



Illegal Migration Act 2023

2023 CHAPTER 37

Modern slavery

PROSPECTIVE

22 Provisions relating to removal and leave

- (1) Subsection (2) (disapplication of modern slavery provisions) applies in relation to a person if—
- the Secretary of State is required by section 2(1) to make arrangements for the removal of the person from the United Kingdom, and
 - a decision has been made by a competent authority that there are reasonable grounds to believe that the person is a victim of slavery or human trafficking (a “positive reasonable grounds decision”).

This is subject to subsections (3) to (7).

- (2) Where this subsection applies in relation to a person—
- any prohibition arising under section 61 or 62 of the Nationality and Borders Act 2022 (recovery period) on removing the person from, or requiring them to leave, the United Kingdom does not apply in relation to the person, and
 - any requirement under section 65 of that Act (leave to remain) to grant the person limited leave to remain in the United Kingdom does not apply in relation to the person.
- (3) Subsection (2) does not apply in relation to a person if—
- the Secretary of State is satisfied that the person is cooperating with a public authority in connection with an investigation or criminal proceedings in respect of the relevant exploitation,
 - the Secretary of State considers that it is necessary for the person to be present in the United Kingdom to provide that cooperation, and

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- (c) the Secretary of State does not consider that the public interest in the person providing that cooperation is outweighed by any significant risk of serious harm to members of the public which is posed by the person.
- (4) In subsection (3)—
 - (a) the reference to a person cooperating with a public authority in connection with an investigation or criminal proceedings is to the person doing so to the extent that is reasonable having regard to the person’s circumstances, and
 - (b) “the relevant exploitation” means—
 - (i) the conduct or alleged conduct resulting in the positive reasonable grounds decision, and
 - (ii) where a positive conclusive grounds decision has also been made in relation to the person, any other conduct resulting in that decision.
- (5) The Secretary of State must assume for the purposes of subsection (3)(b) that it is not necessary for the person to be present in the United Kingdom to provide the cooperation in question unless the Secretary of State considers that there are compelling circumstances which require the person to be present in the United Kingdom for that purpose.
- (6) In determining whether there are compelling circumstances as mentioned in subsection (5), the Secretary of State must have regard to guidance issued by the Secretary of State.
- (7) Subsection (2) does not apply in relation to a person (“A”) if subsection (3) applies in relation to a person (“P”) and—
 - (a) A is P’s child, or a child living in the same household as P in circumstances where P has care of A, or
 - (b) in a case where P is a child—
 - (i) A is P’s parent, or
 - (ii) A lives in the same household as P and has sole responsibility for P.
- (8) Subsection (9) applies to a person if—
 - (a) the Secretary of State is not required by section 2(1) to make arrangements for the removal of the person from the United Kingdom,
 - (b) the only reason why the Secretary of State is not required to do so is that the person has limited leave to remain in the United Kingdom granted under section 65(2) of the Nationality and Borders Act 2022,
 - (c) that leave was granted on or after 7 March 2023, and
 - (d) subsection (3) or (7) does not apply in relation to the person.
- (9) The Secretary of State may revoke the leave granted to the person under section 65(2) of the Nationality and Borders Act 2022.
- (10) Subsection (9) is to be treated for the purposes of section 3 of the Immigration Act 1971 as if it were provision made by that Act.
- (11) In this section—
 - “child” means a person who is under the age of 18;
 - “competent authority” means a person who is a competent authority of the United Kingdom for the purposes of the Trafficking Convention;
 - “positive conclusive grounds decision” means a decision made by a competent authority that a person is a victim of slavery or human trafficking;

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“public authority” means a public authority within the meaning of section 6 of the Human Rights Act 1998;

“the Trafficking Convention” means the Council of Europe Convention on Action against Trafficking in Human Beings (done at Warsaw on 16 May 2005);

“victim of slavery” and “victim of human trafficking” have the meanings given in regulations made by the Secretary of State under section 69 of the Nationality and Borders Act 2022.

Commencement Information

II S. 22 not in force at Royal Assent, see [s. 68\(1\)](#)

PROSPECTIVE

23 Provisions relating to support: England and Wales

- (1) Subsection (2) applies in relation to a person if—
 - (a) the Secretary of State is required by section 2(1) to make arrangements for the removal of the person from the United Kingdom,
 - (b) a positive reasonable grounds decision has been made in relation to the person, and
 - (c) section 22(3) (cooperation with public authority) does not apply in relation to the person.
- (2) Any duty under section 50A of the Modern Slavery Act 2015 (assistance and support) to secure that any necessary assistance and support is available to the person does not apply in relation to the person.
- (3) In this section “positive reasonable grounds decision” has the same meaning as in section 22.

Commencement Information

I2 S. 23 not in force at Royal Assent, see [s. 68\(1\)](#)

24 Provisions relating to support: Scotland

- (1) Subsection (2) applies in relation to a person if—
 - (a) the Secretary of State is required by section 2(1) to make arrangements for the removal of the person from the United Kingdom, and
 - (b) a competent authority has determined that there are reasonable grounds to believe that the person is a victim of slavery or human trafficking or is determining whether or not that is the case.

This is subject to subsections (3) to (5).

- (2) Where this subsection applies in relation to a person, the following do not apply in relation to the person—

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- (a) any duty of the Scottish Ministers under section 9(1) of the [Human Trafficking and Exploitation \(Scotland\) Act 2015 \(asp 12\)](#) (human trafficking: support and assistance) to secure the provision of support and assistance for the person;
 - (b) any power of the Scottish Ministers under section 9(3) of that Act to secure the provision of support and assistance for the person;
 - (c) any duty or power of the Scottish Ministers under regulations under section 10(1) of that Act (slavery etc: support and assistance) relating to the provision of support or assistance to the person.
- (3) Subsection (2) does not apply in relation to a person if—
- (a) the Secretary of State is satisfied that the person is cooperating with a public authority in connection with an investigation or criminal proceedings in respect of the relevant exploitation,
 - (b) the Secretary of State considers that it is necessary for the person to be present in the United Kingdom to provide that cooperation, and
 - (c) the Secretary of State does not consider that the public interest in the person providing that cooperation is outweighed by any significant risk of serious harm to members of the public which is posed by the person.
- (4) In subsection (3)—
- (a) the reference to a person cooperating with a public authority in connection with an investigation or criminal proceedings is to the person doing so to the extent that is reasonable having regard to the person’s circumstances, and
 - (b) “the relevant exploitation” means—
 - (i) the conduct or alleged conduct on the basis of which a competent authority has made or is making the determination mentioned in subsection (1)(b), and
 - (ii) where a conclusive determination has been made that the person is a victim of slavery or human trafficking, any other conduct resulting in that decision.
- (5) The Secretary of State must assume for the purposes of subsection (3)(b) that it is not necessary for the person to be present in the United Kingdom to provide the cooperation in question unless the Secretary of State considers that there are compelling circumstances which require the person to be present in the United Kingdom for that purpose.
- (6) In determining whether there are compelling circumstances as mentioned in subsection (5), the Secretary of State must have regard to guidance issued by the Secretary of State.
- (7) For the purposes of this section—
- (a) a person is a victim of slavery if they are a victim of an offence under section 4 of the Human Trafficking and Exploitation (Scotland) Act 2015;
 - (b) there is a conclusive determination that a person is a victim of slavery when a competent authority concludes that the person is such a victim;
 - (c) a person is a victim of human trafficking if they are a victim of an offence under section 1 of the Human Trafficking and Exploitation (Scotland) Act 2015;
 - (d) there is a conclusive determination that a person is a victim of human trafficking when, on completion of the identification process required by

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Article 10 of the Trafficking Convention, a competent authority concludes that the person is such a victim.

- (8) In this section the following expressions have the same meaning as in section 22—
- “competent authority”;
 - “public authority”;
 - “the Trafficking Convention”.
- (9) The Secretary of State may by regulations amend this section in consequence of regulations made by the Scottish Ministers under—
- (a) section 9(8) of the Human Trafficking and Exploitation (Scotland) Act 2015 (power to modify section 9), or
 - (b) section 10(1) of that Act (slavery etc: support and assistance).

Commencement Information

I3 S. 24 in force at Royal Assent for specified purposes, see s. 68(4)(h)

PROSPECTIVE

25 Provisions relating to support: Northern Ireland

- (1) Subsection (2) applies in relation to a person if—
- (a) the Secretary of State is required by section 2(1) to make arrangements for the removal of the person from the United Kingdom, and
 - (b) a reference relating to the person has been, or is about to be, made to a competent authority for a determination whether there are reasonable grounds to believe that the person is a victim of slavery or trafficking in human beings.
- This is subject to subsections (3) to (5).
- (2) Where this subsection applies in relation to a person, the following do not apply in relation to the person—
- (a) any duty of the Department of Justice in Northern Ireland under section 18 of the [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015 \(c. 2 \(N.I.\)\)](#) (human trafficking and slavery etc: assistance and support) to ensure the provision of assistance and support to the person;
 - (b) any power under section 18(8) of that Act to continue the provision of assistance and support to the person;
 - (c) any power of the Department of Justice in Northern Ireland under section 18(9) of that Act to ensure the provision of assistance and support to the person.
- (3) Subsection (2) does not apply in relation to a person if—
- (a) the Secretary of State is satisfied that the person is cooperating with a public authority in connection with an investigation or criminal proceedings in respect of the relevant exploitation,
 - (b) the Secretary of State considers that it is necessary for the person to be present in the United Kingdom to provide that cooperation, and

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- (c) the Secretary of State does not consider that the public interest in the person providing that cooperation is outweighed by any significant risk of serious harm to members of the public which is posed by the person.
- (4) In subsection (3)—
 - (a) the reference to a person cooperating with a public authority in connection with an investigation or criminal proceedings is to the person doing so to the extent that is reasonable having regard to the person’s circumstances, and
 - (b) “the relevant exploitation” means—
 - (i) the conduct or alleged conduct on the basis of which the reference mentioned in subsection (1)(b) has been, or is about to be, made, and
 - (ii) where a conclusive determination has been made that the person is a victim of slavery or trafficking in human beings, any other conduct resulting in that decision.
- (5) The Secretary of State must assume for the purposes of subsection (3)(b) that it is not necessary for the person to be present in the United Kingdom to provide the cooperation in question unless the Secretary of State considers that there are compelling circumstances which require the person to be present in the United Kingdom for that purpose.
- (6) In determining whether there are compelling circumstances as mentioned in subsection (5), the Secretary of State must have regard to guidance issued by the Secretary of State.
- (7) For the purposes of this section—
 - (a) a person is a victim of slavery if they are a victim of—
 - (i) slavery or servitude, or
 - (ii) forced or compulsory labour,within the meaning of Part 3 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (see section 17(1A) of that Act);
 - (b) there is a conclusive determination that a person is a victim of slavery when, on completion of an identification process corresponding to one required by Article 10 of the Trafficking Convention, a competent authority concludes that the person is such a victim;
 - (c) “trafficking in human beings” has the same meaning as in Part 3 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (see section 17(2) of that Act);
 - (d) there is a conclusive determination that a person is 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 person is such a victim.
- (8) In this section the following expressions have the same meaning as in section 22—
 - “competent authority”;
 - “public authority”;
 - “the Trafficking Convention”.

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Commencement Information

I4 S. 25 not in force at Royal Assent, see [s. 68\(1\)](#)

PROSPECTIVE

26 Suspension and revival of sections 22 to 25

- (1) The operation of a provision of sections 22 to 25 (a “relevant provision”) is suspended at the end of the period of 2 years beginning with the coming into force of that provision.
- (2) Subsection (1) does not apply to section 24(9) (power to amend section 24 in consequence of regulations made by the Scottish Ministers).
- (3) The Secretary of State may by regulations—
 - (a) provide for the operation of a relevant provision to be suspended before the time at which its operation would otherwise be suspended;
 - (b) provide that a relevant provision the operation of which would otherwise be suspended is to continue to operate for a period specified in the regulations;
 - (c) where the operation of a relevant provision has been suspended, provide that the operation of the provision is to revive for a period specified in the regulations.
- (4) A period specified in regulations under subsection (3)(b) must not exceed 12 months from the time at which the operation of the provision would otherwise be suspended.
- (5) A period specified in regulations under subsection (3)(c) must not exceed 12 months.
- (6) A power to make regulations under subsection (3) may be exercised more than once in relation to the same relevant provision.
- (7) Section 16(1) of the Interpretation Act 1978 applies in relation to the suspension of the operation of a relevant provision by or by virtue of this section as if the provision had been repealed by an Act.
- (8) The Secretary of State may by regulations make other transitional or saving provision in connection with the suspension of the operation of a relevant provision.
- (9) A reference in this section to a relevant provision the operation of which would be, or has been, suspended is to a relevant provision the operation of which would be, or has been, suspended—
 - (a) by subsection (1),
 - (b) by regulations under subsection (3)(a), or
 - (c) on the expiry of the period specified in regulations under subsection (3)(b) or (c).

Commencement Information

I5 S. 26 not in force at Royal Assent, see [s. 68\(1\)](#)

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PROSPECTIVE

27 Procedure for certain regulations under section 26

- (1) A statutory instrument containing (whether alone or with other provision) regulations under section 26(3)(c) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (2) Subsection (1) does not apply to regulations that contain a statement that the Secretary of State considers that there is an urgent need to make the regulations without the approval required by that subsection.
- (3) A statutory instrument containing regulations that contain such a statement must be laid before Parliament after being made.
- (4) Regulations contained in a statutory instrument laid before Parliament under subsection (3) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (5) In calculating the period of 28 days, no account is to be taken of any whole days that fall within a period during which—
 - (a) Parliament is dissolved or prorogued, or
 - (b) either House of Parliament is adjourned for more than four days.
- (6) If regulations cease to have effect as a result of subsection (4) that does not—
 - (a) affect the validity of anything previously done under the regulations, or
 - (b) prevent the making of new regulations.

Commencement Information

I6 S. 27 not in force at Royal Assent, see s. 68(1)

PROSPECTIVE

28 Amendments relating to sections 22 to 25

- (1) In section 50A of the Modern Slavery Act 2015 (identified potential victims of slavery or human trafficking: assistance and support) (as inserted by section 64 of the Nationality and Borders Act 2022), after subsection (5) insert—

“(5A) This section is subject to section 23 of the Illegal Migration Act 2023 (provisions relating to support: England and Wales).”
- (2) The [Human Trafficking and Exploitation \(Scotland\) Act 2015 \(asp 12\)](#) is amended in accordance with subsections (3) and (4).
- (3) In section 9 (human trafficking: support and assistance), after subsection (9) insert—

“(10) This section is subject to section 24 of the Illegal Migration Act 2023 (provisions relating to support: Scotland).”

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- (4) In section 10 (slavery etc: support and assistance), after subsection (2) insert—
- “(3) This section is subject to section 24 of the Illegal Migration Act 2023 (provisions relating to support: Scotland).”
- (5) In section 18 of the [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015 \(c. 2 \(N.I.\)\)](#) (human trafficking and slavery etc: assistance and support), after subsection (10) insert—
- “(10A) This section is subject to section 25 of the Illegal Migration Act 2023 (provisions relating to support: Northern Ireland).”
- (6) The Nationality and Borders Act 2022 is amended in accordance with subsections (7) to (12).
- (7) In section 61(2) (identified potential victims of slavery or human trafficking: recovery period), after “section 63(2)” insert “and section 22 of the Illegal Migration Act 2023 (provisions relating to removal and leave)”.
- (8) In section 62(2) (identified potential victims of slavery or human trafficking: additional recovery period), after “section 63(2)” insert “and section 22 of the Illegal Migration Act 2023 (provisions relating to removal and leave)”.
- (9) In section 63 (identified potential victims of slavery or human trafficking: disqualification from protection), after subsection (7) insert—
- “(8) See also section 22 of the Illegal Migration Act 2023 (provisions relating to removal and leave).”
- (10) Section 65 (leave to remain for victims of slavery or human trafficking) is amended in accordance with subsections (11) and (12).
- (11) In subsection (3), after “section 63(2)” insert “and section 22 of the Illegal Migration Act 2023 (provisions relating to removal and leave)”.
- (12) After subsection (8) insert—
- “(8A) Section 22 of the Illegal Migration Act 2023 also makes provision about the revocation of leave granted under subsection (2).”

Commencement Information

I7 S. 28 not in force at Royal Assent, see [s. 68\(1\)](#)

PROSPECTIVE

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—

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“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);

(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.

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Commencement Information

18 S. 29 not in force at Royal Assent, see **s. 68(1)**

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Changes to legislation:

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