

Modern Slavery (Victim Support) Bill [HL]

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Member in charge of the Bill, Lord McColl of Dulwich, are published separately as HL Bill 4 – EN.

Modern Slavery (Victim Support) Bill [HL]

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B I L L

TO

Make provision about identifying and supporting victims of modern slavery; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Supporting victims of modern slavery

(1) The Modern Slavery Act 2015 is amended as follows.

(2) After section 48 insert—

“48A Provision of assistance and support during reflection and recovery period

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(1) The Secretary of State must ensure that a person to whom this section applies is provided with assistance and support in accordance with this section.

(2) This section applies to a person if—

(a) that person is aged 18 or over or, in a case where the age of the person is uncertain, the person does not fall within the provisions of section 51 of this Act (presumption about age); and 10

(b) a referral relating to that person has been, or is about to be, made to the competent authority for a determination as to whether or not the person is a victim of modern slavery. 15

(3) Unless the conditions in subsection (4) apply, assistance and support is to be provided under this section until in relation to that person—

(a) a determination is made that there are not reasonable grounds to believe that the person is a victim of modern slavery; or 20

(b) a conclusive determination is made that the person is a victim of modern slavery; or

(c) a conclusive determination is made that the person is not a victim of modern slavery and all processes for reconsideration

of such a determination including internal reviews and appeals to an independent tribunal or court of law, have been completed.

- (4) If a conclusive determination that a person is a victim of modern slavery is made within the reflection and recovery period, assistance and support is to be provided until the end of that period. 5
- (5) The reflection and recovery period is the period of 45 days from the date on which the referral mentioned in subsection (2)(b) is made.
- (6) Where assistance and support has been provided to a person under this section, the Secretary of State may secure continued provision of that assistance and support after the end of the period in subsection (5) for such period as they think appropriate. 10
- (7) The Secretary of State must ensure that a person to whom this section applies is granted temporary admission to the United Kingdom under paragraph 21 of Schedule 2 to the Immigration Act 1971 where necessary for the period in which they are entitled to support under this section. 15
- 48B Provision of assistance and support to victims of modern slavery following conclusive determination by a competent authority**
- (1) The Secretary of State must ensure that a person to whom this section applies is provided with assistance and support in accordance with this section. 20
- (2) This section applies to a person if—
- (a) that person is aged 18 or over or, in a case where the age of the person is uncertain, the person does not fall within the provisions of section 51 of this Act (presumption about age); and
 - (b) the competent authority has made a conclusive determination that the person is a victim of modern slavery. 25
- (3) Assistance and support is to be provided for a period of 12 months from the day on which support provided under section 48A ends. 30
- (4) The Secretary of State must ensure that a person to whom this section applies is granted leave to remain in the United Kingdom for as long as necessary for that person to receive support under this section for the period set out in subsection (3), unless the conditions in subsection (9) apply. 35
- (5) Where assistance and support has been provided to a person under this section the Secretary of State may secure continued provision of that assistance and support after the end of the period in subsection (3) for such period as they think appropriate subject to the requirements of subsection (7). 40
- (6) The Secretary of State may extend a grant of leave to remain made under this section for the same period of time as the Secretary of State considers assistance and support should be provided under subsection (5), subject to the requirements of subsection (7). 45
- (7) In determining whether —

- (a) to secure continued provision of assistance and support under subsection (5);
 - (b) to extend a grant of leave to remain under subsection (6); and
 - (c) the period of time for which such assistance and support or leave should be provided—

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the Secretary of State must have regard to the criteria set out in subsection (8).
- (8) The criteria the Secretary of State shall consider under subsection (7) are—
 - (a) that person’s individual circumstances; 10
 - (b) the needs of that person for safety and protection from harm;
 - (c) the needs of that person for medical and psychological treatment;
 - (d) that person’s participation as a witness in criminal proceedings;
 - (e) whether that person is bringing any civil proceedings including pursuing compensation; and 15
 - (f) the recommendations of that person’s support worker.
- (9) The Secretary of State may refuse to grant leave to remain under this section to a person if—
 - (a) the person is a sexual or violent offender; and 20
 - (b) the Secretary of State considers that the person poses a genuine, present and serious risk to members of the public.
- (10) When the Secretary of State refuses to grant leave under subsection (9), the Secretary State shall give the person affected reasons for the refusal in writing. 25

48C Meaning of assistance and support

- (1) For the purpose of sections 48A and 48B, “assistance and support” shall include but not be restricted to the provision of—
 - (a) appropriate and safe accommodation;
 - (b) material assistance, including financial assistance; 30
 - (c) medical advice and treatment (including psychological assessment and treatment);
 - (d) counselling;
 - (e) a support worker;
 - (f) appropriate information on any matter of relevance or potential relevance to the particular circumstances of the person; 35
 - (g) translation and interpretation services;
 - (h) assistance in obtaining specialist legal advice or representation (including with regard to access to compensation); and
 - (i) assistance with repatriation, which shall include a full risk assessment. 40
- (2) Assistance and support provided to a person under this Act—
 - (a) must not be conditional on the person’s acting as a witness in any criminal proceedings;
 - (b) must only be provided with the consent of that person; 45

- (c) must be provided in a manner which takes due account of the needs of that person as regards safety and protection from harm;
- (d) must be provided to meet the assessed needs of that person, having regard in particular to any special needs or vulnerabilities of that person caused by gender, pregnancy, physical or mental illness, disability or being the victim of violence or abuse; 5
- (e) shall be provided in accordance with an assistance and support plan which specifies that person's needs for support and how those needs will be met for the full duration of the period to which that person is entitled to support under this Act. 10
- (3) The Secretary of State must by regulations made by statutory instrument set out minimum standards for assistance and support to be provided under this Act. 15
- (4) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (5) Before publishing standards under this section, the Secretary of State must carry out a public consultation on the standards proposed. 20

48D Sections 48A to 48B: interpretation

- (1) In sections 48A and 48B, there is a conclusive determination that a person is, or is not, a victim of modern slavery when the identification process conducted by a competent authority concludes that the person is, or is not, such a victim. 25
- (2) In this section and sections 48A and 48B—
- “competent authority” means a person who is a competent authority of the United Kingdom for the purposes of the Council of Europe Convention on Action against Trafficking in Human Beings; 30
- “sexual or violent offender” means a person who falls within subsections (2) to (4A) of section 327 of the Criminal Justice Act 2003 or who has been convicted of an offence under the law of another country which would have constituted an offence falling within those subsections if it had been done in England and Wales; 35
- “victim of modern slavery” means a victim of human trafficking or a victim of slavery.”

2 Minor and consequential amendments

- (1) The Modern Slavery Act 2015 is amended as follows. 40
- (2) Section 50(1) ceases to have effect.

3 Extent, commencement and short title

- (1) This Act extends to England and Wales only.
- (2) This Act comes into force at the end of the period of 12 months, beginning with the day on which the Act is passed. 45

(3) This Act may be cited as the Modern Slavery (Victim Support) Act 2017.

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To make provision about identifying and supporting victims of modern slavery; and for connected purposes.

Lord McColl of Dulwich

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