

MODERN SLAVERY ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Protection of Victims

Section 48: Independent child trafficking advocates

229. *Subsections (1) and (3)* provide the Secretary of State with a duty to make such arrangements as the Secretary of State considers reasonable so that specialist independent child trafficking advocates are available to support and represent children who there are reasonable grounds to believe may be victims of trafficking. These arrangements can include paying for such advocates. This duty is subject to the commencement provision set out in section 61, which provides that the provisions cannot be commenced until 9 months have passed from Royal Assent and resolutions to this effect have been passed by both Houses of Parliament. At the time of enactment independent child trafficking advocates are being trialled. The commencement provision allows the trial to finish and be evaluated, and the Secretary of State to report to Parliament (as required by *subsection (7)*), before Parliament takes a decision on whether this provision should be commenced.
230. *Subsection (2)* requires the Secretary of State to have regard to the principle that such advocates should, as far as practicable, be independent of those responsible for making decisions about the child.
231. *Subsection (4)* places a duty on any person appointed as a child's independent child trafficking advocate to promote the child's well-being and act in the child's best interests.
232. *Subsection (5)* gives a child's independent child trafficking advocate the power, where it is appropriate to do so, to assist the child to obtain legal, or other, advice, including (where necessary) to instruct legal representatives to act on the child's behalf.
233. *Subsection (6)* places a duty on the Secretary of State to make regulations about independent child trafficking advocates, which must include the circumstances and conditions under which a person may act as an independent child trafficking advocate, arrangements for the approval of the appointment of such advocates, the timing of appointment (as soon as reasonably practicable where there are reasonable grounds to believe a child may be a victim of trafficking – this can be before any referral into the UK's victim identification process) and the advocates' functions. These regulations must also include requirements on the public authorities that are taking decisions regarding, or providing services to, a child to recognise and pay due regard to the child's independent child trafficking advocate and to provide information regarding the child to the child's independent child trafficking advocate (subject to any restrictions on disclosure).
234. *Subsection (7)* provides that the Secretary of State is required to lay a report before Parliament on the steps that the Secretary of State proposes to take in relation to independent child trafficking advocates under this section. The Secretary of State is

*These notes refer to the Modern Slavery Act 2015
(c.30) which received Royal Assent on 26 March 2015*

required to report back to Parliament within 9 months of Thursday 26 March 2015, the day on which this Act was passed.