

Modern Slavery (Victim Support) Bill [HL]

[AS INTRODUCED]

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[AS INTRODUCED]

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TO

Make provision about supporting victims of modern slavery.

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 adult 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 before reasonable grounds determination and during recovery and reflection 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 unless section 52B applies.

(2) This section applies to a person if—

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

(b) either a referral relating to that person has been made to the competent authority for a determination as to whether the person is a victim of slavery or human trafficking, or there are indicators that the person may be a victim of slavery or human trafficking and such a referral may be made. 15

(3) Subject to subsection (4), assistance and support must be provided under this section—

(a) for three working days if no referral is made to the competent authority; 20

(b) until a determination is made that there are not reasonable grounds to believe that the person is a victim of slavery or human trafficking;

(c) until a conclusive determination is made that the person is a victim of slavery or human trafficking; or 25

- (d) until a conclusive determination is made that the person is not a victim of slavery or human trafficking 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. 5
- (4) If a conclusive determination that a person is a victim of slavery or human trafficking is made within the recovery and reflection period, assistance and support is to be provided until the end of that period.
- (5) The recovery and reflection period in subsection (4) is a period of 45 days beginning with the day on which a determination is made by the competent authority that there are reasonable grounds to believe that the person is a victim of slavery or human trafficking. 10
- (6) Where assistance and support has been provided to a person under this section, the Secretary of State shall secure continued provision of that assistance and support for no more than nine working days if a conclusive determination is made that the person is not a victim of slavery or human trafficking. 15
- (7) The Secretary of State must ensure that a person to whom this section applies may not be removed from the United Kingdom or required to leave the United Kingdom for the period in which they are entitled to support under this section. 20

48B Provision of assistance and support to adult 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 unless section 52B applies. 25
- (2) This section applies to a person if—
- (a) that person is aged 18 or over or, if the age of the person is uncertain, the person does not fall within the provisions of section 51 (presumption about age); and 30
- (b) a competent authority has made a conclusive determination that the person is a victim of slavery or human trafficking.
- (3) Assistance and support must be provided for at least 12 months beginning on the day on which support provided under section 48A ends. 35
- (4) Where assistance and support is provided to a person under this section, the Secretary of State must consider whether it is necessary for the victim's physical, psychological and social recovery to provide assistance and support after the end of the period in subsection (3) for as long as they think appropriate subject to subsection (6). 40
- (5) A decision whether to provide assistance and support in accordance with subsection (4) must be made at least four weeks before the end of the assistance and support provided under subsection (3).

- (6) In determining—
- (a) whether it is necessary to provide assistance and support under subsection (4), and
 - (b) the period of time for which such assistance and support is to be provided,
- the Secretary of State must have regard to the factors set out in subsection (7).
- (7) The factors the Secretary of State must consider under subsection (4) are—
- (a) that person’s individual circumstances;
 - (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
 - (f) the recommendations of that person’s support worker.

48C Meaning of assistance and support

- (1) For the purpose of sections 48A and 48B, “assistance and support” includes but is not restricted to the provision of—
- (a) appropriate and safe accommodation;
 - (b) material assistance, including financial assistance;
 - (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;
 - (g) translation and interpretation services;
 - (h) assistance in obtaining specialist legal advice or representation (including with regard to access to compensation);
 - (i) assistance with repatriation, including a full risk assessment.
- (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) may be provided only with the consent of that person;
 - (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 needs of that person having particular regard 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;

- (e) must 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.
- (3) Nothing in this section affects the entitlement of any person to assistance and support under any other statutory provision. 5
- (4) The Secretary of State must set out in guidance the minimum standards to be provided under this Act for—
- (a) assistance and support;
 - (b) training of— 10
 - (i) support workers; and
 - (ii) anyone overseeing decisions about the provision of assistance and support.
- (5) The Secretary of State must make arrangements for inspection of support providers to ensure the minimum standards set out in guidance under subsection (4) are met. 15
- (6) Before publishing or amending minimum standards under this section, the Secretary of State must carry out a public consultation on the standards proposed.
- (7) Before coming into effect, the guidance in subsection (4), and any revised guidance, must be laid before both Houses of Parliament and is subject to annulment in pursuance of a resolution of either House of Parliament.” 20

2 Leave to remain to support adult victims of modern slavery

- (1) The Modern Slavery Act 2015 is amended as follows. 25
- (2) After section 52 (duty to notify Secretary of State about suspected victims of slavery or human trafficking) insert—
- “52A Provision of leave to remain following conclusive determination to facilitate support of adult victims of modern slavery**
- (1) Immigration rules must make provision for leave to remain in the United Kingdom to be granted to a person where there has been a conclusive determination that a person is a victim of slavery or human trafficking if and only if either subsection (2) or (3) applies and section 52B does not. 30
- (2) This subsection applies if the person receives support and assistance under one of the following— 35
- (a) section 48B;
 - (b) section 18(9) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.)); 40
 - (c) section 9(3)(c) of the Human Trafficking and Exploitation (Scotland) Act 2015 (asp 12); or

- (d) regulation 3(4)(c) of the Human Trafficking and Exploitation (Scotland) Act 2015 (Support for Victims) Regulations 2018 (S.S.I 2018/90).
- (3) This subsection applies if the person meets one or more of the following criteria— 5
- (a) leave is necessary due to the person’s circumstances, including but not restricted to—
- (i) the needs of that person for safety and protection from harm including protection from re-trafficking;
- (ii) the needs of that person for medical and psychological treatment; 10
- (b) the person is participating as a witness in criminal proceedings;
- (c) the person is bringing any civil proceedings including pursuing compensation.
- (4) Where the person is receiving assistance from a support worker the recommendations of the support worker must be considered in assessing that person’s circumstances under subsection (3)(a). 15
- (5) Immigration rules must provide for persons granted leave to remain in accordance with this section to have recourse to public funds for the duration of the period of leave. 20
- (6) Immigration rules must provide for leave to remain to be granted from the day on which the conclusive determination is communicated to a person for either—
- (a) the amount of time support and assistance will be provided under one of the measures listed in subsection (2); or 25
- (b) at least 12 months if the person meets one or more of the criteria in subsection (3).
- (7) Immigration rules must allow a grant of leave to remain under subsection (6) to be extended subject to the requirements of subsection (8). 30
- (8) In determining whether to extend a grant of leave to remain under subsection (7), and the period of time for which such extended leave should be provided, the person’s individual circumstances must be considered, and whether that person—
- (a) is receiving on-going support and assistance under the measures set out in subsection (2); or 35
- (b) meets one or more of the criteria in subsection (3).
- (9) “Immigration rules” in this section has the meaning given by section 33 of the Immigration Act 1971.
- (10) This section applies only to persons aged 18 or over. 40

52B Refusal of assistance and support or leave to remain

- (1) This section applies to sections 48A and 48B insofar as they apply to England and Wales.
- (2) This section also applies to section 52A insofar as it applies to England and Wales, Scotland and Northern Ireland. 5
- (3) A person may be refused assistance and support or leave to remain, as appropriate, if either –
- (a) the person is a sexual or violent offender and the Secretary of State considers that the person poses a genuine, present and serious risk to members of the public; or 10
- (b) the Secretary of State is satisfied that the person’s presence in the United Kingdom is a serious risk to national security.
- (4) If subsection (3) applies, the Secretary of State shall ensure the person affected is given reasons for the refusal in writing.
- (5) In this section, “sexual or violent offender” means a person falling within the definition of a “sexual or violent offender” in section 327 of the Criminal Justice Act 2003 (section 325: interpretation) or who has been convicted of an offence under the law of another country which would have fallen within that definition if it had been done in England or Wales.”” 15
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3 Safety plan for child victims of human trafficking

- (1) The Children Act 1989 is amended as follows.
- (2) Section 22 (general duty of local authority in relation to children looked after by them) is amended as follows—
- (a) after subsection (3C) insert— 25
- “(3D) The duty of a local authority under subsection (3)(a) to safeguard and promote the welfare of a child looked after by them, where the child is a victim of trafficking, shall include in particular a duty to consider the risk of re-trafficking and to take all reasonable steps to ensure that accommodation provided under subsection (1)(b) prevents the re-trafficking of the child.”; 30
- (b) after subsection (4)(c) insert—
- “(ca) where the child is a victim of trafficking, the child’s independent child trafficking guardian,”. 35
- (3) After section 22C(8)(d) (ways in which looked after children are to be accommodated and maintained) insert—
- “(e) if C is a victim of trafficking, the accommodation is suitable to C’s particular needs, in particular the need to prevent re-trafficking.”. 40

(4) After section 105(8) (interpretation) insert—

“(7A) In this Act a child is a victim of trafficking where—

- (a) there has been a conclusive determination that the individual is a victim of trafficking in human beings, 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.

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(7B) For the purposes of subsection (7A)—

- (a) there are reasonable grounds to believe that a child is a victim of trafficking in human beings if a competent authority has determined for the purposes of Article 10 of the Trafficking Convention (identification of victims) that there are such grounds;
- (b) there is a conclusive determination that a child is or is not a victim of trafficking in human beings when, on completion of the identification process required by Article 10 of the Trafficking Convention, a competent authority concludes that the child is or is not such a victim.

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(7C) In this Act—

- (a) “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;
- (b) “independent child trafficking guardian” has the same meaning as “independent child trafficking advocate” in section 48 (independent child trafficking advocates) of the Modern Slavery Act 2015.”

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4 Minor and consequential amendments

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

(2) Omit section 50(1).

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(3) After section 52B (refusal of assistance and support or leave to remain) insert—

“52C Interpretation: sections 48A, 48B, 52A-52B

(1) This section applies to sections 48A, 48B and 52A to 52B.

(2) There is a conclusive determination that a person is, or is not, a victim of slavery or human trafficking when the identification process conducted by a competent authority concludes that the person is, or is not, such a victim.

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(3) “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.

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- (4) “Indicators that the person may be a victim of slavery or human trafficking” refers to the sorts of things which indicate that a person may be a victim of slavery or human trafficking as set out in guidance issued under section 49. ”

- (4) In section 60 (extent) –

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- (a) in subsection (1) for “section 53” substitute “sections 52A to 53”;
(b) in subsection (3) for “section 53” substitute “sections 52A to 53”.

5 Extent, commencement and short title

- (1) Sections 1, 3 and 4(2) extend to England and Wales only.
- (2) This section, section 2, and sections 4(1), 4(3) and 4(4) extend to England and Wales, Scotland and Northern Ireland.
- (3) This Act comes into force at the end of the period of one year beginning with the day on which it is passed.
- (4) This Act may be cited as the Modern Slavery (Victim Support) Act 2022.

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Modern Slavery (Victim Support) Bill [HL]

[AS INTRODUCED]

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Make provision about supporting victims of modern slavery.

Lord McColl of Dulwich

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