

Modern Slavery, Human Trafficking and Human Exploitation Bill

The Anti-Trafficking Monitoring Group (ATMG) is pleased to present this **Modern Slavery, Human Trafficking and Human Exploitation Bill**.

This Bill was created to assist in the scrutiny and strengthening of the Modern Slavery Bill, building on the report published by Frank Field MP in December 2013¹ and the report of the Joint Committee on the Draft Modern Slavery Bill in April 2014². The provisions contained within this Bill are those which the ATMG feel are imperative for inclusion in UK anti-slavery legislation to ensure it is robust, comprehensive and world-leading.

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- Nadine Finch (*Barrister, Garden Court Chambers*)
- Paramjit Ahluwalia (*Barrister, Garden Court Chambers*)
- Parosha Chandran (*Barrister, 1 Pump Court Chambers*)
- Paul Luckhurst (*Barrister, Blackstone Chambers*)
- Peter Carter QC (*Red Lion Chambers*)
- Riel Karmy-Jones (*Barrister, Red Lion Chambers*)
- Shauna Gillan (*Legal Officer, Immigration Law Practitioners' Association*)

The Anti-Trafficking Monitoring Group monitors the UK's compliance with, and implementation of, the 2005 Council of Europe Convention on Action against Trafficking in Human Beings, as well as the EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. The ten organisations belonging to the ATMG are:

AFRUCA (Africans Unite Against Child Abuse)

Amnesty International UK

Anti-Slavery International

Bawso

ECPAT UK

Helen Bamber Foundation

Kalayaan

POPPY Project (of Eaves Housing for Women)

TARA project (Trafficking Awareness Raising Alliance, of Community Safety Glasgow (CSG))

UNICEF UK

<http://www.antislavery.org/atmg>

For further info, please contact: Vicky Brotherton at v.brotherton@antislavery.org +44 (0) 20 7737 9430

¹ <http://www.frankfield.com/upload/docs/Modern%20Slavery%20Bill%20Evidence%20Review.pdf>

² <http://www.publications.parliament.uk/pa/jt201314/jtselect/jtselect/166/16602.htm>

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BILL
TO

Bring the United Kingdom Government's laws and practice relating to modern forms of slavery, human trafficking and human exploitation into compliance with the Council of Europe Convention on Action against Trafficking in Human Beings 2005 and the EU Directive on Preventing And Combating Trafficking In Human Beings And Protecting Its Victims, and replacing Council Framework Decision 2002/629/JHA Directive 2011, and to become compliant with other aspects of relevant international and domestic legislation; to provide victims of trafficking, enslavement and exploitation with the necessary protections and rights; 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. GENERAL PRINCIPLES

- (1) The purposes of this Bill are:
- (a) to prevent and combat trafficking in persons, modern forms of slavery and exploitation in the United Kingdom;
 - (b) to protect and assist the victims of such trafficking, slavery and exploitation while ensuring respect for their human rights;
 - (c) to ensure the just and effective investigation, prosecution and punishment of traffickers, and slavery and exploitation offenders;
 - (d) to make special provision for the protection and care of child victims of trafficking, slavery and exploitation; and
 - (e) to promote and facilitate national co-operation in order to meet these objectives.

2. NON-DISCRIMINATION

- (1) The measures set forth in this Bill, in particular the identification of victims and the measures to protect and promote the rights of victims, shall be interpreted and applied in a way that is not discriminatory on any ground, such as race, colour, religion, belief, age, family status, culture, language, ethnicity, national or social origin, citizenship, gender, sexual orientation, political or other opinion, disability, property, birth, immigration or other status.

3. SCOPE

- (1) This Bill shall apply to all forms of trafficking in, enslaving or exploitation of human beings, whether national or transnational, and whether or not connected with organised crime.

4. DEFINITION OF MODERN SLAVERY

- (1) “Modern Slavery” means conduct prohibited by:
 - (a) sections 6, 7, 8, 9, 10 and 11 of this Bill;
 - (b) the 1926 Slavery Convention;
 - (c) the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 1956;
 - (d) the European Convention on Human Rights 1950;
 - (e) the International Labour Organisation Forced Labour Convention 1930 (No. 29);
 - (f) the International Labour Organisation Forced Labour Convention 1957 (No. 105);
 - (g) the Protocol to the 1930 Forced Labour Convention 2014;
 - (h) the International Labour Organisation Convention No. 182 (Elimination of the Worst Forms of Child Labour);
 - (i) the Council of Europe Convention on Action against Trafficking in Human Beings 2005;
 - (j) the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979;
 - (k) the United Nations Convention on the Rights of the Child (UNCRC) 1989;
 - (l) the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography 2002; and
 - (m) the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000), supplementing the United Nations Convention against Transnational Organised Crime.

5. OTHER DEFINITIONS

- (1) “child” means any person below 18 years of age and the “presumption of age” shall apply. The “presumption of age” means that where the age of a victim is uncertain and there are reasons to believe that the person is a child, the person must be presumed to be a child by all bodies exercising public functions in relation to that person. If a dispute arises as to a person’s age, the presumption of age will continue to apply until the final resolution of that dispute.

- (2) An “employer” is a person who employs an overseas domestic worker and sponsors them to first obtain, or to remain in the United Kingdom on, an overseas domestic worker’s visa.
- (3) An “enslaved person” means a person who is, or has been, subjected to the conduct referred to in section 6(1) of this Bill or conduct comprising slavery, servitude or forced or compulsory labour prohibited by the Conventions listed in section 4(1).
- (4) “exploitation” includes but is not limited to the exploitation of the prostitution of others or other forms of sexual exploitation; the exploitation of labour or services including begging or practices similar to slavery, servitude or forced or compulsory labour; the exploitation of or for criminal activities or the removal of organs; enforced marriage; enforced surrogacy; unlawful adoption; and enforced drugs smuggling, manufacture, production or distribution.
- (5) An “exploited child” means a child who is, or has been, subjected to the conduct referred to in section 10 of this Bill or conduct comprising exploitation prohibited by the Conventions listed in section 4(1).
- (6) An “exploited person” means a person who is, or has been, subjected to the conduct referred to in section 9 of this Bill or conduct comprising exploitation prohibited by the Conventions listed in section 4(1).
- (7) “investigatory body” means those bodies as shall be set out in regulations issued by the Secretary of State from time to time.
- (8) “Modern Slavery Policy” means the policy referred to in section 20(1).
- (9) “Modern Slavery Report” means the report referred to in section 20(2).
- (10) An “overseas domestic worker” is a person who has migrated to the United Kingdom to work as a domestic worker on an overseas domestic worker visa or who has migrated to the United Kingdom to work in the domestic service of a member of a diplomatic mission (a “diplomatic domestic worker”).
- (11) “parental responsibility” has the following meaning:
 - (a) for the application of this Bill to England and Wales, it has the same meaning as section 3 of the Children Act 1989;
 - (b) for the application of this Bill to Northern Ireland, it has the same meaning as section 6 of The Children (Northern Ireland) Order 1995;
 - (c) for the application of the Bill to Scotland, it has the same meaning as section 1 of the Children (Scotland) Act 1995.
- (12) “person” shall have its ordinary meaning and shall include bodies corporate or unincorporated and, unless stated otherwise, shall include a child.
- (13) A “position of vulnerability”, includes but is not limited to, an individual’s personal, situational or circumstantial vulnerabilities such as poverty, social isolation, pregnancy, gender or any physical or mental illness, impairment or

disability, including addiction to the use of any substance, or reduced capacity to form judgments by virtue of being a child or being otherwise vulnerable, or arising from the person having entered the country illegally or without proper documentation and the “abuse of a position of vulnerability” shall refer to any situation where the person involved believes he or she has no real and acceptable alternative but to submit to the abuse involved due to a position of vulnerability.

- (14) “public authority” includes any person certain of whose functions are functions of a public nature (other than a court or tribunal) that exercises functions in the United Kingdom and which persons are to be set out in regulations to be periodically issued by the Secretary of State.
- (15) “separated child” means a child who has been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. This may include children who have been trafficked, enslaved or exploited but are accompanied by other adults including community members, friends, or members of their extended family.
- (16) “slavery”, “servitude”, “forced labour” and “compulsory labour” are to be construed in accordance with Article 4 of the Human Rights Convention.
- (17) “The Human Rights Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4 November 1950.
- (18) “The Trafficking Convention” means the Council of Europe Convention on Action against Trafficking in Human Beings agreed by the Council of Europe at Warsaw on 16 May 2005.
- (19) “The Trafficking Directive” means EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.
- (20) A “trafficked person” means a person who is or has been subjected to the conduct referred to in sections 7 or 8 of this Bill or conduct comprising trafficking prohibited by the Conventions listed in section 4(1).
- (21) A “victim” is a natural person who has been subjected to—
 - (a) conduct that constitutes an offence under sections 6, 7, 8, 9, 10, 11 or 12;
 - (b) conduct prohibited by the Conventions listed at subsections 4(1)(b)-(m);
or
 - (c) conduct that would have constituted an offence under sections 6, 7, 8, 9, 10, 11 or 12 had they been in force when the conduct occurred.

6. OFFENCE OF SLAVERY, SERVITUDE OR FORCED OR COMPULSORY LABOUR

- (1) Any person (“P”) who—

- (a) holds another person in slavery or servitude and the circumstances are such that P knows or ought to know that the person is held in slavery or servitude; or
 - (b) requires another person to perform forced or compulsory labour and the circumstances are such that P knows or ought to know that the person is being required to perform forced or compulsory labour;

commits an offence of slavery, servitude or forced or compulsory labour.
- (2) The consent or apparent consent of a person to the acts referred to in subsections 6(1)(a) or 6(1)(b) shall be irrelevant.

7. OFFENCE OF HUMAN TRAFFICKING

- (1) Any person who—
- (a) recruits, transports, transfers, harbours or receives a person including by exchange or transfer of control over that or those persons;
 - (b) by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or abuse of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person; and
 - (c) knows or ought to know that the purpose of the acts in subsections 7(1)(a) and 7(1)(b) above is the exploitation of that person;
- commits an offence of human trafficking.
- (2) The consent or apparent consent of a person to the acts referred to in subsection 7(1)(a) or to the exploitation shall be irrelevant where any of the means set forth in subsection 7(1)(b) have been used.

8. OFFENCE OF CHILD TRAFFICKING

- (1) Any person who—
- (a) recruits, transports, transfers, harbours or receives a child including by exchange or transfer of control over the child; and
 - (b) knows or ought to know that the purpose of the acts in subsection 8(1)(a) is the exploitation of that child;
- commits an offence of child trafficking.
- (2) The consent or apparent consent of the child to the acts referenced in subsection 8(1)(a) or to the exploitation is irrelevant.

9. OFFENCE OF EXPLOITATION: GENERAL

- (1) A person commits an offence if they exploit a person by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or abuse of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.
- (2) A person may be in a situation of exploitation whether or not—
 - (a) escape from the situation is practically possible for the person; or
 - (b) the person has attempted to escape from the situation.
- (3) The consent or apparent consent of the person to the exploitation is irrelevant where any of the means set forth in section 9(1) has been used.

10. OFFENCE OF CHILD EXPLOITATION

- (1) A person commits an offence if they exploit a child.
- (2) It shall be such an offence even if there was no threat or use of violence, other forms of coercion, deception or any abuse of a position of vulnerability.
- (3) A child may be in a situation of exploitation whether or not—
 - (a) escape from the situation is practically possible for the child; or
 - (b) the child has attempted to escape from the situation.
- (4) The consent or apparent consent of the child to the exploitation is irrelevant.

11. OFFENCE OF THE USE OF A TRAFFICKED, ENSLAVED OR EXPLOITED PERSON OR CHILD

- (1) Any person who—
 - (a) uses the services of a trafficked, enslaved or exploited person (including an exploited child) in circumstances where they knew or ought to have known that they were using such services; or
 - (b) knows or ought to know they are obtaining a financial or other material benefit from conduct that comprises the commission of an offence under sections 6, 7, 8, 9, 10, 11 or 12;commits an offence under this section.

12. IDENTITY AND IMMIGRATION DOCUMENTS OFFENCES

- (1) Any person who—
 - (a) uses, conceals, removes, withholds or destroys any identity or travel document, whether or not the document is of British origin or authentic, including but not limited to, a passport, driving licence, national insurance number, or ID card that belongs to another person, or any

document that establishes or purports to establish another person's immigration status without that person's consent;

- (b) by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or abuse of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person;

commits an offence under this section.

- (2) The consent or apparent consent of a victim to any of the acts set forth in subsection 12(1)(a) shall be irrelevant where any of the means set forth in subsection 12(1)(b) have been used.
- (3) The consent or apparent consent of a child to any of the acts set forth in subsection 12(1)(a) shall be irrelevant, whether or not any of the means set forth in subsection 12(1)(b) have been used.

13. COMMISSION OF OFFENCES WITHIN OR OUTSIDE THE UNITED KINGDOM

- (1) A person who is a United Kingdom national, resident or who carries on business in the United Kingdom commits an offence under sections 6, 7, 8, 9, 10, 11 or 12 regardless of—
 - (a) where the offence took place; or
 - (b) the country or territory which is the place of recruitment, transportation, transfer, harbouring or receipt 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 recruitment, transportation, transfer, harbouring or receipt of any person in relation to whom the offence is committed.

14. PENALTIES

- (1) A person guilty of an offence under sections 6, 7, 8, 9, 10, or 11 is liable—
 - (a) on conviction on indictment, to be sentenced to imprisonment for a term of up to life imprisonment; and
 - (b) on summary conviction, to be sentenced to imprisonment for a term not exceeding 12 months, or a fine, or both.
- (2) A person guilty of an offence under section 12 is liable—

- (a) on conviction on indictment, to be sentenced to imprisonment for a term not exceeding five years; and
- (b) on summary conviction, to be sentenced to imprisonment for a term not exceeding 12 months, or a fine, or both.

15. NON-PROSECUTION OF VICTIMS AND NON-APPLICATION OF PENALTIES TO VICTIMS

- (1) Where a trafficked, enslaved or exploited person (“A”) has committed an illegal act as a direct consequence of being trafficked, enslaved or exploited, no prosecution, conviction or imposition of penalties shall occur if–
 - (a) A was an adult at the date of the illegal act and was compelled to commit the illegal act; or
 - (b) A was a child at the date of the illegal act.
- (2) For the purposes of subsection 15(1)(a), a person will have been compelled to commit an illegal act if they were subjected to one of the following: threats, the use of force or other forms of coercion; abduction; fraud; deception; the abuse of power or abuse of a position of vulnerability; the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.
- (3) For the purposes of section 15(1), A is to be treated as being a trafficked, enslaved or exploited person if–
 - (a) a decision has been made under the National Referral Mechanism that A is a trafficked, enslaved or exploited person; or
 - (b) no such decision has been made under the National Referral Mechanism but the court determines, based on the evidence before it, that A is a trafficked, enslaved or exploited person; or
 - (c) a decision was made under the NRM that A is not a trafficked, enslaved or exploited person, but the court is satisfied that the evidence adduced by the defence establishes that A was a trafficked, enslaved or exploited person.
- (4) Section 15(1) provides a statutory defence to a criminal charge. Once A raises as a defence to a charge that they committed the illegal act as a direct consequence of their trafficking, enslavement or exploitation, 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 illegal act was not committed as a direct consequence of being or having been a trafficked, enslaved or exploited person shall lie upon the prosecution.

16. DUTY ON PUBLIC AUTHORITIES AND THE NATIONAL REFERRAL MECHANISM (“NRM”)

General duty to identify, assist, support and promote the welfare of victims

- (1) Public authorities have a general duty:
 - (a) to take all reasonable steps to identify persons who are, may be, or may have been, trafficked, enslaved or exploited persons;
 - (b) to take all reasonable steps to provide assistance and support (including to refer persons to other agencies for assistance and support) on a consensual and informed basis, and to promote the welfare of persons who are, may be, or may have been, trafficked, enslaved or exploited persons, including, as a minimum the provision of:
 - (i) standards of living capable of ensuring their subsistence, through such measures as the provision of appropriate and secure accommodation, psychological and material assistance;
 - (ii) access to necessary medical treatment;
 - (iii) translation and interpretation services;
 - (iv) counselling and information, in particular regarding their legal rights and the services available to them, in a language that they can understand;
 - (v) assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders; and
 - (vi) access to education for children;
 - (c) to make arrangements for ensuring that any services provided by another person for the purpose of discharging the public authority’s function are provided in accordance with the general duty in section 16(1) above; and
 - (d) to have due regard to the fact that an individual is, or may have been a trafficked, enslaved or exploited person when making decisions affecting that individual.
- (2) The Secretary of State must, in guidance to be issued pursuant to section 22 specify the steps that public authorities must take in order to discharge their obligations in this section, including training which public authorities must carry out.

Duty to investigate and the protection of witnesses

- (3) There shall be a duty on the Police and other investigatory bodies to undertake a prompt and thorough investigation of offences set out in this Bill where circumstances, or a complaint which they receive, gives rise to a reasonable suspicion that an offence under this Bill may have been committed.

- (4) The duty to investigate offences under this Bill includes a duty to investigate the application of the proceeds of the offence and to promptly take all reasonable steps to seek to seize those assets.
- (5) The Secretary of State shall, in guidance to be issued under section 22, introduce special measures to assist vulnerable trafficked, enslaved or exploited persons who are to give evidence in criminal proceedings as witnesses of the alleged commission of an offence prescribed by this Bill. The provision of such special measures shall be provided on the basis of vulnerability without discrimination of any kind.

Establishment and function of the National Referral Mechanism (“NRM”)

- (6) The Secretary of State must establish an 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 including, at a minimum, the measures referred to in section 16(1).
- (7) 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 in sections 16(11) and (12) below.
- (8) No authority that is responsible for deciding on an individual’s immigration or asylum status may also be responsible for deciding whether that person is a trafficked, enslaved or exploited person.
- (9) 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.
- (10) 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.

Additional protections – renewable residence permits

- (11) 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.
- (12) 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.

Duties in relation to children

- (13) 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 Bill 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 Bill, prevail.

17. INDEPENDENT LEGAL GUARDIANS

- (1) An independent legal child guardian shall be appointed to represent the best interests of each child who is a separated child and/or may be a trafficked, enslaved or exploited person pursuant to this Bill if the person who has parental responsibility for the child fulfils any of the conditions set out in section 17(4).
- (2) The Secretary of State shall establish an independent body to be known as 'the Child Guardianship Service' which shall–
- (a) by order set out the arrangements for the recruitment, vetting and appointment of a suitably qualified independent child guardian with the requisite professional qualifications immediately after a child is identified as a separated child and/or a potential victim of trafficking, enslaving or exploitation;
 - (b) by order set out requirements for the training courses to be completed before a person may discharge duties as an independent child guardian;
 - (c) by order set out the arrangements for the supervision of persons discharging duties as an independent child guardian;
 - (d) monitor the activities of the independent child guardians and by order provide an accessible individual complaint mechanism for all children under the Child Guardianship Service;
 - (e) by order set out the arrangements for the provision of support services for persons discharging duties as an independent child guardian.
- (3) Under the supervision of the Child Guardianship Service, the appointed independent legal child guardian shall be responsible at a minimum for–

- (a) ensuring that all decisions relating to the child are made in the child's best interests and, where reasonably practicable, are consistent with the child's welfare after ascertaining the child's wishes and feelings in relation to those decisions;
 - (b) advocating for the child, if a potential trafficked, enslaved or exploited person, to receive identification as such, appropriate care, safe accommodation, medical treatment, including psychological assistance, education, translation and interpretation services;
 - (c) assisting the child to access legal and other representation where necessary, including, where appropriate, appointing and instructing the solicitor representing the child on all matters relevant to the interests of the child;
 - (d) consulting, advising and informing the child victim of the child's legal rights;
 - (e) keeping the child informed of all relevant legal and administrative proceedings;
 - (f) contributing to the identification of a plan to safeguard and promote the long-term welfare of the child based on an individual assessment of that child's best interests;
 - (g) providing a link between the child and various organisations who may provide services to the child;
 - (h) assisting in establishing contact with the child's family, where the child so wishes and it is in the child's best interests;
 - (i) where appropriate, liaising with an immigration officer handling the child's case in conjunction with the child's legal representative;
 - (j) accompanying the child to all relevant interviews, including those relating to police, welfare, immigration and compensation; and
 - (k) accompanying the child whenever the child moves to new accommodation.
- (4) Section 17(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) is a local authority; or
 - (e) is in a country outside the United Kingdom.
- (5) In section 17(1), an independent child guardian may be an employee of—

- (a) an independent statutory body; or
 - (b) a recognised charitable organisation.
- (6) A person discharging duties as an independent child guardian shall not discharge any other statutory duties in relation to a child for whom they are providing assistance under this section.
- (7) Where an independent child guardian is appointed under section 17(1), the authority of the independent child guardian in relation to the child shall be recognised by any relevant body.
- (8) In section 17(7), a “relevant body” means a person or organisation–
- (a) which provides services to the child;
 - (b) to which a child makes an application for services; or
 - (c) to which the child needs access in relation to being a potential victim of trafficking, enslaving or exploitation.

18. APPLICATIONS FOR COMPENSATION AND OTHER REMEDIES

- (1) A trafficked, enslaved or exploited person shall have the right to apply to the Government for compensation for any harm they have suffered as a result of being trafficked, enslaved or exploited and to seek any other private or public law remedies which may be available in respect of their trafficking, enslavement or exploitation.
- (2) A trafficked, enslaved or exploited person shall be entitled to apply for legal aid in respect of any such claims.
- (3) A trafficked, enslaved or exploited person who applies for compensation, or any other legal remedy in respect of their trafficking, enslavement or exploitation, shall have leave to remain in the United Kingdom for the purposes of pursuing their claim, up to and including a reasonable period following the final and conclusive determination of their claim and shall continue to receive support and assistance in accordance with section 16 during this time.
- (4) The Secretary of State shall, by guidance, set out the process–
- (a) for enabling a trafficked, enslaved or exploited person to apply for compensation from the Government; and
 - (b) for the provision of assistance and support to a trafficked, enslaved or exploited person to:
 - (i) apply for Government compensation; and/or
 - (ii) to seek leave to remain under section 18(3) above.

19. OVERSEAS DOMESTIC WORKERS

Rights of overseas domestic workers

- (1) Overseas domestic workers including diplomatic domestic workers shall be entitled to:
 - (a) change their employer (but not work sector) while in the United Kingdom, without any adverse consequences for their immigration status;
 - (b) renew their domestic worker visa or diplomatic domestic worker visa for as long as the worker is in employment;
 - (c) be joined in the United Kingdom by their spouse or civil partner and any of their children who are under the age of 18;
 - (d) apply for indefinite leave to remain after five continuous years of residence in the United Kingdom and where they continue to be required for employment as a domestic worker.

Obligations of an employer

- (2) An employer must pay an overseas domestic worker the National Minimum Wage. A failure to do so shall be an offence under section 31 of the National Minimum Wage Act 1998. The Family Worker exemption provided for under Regulation 2(2) of the National Minimum Wage Regulations 1999 shall not apply to any dispute relating to the wages of an overseas domestic worker.
- (3) An employer must inform HMRC in writing of the overseas domestic workers' tax and national insurance contributions (including where any exemption for the worker may apply) within three months of the commencement of an overseas domestic worker's first visa, or when their visa is renewed for the first time, whichever is the earlier.
- (4) An employer who fails to comply with section (19)(3) commits an offence and shall be liable on summary conviction to a fine.

Additional protections - temporary visa for overseas domestic workers

- (5) An overseas domestic worker shall be entitled to a three month temporary visa permitting them to live in the United Kingdom for the purposes of seeking new employment as an overseas domestic worker where—
 - (a) there is evidence that the overseas domestic worker has been trafficked, enslaved or exploited by their employer, irrespective of whether or not the employer has been criminally charged or convicted in respect of such conduct;
 - (b) the employer informs the Home Office that the overseas domestic worker has ceased to work for the employer and as a consequence the overseas domestic worker's visa is, or will be, revoked;

- (c) the employer dismisses the overseas domestic worker within three months of the date of expiry of their overseas domestic worker visa; or
- (d) the overseas domestic worker's visa is revoked as a result of the sponsoring employer's misconduct including, without limitation, the non-payment of National Minimum Wage, tax or national insurance,

and where the overseas domestic worker would otherwise be unable to remain in the United Kingdom.

For the purposes of this section, and without limiting the general definition of exploitation in section 5 above, "exploitation" in section 19(5) expressly includes a failure by an employer to pay the overseas domestic worker the National Minimum Wage and non-minor breaches by the employer of applicable employment law.

- (6) If a temporary visa is not granted to an overseas domestic worker under section 19(5), the overseas domestic worker shall have a right of review of that decision by the High Court and the right to apply for legal aid in relation to any such review.
- (7) An overseas domestic worker shall have the right to remain in the United Kingdom on the same terms as their overseas domestic worker visa for a reasonable period for the purposes of preparing and lodging an application for a temporary visa under section 19(5) and for any period while they await any decision from the Home Office regarding their immigration status.

Applications for diplomatic domestic worker visas

- (8) The Home Office shall only grant a diplomatic domestic worker visa where there is evidence that the diplomatic domestic worker is or will be employed in the United Kingdom pursuant to a direct contractual relationship with the relevant diplomatic mission.

Eligibility for existing overseas domestic workers

- (9) Overseas domestic workers living in the United Kingdom as at the date that this Bill comes into force (irrespective of the particular visa terms that may govern their residence in the United Kingdom) shall be eligible to the rights and protection afforded by sections 19(1), 19(5), 19(6) and 19(7) above if, within 12 months of this Bill coming into force, the individual overseas domestic worker or diplomatic domestic worker seeks to invoke any one or more of the rights and protection set out in the relevant sections.

20. TRANSPARENCY IN SUPPLY CHAINS

General duty

- (1) Every company operating in the United Kingdom and having annual worldwide gross receipts exceeding £60,000,000 shall establish a Modern Slavery Policy detailing their understanding of and commitment to eradicating Modern Slavery from their supply chains and shall disclose, in a Modern Slavery Report as set

forth in section 20(2), the measures it is taking to eradicate modern slavery from its own operations, direct supply chains for tangible goods and services whether or not for sale to customers and other supply chain tiers where risks of slavery have been identified. In the event that a company has already published a general human rights policy, that policy shall be amended to clarify and detail its approach to Modern Slavery within this policy as set forth in section 20(2).

Contents of disclosure

- (2) The report described in section 20(1) shall disclose the efforts of the company, taken during the year for which such reporting is required, to evaluate and address the risks and presence of Modern Slavery from its own operations and throughout its supply chain. If such efforts have been made, such disclosure shall be included in the company's Modern Slavery Report, outlining to what extent, if any, the company does each of the following –
 - (a) describes risks identified throughout the supply chain, including whether there has been consultation with external experts, independent labour organisations, or independent civil society organisations; and the measures taken towards preventing or eliminating those risks;
 - (b) gathers reports of suppliers' sites and conducts unannounced expert inspections of suppliers to evaluate the effectiveness of and compliance with the company's Modern Slavery Policy. The disclosure shall publish, who undertook the report, whether inspection visits were announced, the terms of reference of any inspections and audits carried out. Companies should state the measures they have taken to gather credible and objectively verifiable evidence;
 - (c) verifies and provides evidence whether suppliers have in place appropriate systems to identify risks of Modern Slavery within their own supply chain and whether such systems are in compliance with the company's Modern Slavery Policy. Where evidence or suspicions of modern slavery are found, the company should have agreed steps to engage with suppliers, relevant experts and officials, conduct further investigation if needed, and take the necessary steps to ensure appropriate action is taken to prevent and end slavery when it is verified;
 - (d) maintains internal accountability standards, supply chain management and procurement systems, and procedures for employees or contractors failing to meet the company's Modern Slavery Policy;
 - (e) provides company employees and management who have direct responsibility for supply chain management with training on Modern Slavery with particular respect to identifying and mitigating risks within their supply chains;
 - (f) ensures that recruitment practices of all suppliers comply with the company's Modern Slavery Policy and that these are based on international standards and good practice;

- (g) takes action necessary and appropriate to assist people who have been victims and, where the victim has offered their informed consent, to report cases of modern slavery that the company uncovers to the relevant authorities or agencies.

Availability of information

- (3) The disclosure described in section 20(2) shall be:
 - (a) set out in the company's annual report, and
 - (b) posted prominently on the company's internet website, where available, and offered in writing to a consumer, civil society organisation or relevant stakeholder within 30 days of their request for such disclosure.
- (4) The Secretary of State for Business Innovation and Skills shall make available to the public in a searchable format on the Department of Business Innovation and Skills' website:
 - (a) a list of companies required to make the disclosure under section 20(1) above; and
 - (b) a compilation of the information disclosed pursuant to such requirements on an annual basis.

Penalty for non-compliance

- (5) The Secretary of State shall promulgate regulations setting deadlines for including the Modern Slavery Policy in a company's annual report and imposing penalties for failure to comply with those deadlines. Nothing in this section shall limit remedies available for a violation of any other UK law.

Review

- (6) The effectiveness of the Transparency in Supply Chains provision will be reviewed after 3 years to assess whether any amendments should be made.

21. ANTI-SLAVERY COMMISSIONER

Establishment

- (1) There is to be an office of Anti-slavery Commissioner (in this section "the Commissioner").
- (2) The Commissioner shall be appointed by the Secretary of State, following a pre-appointment review by Parliament of the candidate proposed by the Secretary of State.
- (3) The Commissioner may appoint their own staff.

General function and powers

- (4) The Commissioner shall–

- (a) monitor trafficking, slavery, exploitation, servitude, and forced or compulsory labour, the fulfilment of international obligations and the effectiveness of national legislation and policy;
 - (b) issue proposals, recommendations, statements, opinions and advice relevant to the fight against trafficking, slavery, exploitation, servitude, forced or compulsory labour and to the realisation of the rights of victims;
 - (c) engage with international organisations on trafficking, slavery, exploitation, servitude, forced or compulsory labour, child protection, and other relevant issues;
 - (d) report annually to Parliament on trafficking, slavery, exploitation, servitude, forced or compulsory labour, and related issues;
 - (e) periodically review the offences and related policy of trafficking and slavery to ensure that they reflect the UK's obligations under the Trafficking Convention and Trafficking Directive and other international instruments are consistently applied to all trafficked, enslaved or exploited persons; and
 - (f) periodically review public authorities' compliance with their duty under section 16 above.
 - (g) provide an impact assessment on the trafficking, slavery, exploitation, servitude, and forced or compulsory labour implications for government trade deals and trade and aid policy.
- (5) The Commissioner is responsible for reviewing the practical implementation of the non-prosecution and non-punishment of trafficked, enslaved and/or exploited persons, and in doing so must have particular regard to women and children.
- (6) The Commissioner shall, specifically in respect of victims–
- (a) encourage persons exercising functions or engaged in activities affecting trafficked, enslaved or exploited persons to take account of the views and interests of victims;
 - (b) consult with and advise the government on the views and interests of trafficked, enslaved or exploited persons;
 - (c) consider the operation of complaints procedures relating to trafficked, enslaved or exploited persons;
 - (d) consider any other matters relating to the services for, and interests and outcomes of trafficked, enslaved or exploited persons;
 - (e) be responsible for reviewing the practical implementation of the provision in this Bill for the non-prosecution of and non-application of penalties to trafficked, enslaved or exploited persons and victims of

forced or compulsory labour, and in doing so must have particular regard to women and children; and

- (f) publish a report on any matter in connection with trafficking, slavery, exploitation, servitude, and forced or compulsory labour considered by the Commissioner, which may include recommendations.
 - (g) provide an impact assessment on the trafficking, slavery, exploitation, servitude, and forced or compulsory labour implications for government trade deals and trade and aid policy.
- (7) The Commissioner must take reasonable steps to involve trafficked, enslaved and/or exploited persons in the discharge of his/her function under this section, and in particular to—
- (a) ensure that trafficked, enslaved or exploited persons are made aware of the Commissioner’s function and how they may communicate with the Commissioner; and
 - (b) consult trafficked, enslaved or exploited persons, and organisations working with them, on the matters the Commission proposes to consider.
- (8) The Commissioner is not obliged under this section to conduct an investigation of the case of an individual trafficked, enslaved or exploited person. The Commissioner may, however—
- (a) investigate a particular case and/or intervene as a third party in a particular case where the case raises issues of public policy of relevance to other trafficked enslaved or exploited persons; or
 - (b) investigate any decision or recommendation made, or any act done or omitted, in respect of any trafficked, enslaved or exploited person.
- (9) All public authorities must supply the Commissioner with such information in that person’s possession or control relating to those functions as the Commissioner may reasonably request for the purposes of his function under this section (provided that the information is information which that person may, apart from this section 21(9), lawfully disclose to the Commissioner).
- (10) Where the Commissioner has published a report under this section containing recommendations in respect of any person exercising functions under any enactment, he may require that person to state in writing, within such period as the Commissioner may reasonably require, what action the person has taken or proposes to take in response to the recommendations.
- (11) The Secretary of State must not take steps or impose measures that may impair, or may appear to impair, the Commissioner’s independence and shall ensure that the Commissioner is, to the extent the Commissioner is able, to determine, without limitation (other than as prescribed in this Bill):
- (a) The Commissioner’s activities;

- (b) The Commissioner’s timetables;
- (c) The Commissioner’s priorities; and
- (d) The Commissioner’s resources and funding.

22. OTHER MATTERS

Guidance and Regulations to be issued by the Secretary of State

The Secretary of State shall from time to time issue regulations and guidance in respect of the interpretation and application of this Bill and in particular in respect of the following matters:

- (a) regulations setting out the investigatory bodies subject to section 16(3);
- (b) regulations setting out the public authorities subject to section 16(1);
- (c) regulations specifying the procedures to be following to implement the NRM and the procedures to be applied by the NRM, including a right of appeal (sections 16(7) and (9));
- (d) guidance for Courts and Tribunals regulating the taking of evidence in any court or tribunal proceedings from vulnerable trafficked, enslaved or exploited persons;
- (e) guidance regarding the duty to identify, support and promote the welfare of victims (section 16(2)); and
- (f) guidance on the procedures for a trafficked, enslaved or exploited person to apply for compensation (section 18).

The Proceeds of Crime Act 2002

- (2) Schedule 2, section 4 of The Proceeds of Crime Act 2002 is hereby amended to include the offences in sections 6, 7, 8, 9, 10, 11 or 12 of this Bill as ‘lifestyle offences’.

23. REPEAL OF EXISTING PROVISIONS FOR ENGLAND AND WALES

- (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–
 - (a) section 71 (slavery, servitude and forced or compulsory labour).

24. REPEAL OF EXISTING PROVISIONS FOR SCOTLAND

- (1) In the Criminal Justice (Scotland) Act 2003, omit–
 - (a) section 22 (trafficking people for sexual exploitation).
- (2) In the Criminal Justice and Licensing Act 2010, omit–
 - (a) section 46 (trafficking people for sexual exploitation),
 - (b) section 47 (slavery, servitude and forced or compulsory labour).

25. REPEAL OF EXISTING PROVISIONS FOR NORTHERN IRELAND

- (1) In the Criminal Justice Act (Northern Ireland) 2013, omit–
 - (a) section 6 (trafficking people for sexual exploitation);
 - (b) section 7 (trafficking people for other exploitation);
 - (c) section 8 (trafficking offences to be triable only on indictment).