



# Illegal Migration Act 2023

## 2023 CHAPTER 37

### *Modern slavery*

#### **29 Disapplication of modern slavery provisions**

(1) Section 63 of the Nationality and Borders Act 2022 (identified potential victims of slavery or human trafficking: disqualification from protection) is amended as follows.

(2) In subsection (1)—

- (a) for “may” substitute “must”, and
- (b) after paragraph (b) insert—

“This is subject to subsection (2A).”

(3) After subsection (2) insert—

“(2A) A competent authority may not determine that subsection (2) is to apply to a person if the competent authority considers that there are compelling circumstances which mean that subsection (2) should not apply to the person.”

(4) In subsection (3)—

- (a) for paragraph (f) substitute—

“(f) the person—

- (i) is not a British citizen,
- (ii) has been convicted in the United Kingdom of an offence, and
- (iii) has been sentenced to a period of imprisonment for the offence;”, and

- (b) after paragraph (f) insert—

“(fa) the person is liable to deportation from the United Kingdom under section 3(5) or (6) of the Immigration Act 1971 (deportation for the public good etc or as a result of recommendation following conviction);

---

*Status: This is the original version (as it was originally enacted).*

---

- (fb) the person is liable to deportation from the United Kingdom under any provision of, or made under, any other enactment that provides for such deportation;”.

(5) After subsection (5) insert—

“(5A) In subsection (3)(f)—

- (a) “British citizen” has the same meaning as in section 3(5) of the Immigration Act 1971 (and section 3(8) (burden of proof) applies), and
- (b) the reference to a person who has been sentenced to a period of imprisonment—
  - (i) does not include a reference to a person who receives a suspended sentence (unless a court subsequently orders that the sentence or any part of it is to take effect), and
  - (ii) includes a reference to a person who is sentenced to detention, or ordered or directed to be detained, in an institution other than a prison (including, in particular, a hospital or an institution for young offenders).

(5B) For the purposes of subsection (3)(f) a person subject to an order under section 5 of the Criminal Procedure (Insanity) Act 1964 (insanity etc) has not been convicted of an offence.”

(6) An amendment made by a provision of this section applies in relation to a person whether a positive reasonable grounds decision or a positive conclusive grounds decision within the meaning of Part 5 of the Nationality and Borders Act 2022 was made in relation to the person before or after the coming into force of the provision making the amendment.