance and accountability of the new body and its relationship to the Independent Anti-Slavery Commissioner,
 - (f) the collection and sharing of data about victims between all relevant organisations,
 - (g) such other matters as the Secretary of State considers appropriate to the new body.
- (3) In framing such regulations, a guiding principle should be that an organisation whose functions include determining asylum and immigration is unsuitable to deal with the matters in subsection (2)(d).

Amendment
No.

After Clause 50—continued

- (4) An order or regulations under this section must be made by statutory instrument and may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

BARONESS COX
LORD ALTON OF LIVERPOOL
BARONESS ROYALL OF BLAISDON
LORD HYLTON

94 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.”

LORD HYLTON

95 Insert the following new Clause—

“Enforceability of court and tribunal judgments

Judgments of UK courts and tribunals concerning UK-based employees shall be enforceable against foreign embassies and consulates, notwithstanding diplomatic immunity, if they are made under the provisions of this Act.”

BARONESS BUTLER-SLOSS
BARONESS HAMWEE

96 Insert the following new Clause—

“The National Referral Mechanism

- (1) The Secretary of State may make regulations to establish a statutory National Referral Mechanism.
- (2) The Secretary of State must report to Parliament within 12 months of the passing of this Act on the proposals to set up the said National Referral Mechanism.”

Amendment
No.

After Clause 50 – continued

BARONESS BUTLER-SLOSS
BARONESS KENNEDY OF CRADLEY
BARONESS HAMWEE

97 Insert the following new Clause –

“Gangmasters Licensing Authority

The Secretary of State may make regulations to amend the Gangmasters (Licensing) Act 2004 to enlarge the functions, powers and duties of the Gangmasters Licensing Authority set out in section 1 of the 2004 Act.”

BARONESS KENNEDY OF CRADLEY

97A Insert the following new Clause –

“Gangmasters Licensing Authority (No. 2)

- (1) Section 3(5)(a) of the Gangmasters (Licensing) Act 2004 (work to which this Act applies) is amended as follows.
- (2) After “excluding” add “or including”.

Clause 51

LORD ROSSER
BARONESS GOUDIE

97AA★ Page 37, line 27, at end insert –

- “() A slavery and human trafficking statement by a commercial organisation must contain specific information in relation to the steps they have taken in the following areas –
- (a) accountability for tackling modern slavery and forced labour, including policy commitments, resourcing and actions to exercise due diligence,
 - (b) investigation, monitoring and auditing of modern slavery and forced labour risks in the UK and throughout their global supply chains,
 - (c) support and access to remedy for victims of forced labour and modern slavery, and
 - (d) training of staff and suppliers, and access to expertise and advice.”

BARONESS HAMWEE
BARONESS COX

97B Page 37, line 36, at end insert –

- “() Subject to subsections (5) and (6), the Secretary of State shall make regulations regarding the form in which and place where the slavery and human trafficking statement shall be reported.”

97C Page 37, line 37, leave out “The” and insert “A”

97D Page 37, line 38, after “may” insert “make regulations and”

Amendment
No.

Clause 51 – continued

97E Page 38, line 4, after “section” insert “and under regulations made under this section”

After Clause 51

LORD ALTON OF LIVERPOOL
BARONESS KENNEDY OF CRADLEY
LORD HARRIES OF PENTREGARTH
BARONESS MOBARIK

98 Insert the following new Clause –

“Slavery and human trafficking statements

- (1) For each financial year, a commercial organisation within subsection (2) must prepare a slavery and human trafficking statement.
- (2) A commercial organisation is within this subsection if it –
 - (a) supplies goods or services, and
 - (b) has a total turnover in respect of that financial year of not less than £60 million or such lesser amount as may be prescribed by regulations made by the Secretary of State.
- (3) For the purposes of subsection (2)(b) an organisation’s total turnover is to be determined –
 - (a) by reference to the activities of that organisation worldwide;
 - (b) by aggregating the worldwide turnover of that organisation with any other organisation which forms part of the same group undertaking; and
 - (c) otherwise in accordance with regulations made by the Secretary of State.
- (4) A slavery and human trafficking statement for a financial year is –
 - (a) a statement of the steps the organisation has taken during the financial year to identify and address slavery and human trafficking –
 - (i) in any of its supply chains, and
 - (ii) in any part of its own business,
 and which complies with the minimum requirements set out in subsection (5); or
 - (b) a statement that the organisation has taken no such steps with an explanation of why the organisation considers such conduct to be appropriate.
- (5) A slavery and human trafficking statement shall give details of –
 - (a) actions taken to assess the risk of the presence of slavery and human trafficking in the organisation’s operations and throughout its supply chains;
 - (b) who has been involved in the assessment of such risks and the extent to which such persons are independent of the organisation;
 - (c) what risks have been identified, and what action has been taken to mitigate any risks which have been identified;

Amendment
No.

After Clause 51 – continued

- (d) whether any slavery or human trafficking has been identified and, if so, what steps have been taken to address it, including action to support victims;
 - (e) the extent to which information for assessment and monitoring has been gathered directly at suppliers' sites and whether such information has been verified by independent persons; and
 - (f) any such other matters that may be specified in regulations made by the Secretary of State under this section.
- (6) The organisation must publish the slavery and human trafficking statement in each of the following ways –
- (a) if the organisation has a website, it must –
 - (i) publish the slavery and human trafficking statement on that website, and
 - (ii) include a link to the slavery and human trafficking statement in a prominent place on that website's homepage;
 - (b) upload the slavery and human trafficking statement report to the website maintained for that purpose by the Department for Business, Innovation and Skills under subsection (8);
 - (c) an organisation which is obliged to prepare a director's report in accordance with section 415 of the Companies Act 2006 shall include in that report –
 - (i) the name of any director who has taken responsibility for slavery and human trafficking issues within the organisation (or a statement that no director has taken responsibility),
 - (ii) a fair summary of the slave and human trafficking statement, and
 - (iii) the web address where a copy of the report may be found, or if the company does not have a website a statement that a copy of the report will be provided on written request.
- (7) If the organisation does not have a website, it must provide a copy of the slavery and human trafficking statement to anyone who makes a written request for one and must do so before the end of the period of 30 days beginning with the day on which the request is received.
- (8) The Department for Business, Innovation and Skills shall maintain a website –
- (a) on which it shall publish slavery and human trafficking statements which are uploaded to the website or delivered to it under subsection (6)(b);
 - (b) in a form in which the published data is freely searchable by the public.
- (9) The Secretary of State –
- (a) may issue guidance about the duties imposed on commercial organisations by this section; and
 - (b) must publish any such guidance.
- (10) Evidence under subsection (9) may in particular set out the kind of information in addition or supplemental to that set out in subsection (5) which may be included in a slavery and human trafficking statement.

Amendment
No.

After Clause 51 – continued

- (11) The duties imposed on commercial organisations by this section are enforceable by any of the Secretary of State, the Independent Anti-slavery Commissioner, the Equality and Human Rights Commission, the Financial Reporting Council; or such other person as may be specified by way of regulation, any of whom may bring civil proceedings in the High Court for an injunction or, in Scotland, for specific performance of a statutory duty under section 45 of the Court of Session Act 1988.
- (12) Where a commercial organisation is in breach of any duty under this section the commercial organisation and every director, partner, or other person occupying an equivalent position shall have committed an offence.
- (13) It is a defence for any person charged with an offence under subsection (12) to prove that he took all reasonable steps to ensure compliance with this section.
- (14) A person guilty of an offence under subsection (12) is liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.
- (15) This section shall be reviewed by the Secretary of State 3 years after the section comes into force and following this review the Secretary of State shall lay before Parliament a report assessing the effectiveness of the section and recommending whether any amendments should be made.
- (16) For the purposes of this section –
- “commercial organisation” means –
- (a) a body corporate (wherever incorporated) which carries on a business, or part of a business, in any part of the United Kingdom, or
- (b) a partnership (wherever formed) which carries on a business, or part of a business, in any part of the United Kingdom,
- and for this purpose “business” includes a trade or profession;
- “group undertaking” shall have the meaning set out in section 1162 of the Companies Act 2006;
- “partnership” means –
- (a) a partnership within the Partnership Act 1890,
- (b) a limited partnership registered under the Limited Partnerships Act 1907, or
- (c) a firm, or an entity of a similar character, formed under the law of a country outside the United Kingdom;
- “slavery and human trafficking” means –
- (a) conduct which constitutes an offence under any of the following –
- (i) section 1, 2 or 4 of this Act,
- (ii) section 57, 58, 58A or 59 of the Sexual Offences Act 2003 (trafficking for sexual exploitation),
- (iii) section 22 of the Criminal Justice (Scotland) Act 2003 (traffic in prostitution etc),
- (iv) section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking for exploitation),

Amendment
No.

After Clause 51 – continued

- (v) section 71 of the Coroners and Justice Act 2009 (slavery, servitude and forced or compulsory labour),
- (vi) section 47 of the Criminal Justice and Licensing (Scotland) Act 2010 (slavery, servitude and forced or compulsory labour), or
- (b) conduct which would constitute an offence in a part of the United Kingdom under any of those provisions if the conduct took place in that part of the United Kingdom;

“supply chain” means those raw materials, purchases, processes, products, labour, services and transportation by means of which the company’s goods and services whether or not for sale to customers are acquired, manufactured, assembled or otherwise produced from their original source up to and including their sale or provision to the company’s customers;

but a company’s supply chain shall not include those products and services that are acquired, rented, leased or otherwise used by a company for a purpose which is incidental or ancillary to the matters referred to in the definition of supply chain above.”

BARONESS McDONAGH
LORD HASTINGS OF SCARISBRICK

98A

Insert the following new Clause –

“Obligations on the largest companies in high risk sectors

- () The Secretary of State may make regulations requiring commercial organisations whose products and services include one or more that fall within the wholesale, retail, manufacturing and construction sectors, and whose total turnover in a financial year exceeds £1 billion, to include in its Annual Report relating to that year –
 - (a) a Director’s Statement, signed by all of the company’s directors, confirming that the company –
 - (i) has conducted a risk assessment sufficient to identify any risks and instances of modern slavery in its supply chain;
 - (ii) has in place and is implementing a remedial action plan to eliminate any existing instances and any identified risks of modern slavery from its supply chain within two years from the date at which such incidences were first identified; and
 - (b) an Assurance Statement verifying the Directors’ Statement and signed by an independent third party auditor in compliance with ISAE3000 or ISO123 standards.”

Amendment
No.

Before Clause 52

LORD ALTON OF LIVERPOOL
BARONESS COX
LORD HARRIES OF PENTREGARTH

99 Insert the following new Clause –

“Review

- (1) Within 5 years of the passing of this Act, the Secretary of State must –
 - (a) carry out a review of the provisions of this Act,
 - (b) carry out a review more broadly about the current position of slavery, servitude, forced or compulsory labour, and human trafficking within the United Kingdom and internationally, and
 - (c) prepare and publish a report setting out the conclusions of the review.
- (2) The report must in particular –
 - (a) set out the objectives intended to be achieved by this Act,
 - (b) assess the extent to which those objectives have been achieved,
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in another way, and
 - (d) consider the strategic plans and annual reports submitted by the Independent Anti-slavery Commissioner.
- (3) The Secretary of State must lay the report before Parliament.”

BARONESS HAMWEE
BARONESS YOUNG OF HORNSEY
LORD JUDD

100 Insert the following new Clause –

“Exploitation

- (1) Within the period of 12 months beginning with the day on which this Act is passed the Secretary of State shall carry out a review about whether the provisions of –
 - (a) this Act;
 - (b) the Acts establishing relevant public authorities, namely –
 - (i) the Health and Safety Executive,
 - (ii) the Employment Agency Standards Inspectorate,
 - (iii) HMRC (for the National Minimum Wage teams), and
 - (iv) the Gangmasters Licensing Authority; and
 - (c) other Acts in force and all relevant secondary legislation;
 adequately provide offences to protect victims of exploitation, and in particular whether there should be an offence of exploitation which does not amount to slavery, servitude or forced or compulsory labour within section 1.
- (2) The Secretary of State shall prepare and publish a report setting out the conclusions of the review.
- (3) In conducting the review the Secretary of State shall consult –
 - (a) the Scottish Ministers;

**Amendment
No.**

Before Clause 52 – continued

- (b) the Department of Justice in Northern Ireland;
- (c) representatives of the police forces of England and Wales;
- (d) the Director of the National Crime Agency;
- (e) the Director of Public Prosecutions;
- (f) the Lord Chief Justice of England and Wales;
- (g) representatives of local authorities;
- (h) the Independent Anti-slavery Commissioner;
- (i) the Victims' Commissioner;
- (j) organisations supporting persons held in slavery or servitude or forced to perform forced or compulsory labour or whom they regard as potentially having been so held or forced;
- (k) the authorities listed in subsection (1)(b); and
- (l) such other persons as the Secretary of State considers appropriate."

Clause 52

LORD BATES

- 101** Page 39, line 10, at end insert –
 ““child” means a person under the age of 18;”

After Clause 52

LORD ROSSER
 BARONESS ROYALL OF BLAISDON

- 101A** Insert the following new Clause –
- “Provision to enable the Gangmasters Licensing Authority to tackle modern day slavery**
- (1) The Secretary of State may by regulations amend section 3 of the Gangmasters (Licensing) Act 2004 to include other areas of work where the Secretary of State believes abuse and exploitation of workers or modern slavery or trafficking may be taking place.
 - (2) Regulations under subsection (1) may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.”

Amendment
No.

Schedule 4

LORD BATES

102 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);”.

Clause 54

LORD ROSSER
BARONESS ROYALL OF BLAISDON

102A Page 39, line 43, at end insert—

“(g) regulations under section 30(5) if they are made 12 months after the passing of this Act.”

Clause 57

BARONESS COX

102B Page 41, line 3, leave out “and (3)” and insert “to (3A)”

102C Page 41, line 7, at end insert—

“(3A) Section 44 shall come into force on a day to be appointed, that day being no earlier than the day on which an order made by the Lord Chancellor under section 9(2)(a) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 in respect of civil legal services for victims of slavery and human trafficking comes into effect.”

LORD McCOLL OF DULWICH

103 Page 41, line 13, leave out “may not” and insert “shall”

104 Page 41, line 16, leave out subsections (6) and (7)

In the Title

BARONESS COX

105 Line 1, after “labour” insert “in the United Kingdom and internationally”

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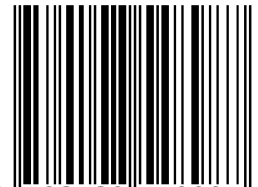
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