

The Committee Bill

8. We have produced a revised Bill to illustrate the ways in which our recommendations might be translated into legislation. It is presented below and referred to throughout our Report as the "Committee Bill" in order to distinguish it from the Government's draft Bill.

Modern Slavery Bill

A

BILL

TO

Make provision about slavery and human trafficking; to make provision for an Anti-Slavery Commissioner; 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:-

PART 1

OFFENCES

Slavery

1. Slavery of children and adults

1. It is an offence to hold a person in, or subject a person to, slavery.
2. For the purposes of this Act "slavery" means the control by a person of a second person in such a way as-
 - a. significantly to deprive that second person of their individual liberty, and
 - b. by which any person obtains a benefit through the use, management, profit, transfer or disposal of that second person.
3. Where that second person is a child, slavery also includes any act or transaction whereby the child is transferred or purports to be transferred to

another person in return for money or other consideration, other than through lawful adoption or similar formal process

Exploitation

2. Child Exploitation offences

1. It is an offence to exploit a child.
2. It is an offence for one person to obtain a benefit through the use of a child for the purpose of exploitation.
3. In determining whether an offence has been committed under this section,—
 - a. the question whether a child, or any person who has responsibility for the child, has consented to any conduct, and
 - b. the question whether any coercive means have been used,are irrelevant.

3. Exploitation offence: general

1. It is an offence to exploit a person.
2. An offence under this section is committed where one person obtains a benefit through the use of a second person for the purpose of exploitation by means of—
 - a. the threat or use of force or of other forms of coercion,
 - b. abduction,
 - c. fraud or deception,
 - d. abuse of power,
 - e. abuse of a position of vulnerability, or
 - f. the giving or receiving of any payment or benefit with a view to securing the consent of any person having control over that second person.

Trafficking

4. Child trafficking

1. It is an offence to traffick a child.
2. An offence under this section is committed by any person who recruits, transports, transfers, harbours or receives that child, including the exchange or transfer of control over that child, for the purpose of exploitation.
3. In determining whether an offence has been committed under this section—
 - a. the question whether that child, or any person who has responsibility for that child, has consented to any conduct, and
 - b. the question whether any coercive means have been used,are irrelevant.

5. Trafficking

1. It is an offence to traffick a person.
2. An offence under this section is committed by any person who recruits, transports, transfers, harbours or receives a second person for the purpose of exploitation, where the means used to do any of those acts include—
 - a. the threat or use of force or of other forms of coercion,
 - b. abduction,
 - c. fraud or deception,
 - d. abuse of power,
 - e. abuse of a position of vulnerability, or
 - f. the giving or receiving of any payment or benefit with a view to securing the consent of any other person having control over that second person.

6. Facilitating the commission of an offence under Part 1

A person who is concerned in, or who facilitates, the commission of an offence under any of sections 1, 2, 3, 4 or 5 in relation to a second person or child commits an offence if that first person knows or ought to know that second

person or child is, or is to be, held in or subjected to slavery, or exploited, or trafficked.

7. Definition of “exploitation”

For the purposes of this Part -

1. “exploitation” includes but is not limited to the prostitution of others or other forms of sexual exploitation, labour or services including begging, practices similar to slavery, servitude, or the exploitation of or for criminal activities, or the removal of organs etc.

2. “sexual exploitation” means

(a) an offence under Part 1 of the Sexual Offences Act 2003,

(b) an offence under section 1(1)(a) of the Protection of Children Act 1978,

(c) an offence under any provision of the Sexual Offences (Northern Ireland) Order 2008,

(d) an offence listed in Schedule 1 to the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)),

(e) an offence under Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)), or

(f) anything done outside England and Wales and Northern Ireland which is not an offence within any of paragraphs (a) to (e) but would be if done in England and Wales or Northern Ireland.

3. “removal of organs etc.” means

a. an offence under section 32 or 33 of the Human Tissue Act 2004 (prohibition of commercial dealings in organs and restrictions on use of live donors) as it has effect in England and Wales, or

b. which would involve the commission of such an offence if it were done in England and Wales.

8. Commission of offences within or outside the United Kingdom

1. A person who is a United Kingdom national or resident commits an offence under this Part regardless of—

- a. where the offence took place, or
 - b. the country or territory which is the place of arrival, entry, departure or travel of any person in relation to whom the offence is committed.
2. A person who is not a United Kingdom national or resident commits an offence under this Part if—
- a. any part of the offence takes place in the United Kingdom, or
 - b. the United Kingdom is the country of arrival, entry, departure, or travel of any person in relation to whom the offence is committed.

9. Penalties

1. A person guilty of an offence under any of sections 1, 2, 3, 4 or 5 is liable—
 - a. on conviction on indictment, to imprisonment for life or a fine or both;
 - b. on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both.
2. A person guilty of an offence under section 6 is (unless subsection (3) applies) liable—
 - a. on conviction on indictment, to imprisonment for a term not exceeding 10 years or a fine or both;
 - b. on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both.
3. Where the commission of an offence under section 6 involves the offender kidnapping or falsely imprisoning any person, a person guilty of that offence is liable, on conviction on indictment, to imprisonment for life or a fine or both.
4. In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the references in subsections (1)(b) and (2)(b) to 12 months are to be read as references to 6 months.

10. Sentencing

1. The Criminal Justice Act 2003 is amended as follows.

2. In Part 1 of Schedule 15 (specified offences for purposes of Chapter 5 of Part 12: sentencing of dangerous offenders), after paragraph 63F insert—

“63G An offence under Part 1 of the Modern Slavery Act 2014.”

3. In Part 1 of Schedule 15B (offences listed for purposes of sections 224A, 226A and 246A: life sentences, extended sentences, release on licence of prisoners serving extended sentences), after paragraph 43 insert—

“43A An offence under Part 1 of the Modern Slavery Act 2014.”

Supplementary

11. Repeal of existing provisions

1. In the Sexual Offences Act 2003, omit—

- a. section 59A (trafficking people for sexual exploitation),
- b. section 60 (interpretation of section 59A),
- c. section 60A (forfeiture of land vehicle etc.),
- d. section 60B (detention of land vehicle etc.),
- e. section 60C (interpretation of sections 60A and 60B).

2. In the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, omit—

- a. section 4 (trafficking people for exploitation),
- b. section 5(3) and (4) (section 4 - supplementary provision).

3. In the Coroners and Justice Act 2009, omit section 71 (slavery, servitude and forced or compulsory labour).

PART 2

MODERN SLAVERY PREVENTION ORDERS

12. Modern slavery prevention orders on sentencing

1. A court may make an order under this section against a person (“the defendant”) where it deals with the defendant in respect of—

- a. a conviction for a modern slavery offence,
- b. a finding that the defendant is not guilty of a modern slavery offence by reason of insanity, or
- c. a finding that the defendant is under a disability and has done the act charged against the defendant in respect of a modern slavery offence.

2. The court may make the order only if it is satisfied that it is necessary to do so for the purpose of protecting persons generally, or particular persons, from physical or psychological harm caused by a real risk of the defendant committing an offence under Part 1.

3. For the purposes of this Part, a “modern slavery offence” means an offence listed in the Schedule.

4. For the purposes of this section, convictions and findings include those taking place before this section comes into force.

5. For the purposes of this section the Court may only make an order where the defendant is aged 16 or older.

13. Modern slavery prevention order on application

1. A magistrates’ court may make an order under this section against a person (“the defendant”) on an application by—

- a. a chief officer of police, or
- b. the Director General of the National Crime Agency (“the Director General”).

2. The court may make the order only if it is satisfied that—

- a. the defendant is a relevant offender (see section 14), and
- b. since the defendant first became a relevant offender, the defendant has acted in a way which gives rise to a reasonable belief of a real and immediate risk that the defendant will commit an offence under Part 1, and
- c. makes it necessary to make the order for the purpose of protecting persons generally, or particular persons, from physical or psychological harm caused by the defendant committing an offence under Part 1.

3. A chief officer of police may make an application under this section only in respect of a person—
 - a. who lives in the chief officer’s police area, or
 - b. who the chief officer believes is in that area or is intending to come to it.
4. The Director General must give notice of any application the Director General makes under this section to the chief officer of police for—
 - a. the police area where the person in question lives, or
 - b. a police area which the Director General believes the person is in or is intending to come to.
5. An application under this section is to be made by complaint.
6. The acts of the defendant which may be relied on for the purposes of subsection (2)(b) include acts taking place before this section comes into force.

14. Meaning of “relevant offender”

1. A person is a “relevant offender” for the purposes of section 13 if subsection (2) or (3) applies to the person.
2. This subsection applies to a person if they are aged 16 years or older and within a period of 3 years prior to the application—
 - a. the person has been convicted of a modern slavery offence,
 - b. a court has made a finding that the person is not guilty of a modern slavery offence by reason of insanity,
 - c. a court has made a finding that the person is under a disability and has done the act charged against the person in respect of a modern slavery offence, or
 - d. the person has been formally cautioned in respect of a modern slavery offence.
3. This subsection applies to a person if, they are aged 16 years or older and under the law of a country outside the United Kingdom—
 - a. the person has been convicted of an equivalent offence (whether or not the person has been punished for it),

- b. a court has made, in relation to an equivalent offence, a finding equivalent to a finding that the person is not guilty by reason of insanity,
 - c. a court has made, in relation to an equivalent offence, a finding equivalent to a finding that the person is under a disability and has done the act charged against the person, or
 - d. the person has been formally cautioned in respect of an equivalent offence.
4. An “equivalent offence” means an act which—
- a. constituted an offence under the law of the country concerned, and
 - b. would have constituted a modern slavery offence under the law of England and Wales if it had been done in England and Wales, or by a UK national, or as regards the United Kingdom.
5. For the purposes of subsection (4) an act punishable under the law of a country outside the United Kingdom constitutes an offence under that law, however it is described in that law.
6. For the purposes of this Part, a “modern slavery offence” means an offence listed in the Schedule.
7. On an application under section 13 where subsection (3) is alleged to apply to the defendant, the condition in subsection (4)(b) is to be taken as met unless—
- a. not later than provided by rules of court, the defendant serves on the applicant a notice which states that in the defendant’s opinion the condition is not met, shows the grounds for that opinion, and requires the applicant to prove that the condition is met, or
 - b. the court permits the defendant to require the applicant to prove that the condition is met without service of such a notice.
8. References in this section to convictions, findings and cautions include those taking place before this section comes into force.

15. Effect of modern slavery prevention orders

1. An order under section 12 or 13 (a “modern slavery prevention order”) prohibits the defendant from doing anything described in the order.

2. The only prohibitions that may be included in the order are those under section 16 or which prevent the defendant:

- a. from working with children,
- b. operating as a gangmaster,
- c. entering, leaving, travelling within or visiting a specified location or premises,
- d. undertaking specified work or work of a specified description, where “work” includes any business or occupation (whether paid or unpaid),

and that the court is satisfied meet the requirements of section 12(2) or 13(2).

3. Subject to section 16(1), a prohibition contained in a modern slavery prevention order has effect—

- a. for a fixed period, specified in the order, of at least 5 years, or
- b. until further order.

4. A modern slavery prevention order—

- a. may specify that some of its prohibitions have effect until further order and some for a fixed period;
- b. may specify different periods for different prohibitions;
- c. may provide that such requirements of the order as it may specify shall, during any period when the offender is detained in legal custody, be suspended until his release from that custody.

5. If a court makes a modern slavery prevention order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order ceases to have effect.

16. Prohibitions on foreign travel

1. A prohibition on foreign travel contained in a modern slavery prevention order must be for a fixed period of not more than 5 years.

2. A “prohibition on foreign travel” means—

- a. a prohibition on travelling to any country outside the United Kingdom named or described in the order,

- b. a prohibition on travelling to any country outside the United Kingdom other than a country named or described in the order, or
 - c. a prohibition on travelling to any country outside the United Kingdom.
- 3. Subsection (1) does not prevent a prohibition on foreign travel from being extended for a further period (of no more than 5 years each time) under section 17.
- 4. A modern slavery prevention order that contains a prohibition within subsection (2)(c) must require the defendant to surrender all of the defendant's passports at a police station specified in the order—
 - a. on or before the date when the prohibition takes effect, or
 - b. within a period specified in the order.
- 5. Any passports surrendered must be returned as soon as reasonably practicable after the person ceases to be subject to a modern slavery prevention order containing a prohibition within subsection (2)(c).
- 6. Subsection (5) does not apply in relation to—
 - a. a passport issued by or on behalf of the authorities of a country outside the United Kingdom if the passport has been returned to those authorities;
 - b. a passport issued by or on behalf of an international organisation if the passport has been returned to that organisation.

17. Variation, renewal and discharge

- 1. A person within subsection (2) may apply to the appropriate court for an order varying, renewing or discharging a modern slavery prevention order.
- 2. The persons are—
 - a. the defendant;
 - b. the chief officer of police for the area in which the defendant lives;
 - c. a chief officer of police who believes that the defendant is in, or is intending to come to, that officer's police area;
 - d. where the order was made on an application by a chief officer of police under section 13, that officer.

3. An application under subsection (1) may be made—
 - a. where the appropriate court is the Crown Court, in accordance with rules of court;
 - b. in any other case, by complaint.

4. On the application the court, after hearing—
 - a. the person making the application, and
 - b. the other persons mentioned in subsection (2) (if they wish to be heard),

may make any order varying, renewing or discharging the modern slavery prevention order that the court considers appropriate.

5. An order may be renewed, or varied so as to impose additional prohibitions on the defendant, only if the court is satisfied that it is necessary to do so for the purpose of protecting persons generally, or particular persons, from physical or psychological harm caused by the defendant committing an offence under Part 1.

6. Any renewed or varied order may contain only those prohibitions which the court is satisfied are necessary for that purpose.

7. The court must not discharge an order before the end of 5 years beginning with the day on which the order was made, without the consent of the defendant and—

- a. where the application is made by the defendant, the chief officer of police for the area in which the defendant lives;
- b. where the application is made by a chief officer of police, that chief officer.

8. Subsection (7) does not apply to an order containing a prohibition on foreign travel and no other prohibitions.

9. In this section “the appropriate court” means—
 - a. where the Crown Court or the Court of Appeal made the modern slavery prevention order, the Crown Court;
 - b. where a magistrates’ court made the order, a magistrates’ court;
 - c. where a youth court made the order, a youth court.

18. Interim modern slavery prevention orders

1. This section applies where an application under section 13 (“the main application”) has not been determined.

2. An application for an order under this section (an “interim modern slavery prevention order”)—

- a. may be made by the complaint by which the main application is made, or
- b. if the main application has been made, may be made by the person who has made that application, by complaint to the court to which that application has been made.

3. The Court may impose an interim modern slavery prevention order where it is necessary for the purpose of protecting persons generally, or particular persons, from immediate physical or psychological harm caused by the defendant committing an offence under Part 1.

4. The only prohibitions that may be included in the order are those under section 16 or which prevent the defendant:

- a. from working with children,
- b. operating as a gangmaster,
- c. entering, leaving, travelling within or visiting a specified location or premises,
- d. undertaking specified work or work of a specified description, where “work” includes any business or occupation (whether paid or unpaid),

and that the court is satisfied meet the requirements of section 12(2) or 13(2) as appropriate

5. Such an order—

- a. has effect only for a fixed period, specified in the order;
- b. ceases to have effect, if it has not already done so, on the determination of the main application.

6. The applicant or the defendant may by complaint apply to the court that made the interim modern slavery prevention order for the order to be varied, renewed or discharged.

19. Review and appeals

1. Where the order was imposed under section 12(1)(b) or (c), or 14 (2)(b) or (c) a person within subsection (2) must apply to the court for a review of the order if that person is presented with evidence that there are reasonable grounds to believe that the defendant is no longer:

- a. labouring under the defect of reason owing to a disease of the mind,
or
- b. under the disability,

which was the basis of the verdict referred to under section 12(1)(b) or (c), or 14 (2)(b) or (c)

2. The persons are—

- a. the chief officer of police for the area in which the defendant lives;
- b. a chief officer of police who believes that the defendant is in, or is intending to come to, that officer's police area;
- c. where the order was made on an application by a chief officer of police under section 13, that officer.

3. On a review under subsection (1), the court may make such orders as may be necessary to give effect to its determination of the review, and may also make such incidental or consequential orders as appear to it to be just.

4. A defendant may appeal against the making of a modern slavery prevention order—

- a. where the order was made under section 12(1)(a), as if the order were a sentence passed on the defendant for the offence;
- b. where the order was made under section 12(1)(b) or (c), as if the defendant had been convicted of the offence and the order were a sentence passed on the defendant for that offence;
- c. where the order was made on an application under section 13, to the Crown Court.

5. A defendant may appeal to the Crown Court against the making of an interim modern slavery prevention order.

6. A defendant may appeal against the making of an order under section 17, or the refusal to make such an order—

- a. where the application for such an order was made to the Crown Court, to the Court of Appeal;
- b. in any other case, to the Crown Court.

7. On an appeal under subsection (4)(c), (5) or (6)(b), the Crown Court may make such orders as may be necessary to give effect to its determination of the appeal, and may also make such incidental or consequential orders as appear to it to be just.

8. Any order made by the Crown Court on an appeal under subsection (4)(c) or (5) is for the purposes of section 17(9) or 18(5) (respectively) to be treated as if it were an order of the court from which the appeal was brought.

9. Subsection (8) does not apply to an order directing that an application be reheard by a magistrates' court.

20. Offences

1. A person who, without reasonable excuse, does anything that the person is prohibited from doing by—

- a. a modern slavery prevention order, or
- b. an interim modern slavery prevention order,

commits an offence.

2. A person commits an offence if, without reasonable excuse, the person fails to comply with a requirement imposed under section 16(4).

3. A person guilty of an offence under this section is liable—

- a. on conviction on indictment, to imprisonment for a term not exceeding 5 years;
- b. on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding £5,000 or both.

4. Where a person is convicted of an offence under this section, it is not open to the court by or before which the person is convicted to make an order for conditional discharge in respect of the offence.

21. Guidance

1. The Secretary of State must issue guidance to chief officers of police and to the Director General of the National Crime Agency in relation to the exercise by them of their powers with regard to modern slavery prevention orders and interim modern slavery prevention orders.
2. The Secretary of State must by order issue guidance as to the risk factors which may be taken into account when determining whether the imposition of a modern slavery prevention order or interim order is necessary.
3. The Secretary of State may, from time to time, revise the guidance issued under subsection (1).
4. The Secretary of State must arrange for any guidance issued or revised under subsection (1) to be published in a way the Secretary of State considers appropriate.

PART 3

VICTIMS

22. Non-criminalisation of victims of modern slavery

1. Where a person charged with any offence (“the accused”) is a victim of one or more offences under Part 1 of this Act, that person shall not be guilty of the offence charged if –
 - a. the offence was committed as a direct and immediate result of being a victim of the Part 1 offence; and
 - b. a person of the same sex and age as the accused, with a normal degree of tolerance and self-restraint and in the circumstances of the accused, might have reacted in the same or in a similar way.
2. Where the offence charged is murder, a defence under (1) shall reduce murder to manslaughter.
3. Once the defence set out in subsection (1) is raised by the accused or on his behalf, or the court of its own volition or on hearing submissions from any party decides that such a defence should be considered by the court, the burden of

proving that the offence was not committed as a direct and immediate result of him being a victim as set out in subsection (1) shall lie upon the prosecution.

4. For the purpose of subsection (1) the accused is a victim of modern slavery if there is evidence that the accused is a victim of one or more of the offences in Part 1 of this Act.

23. Assistance and support for victims of modern slavery

1. The Secretary of State must in consultation with the Anti-Slavery Commissioner by order publish and maintain guidance on the provision of assistance and support to victims of modern slavery.

2. Such guidance must consider how victims of modern slavery are to be identified for the purpose of providing assistance and support.

24. Advocates for child victims of modern slavery

1. An advocate shall be appointed to represent any child who might be a victim of modern slavery if the person who has parental responsibility for the child fulfils any of the conditions set out in subsection (5). The advocate will act in the best interest of the child and be appointed as soon as any public authority or relevant body has a reasonable suspicion to believe the child is such a victim.

2. The advocate may request a public authority or relevant body to co-operate with them in any way that the advocate considers necessary and that is in the best interest of the child. A public authority or relevant body must so far as reasonably practicable comply with a request made to it under this section.

3. The advocate will have powers to appoint and instruct legal representatives on behalf of the child in all matters relevant to the interest of the child.

4. The advocate shall at a minimum have responsibilities to—

- a. ensure that all decisions relating to the child are made in the child's best interest and ascertain the child's wishes and feelings in relation to those decisions;
- b. explain to, accompany and ensure the child receives appropriate care, safe accommodation, medical treatment, psychological or psychiatric assistance, education, translation and interpretation services, legal or similar representation or advice;

- c. assist the child to access legal and other representation where necessary;
- d. accompany, consult with, advise, represent or keep the child informed of police interviews, immigration, criminal or compensation proceedings;
- e. contribute to a plan to safeguard and promote the long-term welfare of the child based on an individual assessment of that child's best interests;
- f. provide a link between the child and various statutory and other bodies who may provide services to the child, accompanying the child to any relevant meetings;
- g. assist in establishing contact with the child's family, where the child so wishes and it is in the child's best interests;
- h. liaise with all professionals handling the child's case including immigration, police, social welfare, health, education and support services;
- i. accompany the child wherever it is deemed appropriate to do so.

5. Subsection (1) shall apply if the person who has parental responsibility for the child—

- a. is suspected of taking part in the trafficking of human beings;
- b. has another conflict of interest with the child;
- c. is not in contact with the child;
- d. cannot be identified;
- e. is in a country outside the United Kingdom; or
- f. is a local authority.

6. In subsection (1), an advocate may be—

- a. an employee of a statutory body;
- b. an employee of a recognised charitable organisation; or
- c. a volunteer for a recognised charitable organisation.

7. A person discharging duties as an advocate shall not discharge any other statutory duties in relation to a child for whom they are providing assistance under this section.

8. Where an advocate is appointed under subsection (1), the authority of the advocate in relation to the child shall be recognised by any public authority or relevant body.

9. In this section a “relevant body” means a person or organisation—

- a. which provides services to the child; or
- b. to which a child makes an application for services; or
- c. to which the child needs access in relation to being a victim.

10. The Secretary of State shall by order prescribe the arrangements for the appointment, training and supervision of advocates and provision of support to them.

11. A person’s appointment as an advocate for a particular child under this section shall come to an end if—

- a. the child reaches the age of 21; or
- b. a durable solution for the child has been found based on an individual assessment of the best interests of the child.

25. National Referral Mechanism

1. The Secretary of State must by order establish a mechanism for the identification and protection of victims of modern slavery offences as defined in Part 1 of this Act.

2. In establishing the mechanism the Secretary of State must have regard to the desirability of making provision for the following matters:

- a. the means and process for the identification and referral to the mechanism of potential victims of modern slavery;
- b. the provision to a child of an advocate in accordance with section 24 of this Act, if no such advocate has already been appointed upon identification of the child as a victim or referral to the mechanism;

- c. the appropriate stages in the formal identification process of a victim of modern slavery, the tests to be applied at each stage, and the timescales within which each stage must be completed;
- d. the suitability, qualification and necessary training of a person or organisation to fulfil the processes at paragraphs (2)(a) or (c);
- e. the principle that an organisation whose functions include determining asylum and immigration is unsuitable to deal with the matters referred to in paragraph (c).
- f. the care assistance or services which shall be provided as a minimum to all potential and formally identified victims of modern slavery;
- g. the provision of an internal review and appeal of a decision under paragraphs (2)(a) or (c).

26. Victims of Modern Slavery Legal Fund

1. The Secretary of State must by order establish a fund for the provision of legal advice, services and advocacy for victims of modern slavery offences.
2. In establishing the fund, the Secretary of State must have due regard to the minimum standards required by Articles 12 and 15 of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims.

27. Presumption of age

1. Where the age of a victim of modern slavery is uncertain and there are grounds to believe that the person is a child, that person is presumed to be a child in order to receive immediate access to assistance, support and protection.

Special measures

28. Amendment to the Youth Justice and Criminal Evidence Act 1999 section 17

1. In section 17(4) of The Youth Justice and Criminal Evidence Act 1999 omit the words “or an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004” and insert “or an offence under Part 1 of the Modern Slavery Act 2014”.

29. Restriction on evidence or questions about crimes committed by a complainant

1. If at a trial a person is charged with a modern slavery offence, then, except with the leave of the court—

- a. no evidence may be adduced, and
- b. no question may be asked in cross-examination,

by or on behalf of any accused at the trial, about any crimes committed by the complainant at the behest of the defendant or as a direct and immediate result of being a victim of a modern slavery offence.

2. The court may give leave in relation to any evidence or question only on an application made by or on behalf of an accused, and may not give such leave unless it is satisfied--

- a. that if the complainant is a child subsection (3) applies, or
- b. that a refusal of leave might have the result of rendering unsafe a conclusion of the jury or (as the case may be) the court on any relevant issue in the case.

3. This subsection applies if the evidence or question relates to a relevant issue in the case and the issue is not an issue of consent.

4. For the purposes of subsection (3) no evidence or question shall be regarded as relating to a relevant issue in the case if it appears to the court to be reasonable to assume that the purpose (or main purpose) for which it would be adduced or asked is to establish or elicit material for impugning the credibility of the complainant as a witness.

5. Where this section applies in relation to a trial by virtue of the fact that one or more of a number of persons charged in the proceedings is or are charged with a modern slavery offence—

- a. it shall cease to apply in relation to the trial if the prosecutor decides not to proceed with the case against that person or those persons in respect of that charge; but
- b. it shall not cease to do so in the event of that person or those persons pleading guilty to, or being convicted of, that charge.

6. Nothing in this section authorises any evidence to be adduced or any question to be asked which cannot be adduced or asked apart from this section.

30. Interpretation and application of section 29

1. In section 29—

- a. "relevant issue in the case" means any issue falling to be proved by the prosecution or defence in the trial of the accused;
- b. "issue of consent" means any issue whether the complainant in fact consented to the conduct constituting the offence with which the accused is charged (and accordingly does not include any issue as to the belief of the accused that the complainant so consented);

2. Section 29 applies in relation to the following proceedings as it applies to a trial, namely—

- a. the hearing of an application under paragraph 2(1) of Schedule 3 to the Crime and Disorder Act 1998 (application to dismiss charge by person sent for trial under section 51 or 51A of that Act),
- b. any hearing held, between conviction and sentencing, for the purpose of determining matters relevant to the court's decision as to how the accused is to be dealt with, and
- c. the hearing of an appeal,

and references (in section 289 or this section) to a person charged with an offence accordingly include a person convicted of an offence.

31. Procedure on applications under section 29

1. An application for leave shall be heard in private and in the absence of the complainant.

In this section "leave" means leave under section 29.

2. Where such an application has been determined, the court must state in open court (but in the absence of the jury, if there is one)—

- a. its reasons for giving, or refusing, leave, and

- b. if it gives leave, the extent to which evidence may be adduced or questions asked in pursuance of the leave,

and, if it is a magistrates' court, must cause those matters to be entered in the register of its proceedings.

3. Criminal Procedure Rules may make provision--

- a. requiring applications for leave to specify, in relation to each item of evidence or question to which they relate, particulars of the grounds on which it is asserted that leave should be given by virtue of subsection (3) or (5) of section 29;
- b. enabling the court to request a party to the proceedings to provide the court with information which it considers would assist it in determining an application for leave;
- c. for the manner in which confidential or sensitive information is to be treated in connection with such an application, and in particular as to its being disclosed to, or withheld from, parties to the proceedings.

PART 4

ANTI-SLAVERY COMMISSIONER

32. The Anti-Slavery Commissioner

1. The Secretary of State must appoint an independent Anti-Slavery Commissioner (in this Part "the Commissioner").
2. The Commissioner is to hold a full-time office in accordance with the terms of the Commissioner's appointment.
3. The Secretary of State shall pay remuneration and allowances to the Commissioner and—
 - a. shall before the beginning of each financial year specify a maximum sum which the Commissioner may spend on functions for that year,
 - b. may permit that to be exceeded for a specified purpose, and
 - c. shall defray the Commissioner's expenditure for each financial year subject to paragraphs (a) and (b).
4. The Commissioner may appoint staff.

5. In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership: other disqualifying offices) at the appropriate place insert—

“Anti-Slavery Commissioner”.

6. In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general) at the appropriate place insert—

“The Anti-Slavery Commissioner”.

33. General functions of Commissioner

1. The Commissioner must encourage best practice in the:
 - a. prevention of modern slavery;
 - b. protection of victims;
 - c. prosecution of perpetrators of modern slavery;
 - d. promotion of co-operation and partnerships to meet (a), (b) and (c).
2. The things that the Commissioner may do in pursuance of subsection (1) include—
 - a. making reports to the Secretary of State, of his own initiative, at least annually;
 - b. making recommendations to any public authority about the exercise of its functions in England and Wales;
 - c. undertaking or supporting (financially or otherwise) the carrying out of research, including the gathering and analysis of information, data and statistics concerning modern slavery;
 - d. providing information, education or training;
 - e. consulting people;
 - f. engaging with international commissioners or equivalent persons;
 - g. engaging with and making recommendations to persons and organisations involved in the prevention of modern slavery and protection of victims.

3. The Commissioner must (after ascertaining whether the Secretary of State wishes to exercise the power conferred by subsection (4)) publish each report made to the Secretary of State under subsection (2)(a).

4. The Secretary of State may direct the Commissioner to omit from any report before publication any material whose publication the Secretary of State thinks—

- a. it is necessary to omit for reasons of national security,
- b. might jeopardise an individual's safety, or
- c. might prejudice the investigation or prosecution of an offence.

5. In this section “public authority” means any public authority within the meaning of section 6 of the Human Rights Act 1998 (other than a court or tribunal) which exercises functions in England and Wales.

34. Annual plans and annual reports

1. Upon appointment and annually thereafter the Commissioner must—

- a. prepare an annual plan setting out how the Commissioner proposes to exercise the Commissioner's functions during the year, and
- b. submit the annual plan to the Secretary of State for approval.

2. An annual plan must in particular—

- a. state the Commissioner's objectives and priorities for the year;
- b. state any matters on which the Commissioner proposes to report under section 33(2)(a) during the year;
- c. state any other activities the Commissioner proposes to undertake during the year in the exercise of the Commissioner's functions.
- d. include a business plan for the year.

3. The Secretary of State may approve an annual plan either without modifications or with modifications agreed with the Commissioner.

4. As soon as reasonably practicable after the end of each calendar year the Commissioner must submit to the Secretary of State an annual report on the exercise of the Commissioner's functions during the year.

5. An annual report must include—

- a. an assessment of the extent to which the Commissioner's objectives and priorities for the year have been met;
- b. a statement of the matters on which the Commissioner has reported under section 33(2)(a) during the year;
- c. a statement of the other activities the Commissioner has undertaken during the year in the exercise of the Commissioner's functions;
- d. the annual plan for the following year.

6. The Secretary of State must lay before Parliament—

- a. any annual plan the Secretary of State approves;
- b. any annual report the Secretary of State receives.

within 4 weeks of such approval or receipt.

7. But before laying an annual report before Parliament the Secretary of State may remove from the report any material whose publication the Secretary of State thinks—

- a. the omission of which is necessary in the interests of national security,
- b. might jeopardise an individual's safety, or
- c. might prejudice the investigation or prosecution of an offence.

35. Duty to co-operate with Commissioner

1. The Commissioner may request a specified public authority to co-operate with the Commissioner in any way that the Commissioner considers necessary for the purposes of the Commissioner's functions.

2. A specified public authority must so far as reasonably practicable comply with a request made to it under this section.

3. A public authority which discloses information to the Commissioner in pursuance of subsection (2) does not breach—

- a. any obligation of confidence owed by the public authority, or
- b. any other restriction on the disclosure of information (however imposed).

4. But subsection (2) does not require or authorise any disclosure of information which—

- a. contravenes the Data Protection Act 1998, or
- b. is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.

5. In this section—

“public authority” has the same meaning as in section 33;

“specified public authority” means a public authority which is specified in, or is of a description specified in, an order made by the Secretary of State for the purposes of this section.

36. Restriction on exercise of functions

1. The Commissioner must not exercise any function in relation to—

- a. an individual case of modern slavery;
- b. the initiation or conduct of a particular investigation or particular proceedings;
- c. anything done or omitted to be done by a person acting in a judicial capacity or on the instructions of or on behalf of such a person.

2. Subsection (1)(c) does not prevent the Commissioner from considering or drawing conclusions about an individual case for the purpose of, or in the context of, considering an issue of general relevance to the exercising of any of his functions set out in section 33.

PART 5

SUPPLY CHAINS AND THE GANGMASTERS LICENSING AUTHORITY

Supply chains

37. Amendment to the Companies Act 2006 section 414C

1. Section 414C(7)(iii) of The Companies Act 2006 is amended as follows.

Before “social” insert “modern slavery”.

2. After section 414C(7) insert—

“(7A) In relation to the information about modern slavery in subsection (7)(iii) the Secretary of State must by order specify the information that must be included in the strategic report and any other necessary requirements. The order must include requirements:

(a) that the modern slavery information in the strategic report be published online, and

(b) that the information included in the strategic report must include an explanation of measures taken by the quoted company to:

- i. verify and evaluate its supply chains to address the risks of modern slavery,
- ii. audit its suppliers,
- iii. certify goods and services purchased from suppliers,
- iv. maintain accountability for modern slavery issues within the company, and
- v. train staff.

Gangmasters Licensing Authority

38. Amendment to the Gangmasters (Licensing) Act 2004

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”.

PART 6

ASSETS AND PROCEEDS OF CRIME

39. Forfeiture of property related to an offence under Part 1

1. This section applies if a person is convicted on indictment of an offence under Part 1.

2. The court may order the forfeiture of a land vehicle used or intended to be used in connection with the offence if the convicted person—

- a. owned the vehicle at the time the offence was committed,
- b. was at that time a director, secretary or manager of a company which owned the vehicle,
- c. was at that time in possession of the vehicle under a hire-purchase agreement,
- d. was at that time a director, secretary or manager of a company which was in possession of the vehicle under a hire-purchase agreement, or
- e. was driving the vehicle in the course of the commission of the offence.

3. The court may order the forfeiture of a ship or aircraft used or intended to be used in connection with the offence if the convicted person—

- a. owned the ship or aircraft at the time the offence was committed,
- b. was at that time a director, secretary or manager of a company which owned the ship or aircraft,
- c. was at that time in possession of the ship or aircraft under a hire purchase agreement,
- d. was at that time a director, secretary or manager of a company which was in possession of the ship or aircraft under a hire-purchase agreement,
- e. was at that time a charterer of the ship or aircraft, or
- f. committed the offence while acting as captain of the ship or aircraft.

4. But where subsection (3)(a) or (b) does not apply to the convicted person, forfeiture of a ship or aircraft may be ordered only if subsection (5) applies or—

- a. in the case of a ship, its gross tonnage is less than 500 tons;
- b. in the case of an aircraft other than a hovercraft, the maximum weight at which it may take off in accordance with its certificate of airworthiness is less than 5,700 kilogrammes.

5. This subsection applies where a person who, at the time the offence was committed—

- a. owned the ship or aircraft, or
- b. was a director, secretary or manager of a company which owned it,

knew or ought to have known of the intention to use it in the course of the commission of an offence under Part 1.

6. The court may order the forfeiture of property, other than real property, which the court deems to have been related to the offence if the convicted person—

- a. owned the property at the time the offence was committed,
- b. was at that time a director, secretary or manager of a company which owned the property,
- c. was at that time in possession of the property,
- d. was at that time a director, secretary or manager of a company which was in possession of the property, or
- e. was using the property in the course of the commission of the offence.

7. Where a person who claims to have an interest in property falling under this section applies to a court to make representations about its forfeiture, the court may not order its forfeiture without giving the person an opportunity to make representations.

40. Detention of property related to an offence under Part 1

1. If a person has been arrested for an offence under Part 1, a constable or senior immigration officer may detain relevant property.

2. Property is relevant if the constable or officer has reasonable grounds to believe that an order for its forfeiture could be made under section 39 if the person arrested or any other person were convicted of the offence.

3. The property may be detained—

- a. until a decision is taken as to whether or not to charge the person arrested with the offence,
- b. if that person has been charged, until he is acquitted, the charge against him is dismissed or the proceedings are discontinued, or

- c. if that person has been charged and convicted, until the court decides whether or not to order forfeiture of the vehicle, ship or aircraft.
- 4. Any other person may apply to the court for the release of the property on the grounds that the person—
 - a. owns the property,
 - b. was, immediately before the detention of the property, otherwise lawfully in possession of it,
 - c. was, immediately before the detention of a vehicle, ship or aircraft, in possession of it under a hire-purchase agreement, or
 - d. is a charterer of the ship or aircraft.
- 5. The court to which an application is made under subsection (4) may, if satisfactory security or surety is tendered, release the property on condition that it is made available to the court if—
 - a. the person arrested is convicted, and
 - b. an order for its forfeiture is made under section 39.
- 6. In this section, “the court” means—
 - a. if the person arrested has not been charged, or has been charged but proceedings for the offence have not begun to be heard, a magistrates’ court;
 - b. if the person arrested has been charged and proceedings for the offence have begun to be heard, the court hearing the proceedings.
- 7. In this section, “senior immigration officer” means an immigration officer (appointed under the Immigration Act 1971) not below the rank of chief immigration officer.

41. Deprivation of rights in real property used to commit an offence under Part 1

- 1. Where any premises are used in the commission of an offence under Part 1, the High Court shall have power on application to deprive any person convicted of an offence under that Part of any interest that person has in such premises.
- 2. An application under subsection (1) is made by or on behalf of the Director of Public Prosecutions following a declaration made under subsection (3).

3. Subject to subsection (4) the court by or before which the person is convicted may make a declaration if that court is satisfied that any premises which were in his possession or under his control at the time when he was apprehended for the offence or when a summons in respect of it was issued—

- a. have been used for the purpose of committing, or facilitating the commission of, any offence, or
- b. were intended by him to be used for that purpose.

4. In considering whether to make a declaration under this section in respect of any property, a court shall have regard to—

- a. the value of the property; and
- b. the likely financial and other effects on the offender of the making of the order (taken together with any other order made against the person convicted by way of sentence or otherwise).

5. The Secretary of State shall prescribe by Order how any proceeds of orders made under this section are to be used.

42. Interim order prohibiting entry to premises related to an offence under Part 1

1. A magistrates' court may make an order under this section against a person arrested for an offence under Part 1 ("the defendant") on an application by—

- a. a chief officer of police, or
- b. the Director General of the National Crime Agency ("the Director General").

2. An application under this section must specify the premises for which the application is made and to which the order will apply.

3. The court may make the order only if it is satisfied that there are reasonable grounds to believe that —

- a. the defendant used or intended to use the premises specified in the application for the purpose of committing, or facilitating the commission of, an offence under Part 1; and
- b. an order would be made under section 41 if the defendant were convicted of the offence.

4. An order under this section prohibits the defendant entering, leaving, or visiting premises specified in the order.
5. An order under this section has effect—
 - a. for a fixed period specified in the order, or
 - b. until further order.

PART 7

MISCELLANEOUS

Review

43. Five-yearly review by Secretary of State

1. The Secretary of State must review this Act.
2. In carrying out the review of Part 1 of this Act the Secretary of State must have regard to—
 - a. whether there has been an increase in the proportion of successful prosecutions;
 - b. whether Part 1 operates as an effective tool for prosecutions, and is easily understood by all parts of the criminal justice system;
 - c. whether Part 1 is broad enough to meet the current known forms of modern slavery, but also future forms;
 - d. whether there are any gaps in coverage;
 - e. whether Part 1 is consistent with relevant international conventions and assists the international response to modern slavery
 - f. such other factors as the Secretary of State considers relevant.
3. The Secretary of State must prepare and publish a report on the outcome of the review.
4. The first report must be published before the end of the period of three years beginning with the day on which any section or part of this Act comes into force.
5. Each subsequent report must be published before the end of the period of five years beginning with the day on which the previous report was published.

6. The Secretary of State may arrange for the Anti-Slavery Commissioner or some other person to carry out the whole or part of a review under this section on the Secretary of State's behalf.

7. The Secretary of State must lay before Parliament a report prepared under this section.

Interpretation

44. Interpretation

1. In this Act—

“aircraft” includes hovercraft;

“captain” means master (of a ship) or commander (of an aircraft);

“child” means any person under eighteen years of age;

“country” includes territory or other part of the world;

“exploitation” has the meaning given in section 7 of this Act;

“land vehicle” means any vehicle other than a ship or aircraft;

“public authority” means any public authority within the meaning of section 6 of the Human Rights Act 1998 which exercises functions in England and Wales;

“ship” includes every description of vessel used in navigation;

“United Kingdom national” means—

(a) a British citizen,

(b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has a right of abode in the United Kingdom, or

(c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.

“United Kingdom resident” means an individual who is resident in the United Kingdom.

2. In Part 6, a reference to being an owner of property includes a reference to being any of a number of persons who jointly own it.

Final provisions

45. Saving, transitional and consequential provision

1. The Secretary of State may by order make whatever saving, transitory or transitional provision the Secretary of State thinks appropriate in connection with the coming into force of any provision of this Act or of an order made under this Act.

2. The Secretary of State may by order make whatever provision the Secretary of State thinks appropriate in consequence of this Act.

3. The provision which may be made by an order under subsection (2) includes provision amending, repealing or revoking any provision of an Act or of subordinate legislation (within the meaning of the Interpretation Act 1978).

46. Orders

1. Any power of the Secretary of State to make an order under this Act is exercisable by statutory instrument.

2. A statutory instrument containing an order under this Act is subject to annulment in pursuance of a resolution of either House of Parliament, subject to subsections (3), (4) and (5).

3. Subsection (2) does not apply to a statutory instrument containing—

- a. only orders under section 45(1) (transitional etc. provision) or section 48 (commencement);
- b. an order under section 45(2) which amends or repeals any provision of an Act.

4. A statutory instrument containing an order under section 45(2) which amends or repeals any provision of an Act 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. A statutory instrument containing an order under section 23 or 25 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

47. Extent

This Act extends to England and Wales only.

48. Commencement

1. Sections 45 to 49 come into force on the day on which this Act is passed.
2. The other provisions of this Act come into force on whatever day or days the Secretary of State appoints by order.
3. Different days may be appointed for different purposes.

49. Short title

This Act may be cited as the Modern Slavery Act 2014.

SCHEDULE

[The Schedule in the draft Bill without amendment]