



Northern Ireland Assembly

**Committee for Justice
Report on the Legislative Consent Motion: The Modern
Slavery Bill**

Session: 2014/2015

Date: 26 November 2014

Introduction

Powers

1. The Committee for Justice is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of the Belfast Agreement, section 29 of the Northern Ireland Act 1998 and under Standing Order 46.

The Committee has power to:

- Consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- Consider relevant secondary legislation and take the Committee stage of primary legislation;
- Call for persons and papers;
- Initiate inquiries and make reports; and
- Consider and advise on any matters brought to the Committee by the Minister for Justice

Background to the Bill

2. The intention to introduce a Modern Slavery Bill was announced by the Home Secretary on the 25 August 2013 and is part of the “4P approach” in the UK Government’s Serious and Organised Crime Strategy which aims to: track down those responsible for modern slavery and bring them to justice through an improved law enforcement response, supported with better information sharing and intelligence (**Pursue**); stop people becoming involved in the perpetration of modern slavery through effective deterrent measures (**Prevent**); strengthen protection against modern slavery by raising awareness and increasing resilience and effectiveness against this crime (**Protect**); and reduce the impact of modern slavery through improved support for victims, both in the UK and those returning home (**Prepare**). The Home Secretary published the draft Modern Slavery Bill on 16 December 2013.
3. The Bill is in seven Parts:

- Part 1-** consolidates the current offences of slavery, servitude and forced or compulsory labour and of human trafficking in England and Wales and makes provision in respect of penalties and sentencing.
- Part 2 -** introduces two new civil prevention orders; the Slavery and Trafficking Prevention Order and the Slavery and Trafficking Risk Order that will be available for courts in England and Wales.

- Part 3 -** makes provision for new maritime enforcement powers to clarify law enforcement's powers to act at sea where there is suspicion that a "modern slavery" offence has occurred.
- Part 4 -** establishes the office of Independent Anti-slavery Commissioner and sets out the functions of the Commissioner.
- Part 5 -** introduces a number of measures for England and Wales focused on supporting and protecting victims of "modern slavery", including a statutory defence for victims and special measures for witnesses in criminal proceedings.
- Part 6 -** introduces new measures to tackle "modern slavery" by enhancing transparency in commercial supply chains.
- Part 7 -** relates to general matters such as interpretation, consequential provision, regulations, extent and commencement.
4. The Bill was subject to pre-legislative scrutiny by a Joint Committee of both Houses of Parliament and the Home Secretary subsequently announced a series of evidence sessions to gather information to support pre-legislative scrutiny of the draft Bill. The Bill was laid before the House of Commons on 10 June 2014 and the subsequent reporting stage was completed on 4 November 2014. The House of Lords (HoL) had their first reading on 5 November 2014, the second reading occurred on 17 November and the HoL Committee stage is due to commence on 1 December 2014.

Purpose of the Legislation

5. The Modern Slavery Bill will: consolidate existing relevant legislation; introduce an Anti-Slavery Commissioner (UK wide subject to agreement from the devolved Northern Ireland and Scotland legislatures); introduce Slavery and Trafficking Prevention Orders and Slavery and Trafficking Risk Orders; introduce a statutory duty to report potential victims of trafficking to the National Crime Agency; and increase maximum sentences available following conviction for slavery and human trafficking offences to life imprisonment.
6. The proposed LCM will cover three main areas within the Modern Slavery Bill relevant to Northern Ireland;
- **Provisions introducing new enforcement powers in relation to ships in order to tackle human trafficking and slavery where they occur at sea;** on introduction the Bill included provisions to create new enforcement powers to tackle human trafficking and slavery offences at sea. The Minister of Justice consulted the

Chief Constable and the Northern Ireland Policing Board on these proposed powers and the Department has advised that they agreed that these powers would be beneficial and would enhance Northern Ireland's capacity to respond to these crimes and bring perpetrators to justice.

- **Provisions under Part 3 of the Bill to establish the office of Independent Anti-slavery Commissioner;** Clause 34 of the Modern Slavery Bill establishes the office of the Commissioner and requires the Secretary of State to appoint an Independent Anti-slavery Commissioner after consultation with Scottish Ministers and the Department of Justice in Northern Ireland (on 10 November 2014, the Department confirmed that Mr Kevin Hyland was appointed).

The Commissioner's general functions are set out in clause 35, which requires the Commissioner to encourage good practice in; the prevention, detection, investigation and prosecution of slavery and human trafficking offences; and the identification of those offences. The Bill also sets out a list of things that the Commissioner may do in order to fulfil their functions, including making reports, undertaking research, making recommendations to any public authority and providing information, education and training.

The role of the Anti-slavery Commissioner if extended to Northern Ireland and agreed by the Assembly, would replace the role of a Northern Ireland Rapporteur as detailed in Clause 16 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Bill.

- **Provisions to enhance transparency in supply chains;** this provision aims to fill in the current information gap about the overall corporate response to tackling slavery in supply chains and encourage companies to take meaningful action. It is envisaged that if extended, this provision will help to reinforce Northern Ireland's stance against human trafficking and slavery. The Department of Justice has had initial engagement at official level with the Department of Enterprise, Trade and Industry (DETI) and the Department of Agriculture and Rural Development (DARD). DETI indicated that in principle it is content with the proposal to extend the provision to Northern Ireland. DARD indicated that it is satisfied that the provisions would not raise any Departmental issues.

Committee's Consideration

7. In January 2014, the Minister of Justice launched a public consultation on new measures to strengthen Northern Ireland's response to human trafficking and slavery. The consultation included the proposal to extend the powers and

jurisdiction of the Anti-Slavery Commissioner under the Modern Slavery Bill to Northern Ireland as an alternative to the provision for a Northern Ireland Rapporteur (clause 16) currently contained in the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Bill. In response, 30 out of 40 responses were in favour of a UK Commissioner, subject to ensuring that Northern Ireland interests would be appropriately covered.

8. On 6 March 2014, the Committee heard evidence from Departmental officials who clarified that the Minister had highlighted the need for effective monitoring and accountability in human trafficking and was of the view that a more effective approach would be to extend the remit of United Kingdom-wide Anti-Slavery Commissioner to cover Northern Ireland. In turn, it was observed that the Minister would oppose Clause 16 in the hope of getting wider support for a Commissioner. The Officials also clarified that Lord Morrow had acknowledged that a UK commissioner model may be more effective, but was seeking assurances about the nature of that body and appointments etc. before he will draw his own proposal about a local rapporteur.
9. The Committee subsequently considered and agreed its report on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill at its meeting on 10 April 2014. In relation to Clause 16 and the UK Rapporteur, the Committee concluded that:

Extract from Committee Report - Clause 16

104. **The Committee met with the Swedish National Rapporteur when it visited Stockholm and took the opportunity to discuss the role, remit and benefits of having such an individual in post. Members were supportive of the principle of having an independent body to monitor and report on the response to human trafficking in Northern Ireland. While recognising there may be an opportunity to extend the remit of the Anti-Slavery Commissioner to cover Northern Ireland the Committee wanted to examine in more detail how this would operate and the extent to which it would meet the particular needs and requirements of this jurisdiction.**

105. **The Committee agreed that it was content with Clause 16. Noting that the remit of the Anti-Slavery Commissioner, which would be created by the draft Modern Slavery Bill, could be extended to Northern Ireland, the Committee**

indicated that it would consider the matter further when there is clarity on the position regarding such a Commissioner and the likely remit and responsibilities.

10. During consideration stage of the Human Trafficking and Exploitation Bill on 20 October 2014, the Minister of Justice stated:

"It is my firm view that a commissioner operating across the entire United Kingdom would provide a much better model of oversight than the local rapporteur envisaged by clause 16. The issue is primarily one of accountability. A UK-wide anti-slavery commissioner would have oversight of all law enforcement agencies and statutory organisations operating in the sphere of human trafficking and slavery in Northern Ireland, devolved and non-devolved. A local rapporteur would not. I believe that that is a critical factor, particularly given the wide range of bodies, both devolved and non-devolved, in combating these crimes here."

Lord Morrow, during consideration stage stated:

"I have received assurances from the Department of Justice suggesting that the commissioner would be of real benefit to Northern Ireland. As of today, the legislative consent motion that would enable Northern Ireland to benefit from the anti-slavery commissioner has not been tabled. I certainly am not willing to propose that clause 16 be removed until I have seen the text of that motion. I have been assured by the Public Bill Office that it will be possible for us to agree to keep clause 16 in the Bill today and make a final decision at Further Consideration Stage. Consequently, I propose that, for the moment at least, clause 16 should stand part."

The Assembly subsequently agreed that Clause 16 stand part of the Bill.

11. On 5 November 2014, the Committee was briefed by Departmental officials regarding the proposed LCM. Firstly, the Committee observed the Modern Slavery Bill included provisions to create new enforcement powers to tackle human trafficking and slavery offences at sea and as such were limited in extent to England and Wales. Due to the jurisdictional boundaries at sea, the Minister had been engaging with the Home Secretary and the Scottish Cabinet Secretary for Justice to develop a comprehensive package of enforcement powers to cover the whole of the United Kingdom. Amendments to create those powers were agreed on 4 November 2014 in the Commons Report Stage.

In developing NI-specific proposals the Department highlighted the need to be mindful to preserve PSNI primacy within Northern Ireland waters in all but hot-pursuit situations. Similarly the Department ensured that appropriate accountability arrangements were in place where operations take place in NI waters. The Department confirmed to the Committee that the Minister had consulted with the

Chief Constable and the Policing Board on the proposals and it had been agreed that extension would be beneficial and would enhance our capacity to respond to those crimes. Ultimately, the powers cover devolved and non-devolved matters and the Department confirmed that they will be approaching the Assembly for powers in respect of devolved matters also.

Secondly, in regards to the independent Anti-Slavery Commissioner, officials confirmed that the Minister was of the view that a Commissioner operating across the United Kingdom would have the ability to oversee all relevant bodies regardless of whether they were devolved. The Department also confirmed that although cost should not necessarily be the driving consideration, in the current economic climate, it is obviously relevant, and the commissioner model would offer greater value for money.

The Department stated that the key issues around a UK Commissioner are;

- that there will be consultation with Northern Ireland on appointment and on the strategic plan and annual report;
- arrangement of new powers to allow each Administration to request ad hoc reports from the Commissioner;
- and powers for the Minister to specify the public bodies in Northern Ireland that would have a duty to comply with a request for cooperation from the Commissioner.

The Department affirmed that they had been engaging closely with Lord Morrow on the proposal but that Lord Morrow wanted to see the content of the LCM before agreeing that he will remove Clause 16 in relation to the Northern Ireland Rapporteur from the Bill.

Thirdly, and in regards to enhancing transparency in supply chains, the Department confirmed that the Minister believed that a UK-wide response would be the most effective and appropriate way of legislating on the issue, and was keen to see the provision extended to ensure consistency of approach. This would place a requirement on commercial organisations operating in the UK and supplying goods or services to prepare a slavery and human trafficking statement each financial year and to publish it on their website. The expectation is that the measure would capture approximately 1,000 of the largest organisations operating in the UK, but the detail of that would be established in regulations. It is envisaged that there would be consultation with devolved Administrations and with business. The Department elucidated that business representatives had been consulted by the Home Office and there was broad support.

The Legislative Consent Motion

12. The LCM was laid in the Assembly on Monday 10 November. The draft motion, which will be tabled by the Minister of Justice, is:

“That this Assembly endorses the principle of the extension to Northern Ireland of the provisions of the Modern Slavery Bill, as brought from the Commons to the House of Lords on 5 November 2014, dealing with enforcement powers in relation to ships, as contained in clauses 37, 38 and 39 of Part 3 of the Bill and Part 3 of Schedule 2 to the Bill; the Independent Anti-slavery Commissioner, in Part 4 of the Bill; and transparency in supply chains, in Part 6 of the Bill.”

13. The Legislative Consent Memorandum provided a number of reasons for utilising a LCM instead of an Act of the Assembly:

- The provisions dealing with enforcement powers at sea at clauses 37, 38 and 39 of Part 3 of the Bill as well as Part 3 of Schedule 2 are intended to sit within a comprehensive package of measures.
- The Independent Anti-Slavery Commissioner under Part 4 of the Bill is intended to provide oversight across the whole of the United Kingdom and given the cross-jurisdictional nature of human trafficking and slavery it is considered a single commissioner with functions across all jurisdictions is the best model.
- In relation to supply chains, legislation within this jurisdiction would be unlikely to add any value to the Westminster provision and could place an identical, but separate duty on companies operating here and in Great Britain.

14. At its meeting on 19 November 2014, the Committee agreed that it was content to support the Legislative Consent Motion in relation to the Modern Slavery Bill.

Appendices

15. The following appendices are included as part of this Report:

- a. A copy of the Legislative Consent Memorandum
- b. A copy of the Modern Slavery Bill and Explanatory Notes
- c. A copy of the Departmental briefing paper on the proposed LCM – dated 28 October 2014 – including appendix 1
- d. Hansard from the Departmental briefing on 5 November 2014
- e. Extract (Clause 16 consideration) from Committee’s Report on the Human Trafficking Bill

LEGISLATIVE CONSENT MEMORANDUM

MODERN SLAVERY BILL

Draft Legislative Consent Motion

1. The draft motion, which will be tabled by the Minister of Justice, is:

“That this Assembly endorses the principle of the extension to Northern Ireland of the provisions of the Modern Slavery Bill, as brought from the Commons to the House of Lords on 5 November 2014, dealing with enforcement powers in relation to ships, as contained in clauses 37, 38 and 39 of Part 3 of the Bill and Part 3 of Schedule 2 to the Bill; the Independent Anti-slavery Commissioner, in Part 4 of the Bill; and transparency in supply chains, in Part 6 of the Bill.”

Background

2. This memorandum has been laid before the Assembly by the Minister of Justice under Standing Order 42A(2). The Modern Slavery Bill ('the Bill') was introduced in the House of Commons on 10 June 2014 and completed Report Stage in that House on 4 November 2014. The latest version of the Bill can be found at:

<http://services.parliament.uk/bills/2014-15/modernslavery.html>

Summary of the Bill and its policy objectives

3. The Bill is in seven Parts and is intended to reinforce the capacity of Government and law enforcement to tackle human trafficking and slavery, servitude and forced or compulsory labour (so called “modern slavery”).
 - Part 1 consolidates the current offences of slavery, servitude and forced or compulsory labour and of human trafficking in England and Wales and makes provision in respect of penalties and sentencing.
 - Part 2 introduces two new civil prevention orders; the Slavery and Trafficking Prevention Order and the Slavery and Trafficking Risk Order that will be available for courts in England and Wales.

- Part 3 makes provision for new maritime enforcement powers to clarify law enforcement’s powers to act at sea where there is suspicion that a “modern slavery” offence has occurred.
- Part 4 establishes the office of Independent Anti-slavery Commissioner and sets out the functions of the Commissioner.
- Part 5 introduces a number of measures for England and Wales focused on supporting and protecting victims of “modern slavery”, including a statutory defence for victims and special measures for witnesses in criminal proceedings.
- Part 6 introduces new measures to tackle “modern slavery” by enhancing transparency in commercial supply chains.
- Part 7 relates to general matters such as interpretation, consequential provision, regulations, extent and commencement.

Provisions which deal with a Devolution Matter

4. The provisions dealing with enforcement powers in relation to ships at sea in clauses 37, 38 and 39 of Part 3 of the Bill and in Part 3 of Schedule 2 relate both to matters that have been reserved and to matters which are the responsibility of the Northern Ireland Executive.
5. The provisions dealing with the establishment of the office of Independent Anti-slavery Commissioner, under Part 4 of the Bill also relate both to matters that have been reserved as well as matters which are the responsibility of the Northern Ireland Executive.
6. The provisions dealing with transparency in supply chains etc., under Part 6 of the Bill again relate to matters that have been reserved as well as matters which are the responsibility of the Northern Ireland Executive.

The position in other devolved administrations

7. The Scottish Government has indicated that it wishes equivalent provision under the Modern Slavery Bill to extend to Scotland, subject to the legislative consent of the Scottish Parliament.

Reasons for making the Provisions

8. Human trafficking and slavery are heinous crimes which breach basic human rights. Specific legislation to tackle these crimes is currently being progressed, or is planned, in each of the United Kingdom jurisdictions and administrations are liaising closely to ensure that these measures create a

coordinated United Kingdom-wide response. The provisions included within this Legislative Consent Memorandum aim to strengthen the capacity of law enforcement; protect individuals from trafficking, slavery and forced or compulsory labour; and promote a coordinated and consistent strategic response to these crimes across the United Kingdom.

9. The practical problems and limitations of current police powers to tackle “modern slavery” offences at sea were highlighted in a police-led human trafficking operation involving a United Kingdom-flagged vessel which was anchored outside United Kingdom territorial waters (which effectively extend 12 miles from the United Kingdom coastline), but which police were unable to board until it sailed into territorial waters. The Home Office has advised of a number of similar cases over the last two years where law enforcement were not able to intervene in cases of suspected exploitation. The provisions dealing with enforcement powers in relation to ships in Northern Ireland territorial waters are part of a wider package of enforcement powers under the Modern Slavery Bill that, together, are intended to close this loophole and clarify law enforcement’s powers to act at sea, where there is suspicion that an offence of human trafficking or slavery, servitude and forced or compulsory labour has occurred. They cover both planned operations and ‘hot pursuit’.
10. The provisions establishing an Independent Anti-slavery Commissioner will create an Office with a statutory function to challenge, scrutinise and strengthen Government and law enforcement action against human trafficking and slavery across the United Kingdom as a whole. The remit includes encouraging best practice in relation to the identification of victims. This would ensure that there is a comprehensive, coordinated response and consistent, joined-up oversight, bearing in mind the international dimension of human trafficking and slavery and given the different jurisdictions and array of accountability mechanisms for the bodies involved. Existing accountability structures in Northern Ireland are unaffected.
11. Provisions relating to transparency in commercial supply chains are needed in order to encourage the elimination of slavery, trafficking and human exploitation in the supply chains of the largest companies doing business in the United Kingdom.

The effect of the provisions

12. A detailed commentary on the effect of the provisions included in the draft Legislative Consent Motion is attached at Appendix 1.

Reasons for utilising the Bill rather than an Act of the Assembly

13. The provisions dealing with enforcement powers at sea at clauses 37, 38 and 39 of Part 3 of the Bill as well as Part 3 of Schedule 2 are intended to sit within a comprehensive package of measures (which together will provide powers to address the issue of criminals who are involved in “modern slavery” and who operate at sea. The powers relate to both devolved and reserved matters. Therefore, whilst the Northern Ireland Assembly has legislative competence in respect of some of these powers, it is considered that separating the provisions would be excessively complicated and would carry potential drafting and choreography risks. Additionally it would be potentially confusing for the end-user, as the provisions would be split across two pieces of legislation. It is, therefore, intended that the Modern Slavery Bill will include the necessary amendments relating to the entire package of enforcement powers at sea.
14. The Independent Anti-Slavery Commissioner under Part 4 of the Bill is intended to provide oversight across the whole of the United Kingdom.
15. Given the nature of human trafficking and slavery, and the way in which these offences may cross jurisdictional boundaries, it is considered that a single Commissioner with functions extending across the whole of the United Kingdom provides the best model.
16. In addition, there is a wide range of bodies operating within Northern Ireland to tackle these issues. In many cases responsibility for these organisations has been devolved. With a number, however, such as the Home Office, United Kingdom Human Trafficking Centre, United Kingdom Border Force and the Gangmasters Licensing Authority they operate in the reserved field. The functions of the United Kingdom-wide Independent Anti-Slavery Commissioner provided for under Part 4 of the Bill would extend to all of these bodies. It would not normally be appropriate for an Act of the Northern Ireland Assembly to legislate in respect of the bodies that operate within the reserved field and any office or rapporteur function established under such an Act would as a result be limited in scope. The intention, therefore, is that the role of the Independent Anti-slavery Commissioner under the Modern Slavery Bill should extend to Northern Ireland.
17. The provisions under Part 6 dealing with transparency in supply chains are intended to apply to the largest commercial organisations operating in the United Kingdom, according to their gross annual turnover. The detail of the level of the threshold is to be established in regulations, after consultation with the devolved administrations and with business, but the current expectation is that the measure would capture approximately 1,000

of the largest companies operating in the United Kingdom. Given the size and the relatively small number of the companies which would be affected, if equivalent legislation were to be introduced in Northern Ireland under an Act of the Assembly it would be likely to merely duplicate the effect of the Westminster legislation, since the same companies would be covered. As such, legislation within this jurisdiction would be unlikely to add any value to the Westminster provision and could place an identical, but separate duty on companies operating here and in Great Britain.

Consultation

18. In January 2014 the Department of Justice conducted a 12 week public consultation on proposed new measures to strengthen Northern Ireland's response to slavery and human trafficking. The consultation included proposals to extend the powers and jurisdiction of the Anti-Slavery Commissioner under the Modern Slavery Bill to Northern Ireland. Responses to the consultation demonstrated overwhelming support for this proposal, with 30 out of 34 responses in favour of a United-Kingdom wide Commissioner, subject to ensuring that Northern Ireland interests would be appropriately covered.
19. The Minister of Justice consulted the Chief Constable and the Northern Ireland Policing Board on provisions relating to enforcement powers in relation to ships. They agreed that these powers would be beneficial and would enhance Northern Ireland's capacity to respond to these crimes and bring perpetrators to justice. Given the importance of ensuring that appropriate accountability arrangements around conduct are in place the Department also consulted the Police Ombudsman for Northern Ireland. He was similarly content. The Minister has agreed with the Home Secretary that accountability arrangements should mirror those in place in respect of mutual aid.
20. Home Office Ministers have engaged with private sector businesses who have expressed broad support for the proposals to enhance transparency in commercial supply chains.

Human Rights and Equality

21. It is considered that the proposed provisions would be beneficial from a human rights and equality perspective. They would assist law enforcement in the fight against human trafficking and slavery and offer greater protections to the public and to potential victims against perpetrators. In

addition, they would deliver robust oversight arrangements focussed on improving our effectiveness and sharing of best practice.

Financial Implications

22. If enacted, it is anticipated that the Department's contribution to the cost of the Anti Slavery Commissioner would be around £20,000-£30,000 per annum. .

Summary of Regulatory Impact

23. There would not be any significant impact on the business or voluntary sectors. The provisions relating to transparency in supply chains etc. at Part 6 would place a statutory duty on a small number of large businesses to disclose what measures they have taken to prevent human trafficking and slavery within their business and their supply chains. It would not require them to take any preventative measures, simply to disclose which measures had been taken or, if appropriate, that no measures had been taken. Home Office Ministers have engaged with private sector businesses who have expressed broad support.

Engagement to date with the Committee for Justice

24. The Justice Committee has been briefed on all of the provisions included within the draft Legislative Consent Motion and has made no comment.

Conclusion

25. The view of the Minister for Justice is that, in the interests of appropriate process and clear legislation, the Assembly should support the terms of the draft legislative consent motion as set out in paragraph 1 of this memorandum.

**Department of Justice
November 2014**

Appendix 1

Detailed effect of measures included in the draft Legislative Consent Motion

Part 3 - Enforcement powers in relation to ships

1. The provisions dealing with enforcement powers at sea at clauses 37, 38 and 39 of Part 3 of the Bill and Part 3 of Schedule 2 are intended to sit within a comprehensive package of measures which together will address the issue of criminals who are involved in “modern slavery” and who operate at sea. They are intended to ensure that traffickers could be apprehended anywhere in United Kingdom territorial waters or adjacent international waters and would enhance the effectiveness of our collective response to these sorts of crimes. The powers proposed under clauses 35 and 36 and Parts 1 and 2 of Schedule 2 relate to reserved matters and so are outwith the direct responsibilities of the Northern Ireland Executive.

England, Wales and Scotland

2. Clause 35 and Part 1 of Schedule 2 provide enforcement powers for England and Wales constables and enforcement officers for the purpose of preventing, detecting, investigating or prosecuting human trafficking and slavery-type offences in relation to:
 - a. United Kingdom ships in England and Wales territorial waters (i.e., extending 12 miles from the England and Wales coastline), international waters or foreign waters (i.e, the territorial waters of another State);
 - b. stateless ships in England and Wales territorial waters;
 - c. foreign ships in England and Wales territorial waters; and
 - d. ships registered under the law of a relevant territory (i.e., the Isle of Man, the Channel Islands or a British Overseas Territory) in England and Wales territorial waters.
3. Clause 36 and Part 2 of Schedule 2 make equivalent provision for Scottish constables and enforcement officers in respect of:
 - a. United Kingdom ships in Scottish territorial waters, international waters or foreign waters;
 - b. stateless ships in Scottish territorial waters;
 - c. foreign ships in Scottish territorial waters; and
 - d. ships registered under the law of a relevant territory (i.e., the Isle of Man, the Channel Islands or a British Overseas Territory) in Scottish territorial waters.

Northern Ireland

4. Clause 37 and Part 3 of Schedule 2 make equivalent provision for Northern Ireland constables and enforcement officers in respect of:
 - a. United Kingdom ships in Northern Ireland territorial waters, international waters or foreign waters;
 - b. stateless ships in Northern Ireland territorial waters;
 - c. foreign ships in Northern Ireland territorial waters; and
 - d. ships registered under the law of a relevant territory (i.e., the Isle of Man, the Channel Islands or a British Overseas Territory) in Northern Ireland territorial waters.
5. Insofar as it relates to the exercise of enforcement powers within Northern Ireland territorial waters, clause 37 deals with matters that have been transferred to the Northern Ireland Assembly and, as such, requires the Assembly's legislative consent. The exercise of these powers in international or foreign waters relates to reserved matters and therefore does not require the legislative consent of the Assembly.
6. The provision for enforcement officers to exercise powers in Northern Ireland territorial waters, provided under clause 37, will ensure that enforcement officers such as designated customs officials and United Kingdom Border Force, as well as Royal Navy, Army or Royal Air Force who are already operating in those waters in respect of non-devolved matters and who are therefore best placed to intercept this type of crime at scene, are empowered to do so (clause 39 includes a definition of "enforcement officer" for the purposes of Part 3 and Schedule 2).
7. Clause 37(3) makes clear, however, that the authority of the Chief Constable of the Police Service of Northern Ireland (PSNI) is required before enforcement powers can be exercised in Northern Ireland waters by an enforcement officer. This is to ensure that PSNI retains primacy within Northern Ireland territorial waters in respect of human trafficking and slavery offences, since responsibility for tackling these offences has been devolved.
8. Subsections (4) to (8) of clause 37 provide that the Secretary of State's authority is required before enforcement powers may be exercised in respect of United Kingdom ships in the territorial waters of another State or in relation to a foreign ship or a ship registered under the law of a relevant territory, within any of the territorial waters of the United Kingdom. This reflects the lead role that the Westminster Government has in relation to international relations, which are excepted matters under Schedule 2 to the Northern Ireland Act 1998.

Hot pursuit of ships in United Kingdom waters

9. In addition to the exercise of general powers for Northern Ireland constables and enforcement officers under clause 37, clause 38 also makes provision for the exercise of enforcement powers in United Kingdom waters in hot pursuit situations.
10. Subsections (1) to (3) of clause 38 provide for English and Welsh constables and enforcement officers to exercise enforcement powers under Part 1 of Schedule 2 in relation to ships in either Scotland waters or Northern Ireland waters, in cases where the ship has been pursued there from England and Wales waters or, where the ship is a United Kingdom ship, from international waters. Subsections (10) to (12) make clear that these “hot pursuit” enforcement powers are conditional on the ship being first given a signal for it to stop and on the pursuit of the ship being uninterrupted.
11. Subsections (4) to (6) make equivalent provision for Scottish constables and enforcement officers to exercise enforcement powers under Part 2 of Schedule 2 in relation to ships in either England and Wales waters or Northern Ireland waters, in cases where the ship has been pursued there from Scotland waters or, where the ship is a United Kingdom ship, from international waters. The same conditions set out in subsections (10) to (12) apply.
12. Subsections (7) to (9) complete the package of “hot pursuit” enforcement powers and make equivalent provision for Northern Ireland constables and enforcement officers to exercise enforcement powers under Part 3 of Schedule 2 in relation to ships in either England and Wales waters or Scotland waters, in cases where the ship has been pursued there from Northern Ireland waters or, where the ship is a United Kingdom ship, from international waters. Again, the same conditions set out in subsections (10) to (12) apply.
13. The enforcement powers provided for under subsections (1) to (6) touch on transferred matters and, as such, require the legislative consent of the Assembly. The equivalent powers under subsections (7) to (9) relate entirely to reserved matters.

Enforcement powers under Schedule 2

14. The specific enforcement powers exercisable by Northern Ireland constables and enforcement officers under clauses 37 and 38 are set out in Part 3 of Schedule 2 and include:
 - a. powers to stop, board, divert and detain a ship where there are reasonable grounds to suspect that a human trafficking or slavery-

- type offence has been committed on the ship or that the ship is being used in connection with such an offence;
- b. powers to search and obtain information where there are reasonable grounds to suspect that there is evidence on the ship relating to a human trafficking or slavery-type offence, or a connected offence;
 - c. powers of arrest and seizure where there are reasonable grounds to believe that a human trafficking or slavery-type offence has been, or is being, committed on the ship and where anything found on the ship appears to be evidence of the offence.
15. Paragraph 23 of Schedule 2 places a requirement on the Department of Justice to prepare and issue a code of practice to be followed when exercising the arrest powers.
16. Paragraph 24 of Schedule 2 also makes provision for constables and enforcement officers to be accompanied by assistants who may perform any of the constables' or enforcement officers' functions, but only under their supervision. Paragraph 25 clarifies that constables and enforcement officers may use reasonable force if necessary and Paragraph 26 requires them to produce evidence of their authority if asked to do so. Paragraph 27 relates to protection of constables and enforcement officers in the purported performance of their functions.
17. Paragraph 28 makes it an offence for a person intentionally obstruct constables and enforcement officers in the performance of their functions; to fail to comply with a requirement made by them, without reasonable excuse; to knowingly provide false information to constables and enforcement officers in response to a requirement; or to intentionally fail to disclose material information. An offence under this paragraph would attract a maximum sentence of a fine not exceeding the statutory maximum on summary conviction or, on conviction on indictment, two years imprisonment, or a fine, or both. This is line with equivalent offences in Northern Ireland.

Part 4 - Independent Anti-slavery Commissioner

18. Part 4 of the Bill establishes the office of Independent Anti-slavery Commissioner. This Commissioner is intended to challenge, scrutinise and strengthen Government and law enforcement action to address human trafficking and “modern slavery”, including best practice in relation to the identification of victims. The Department of Justice's has consulted on the proposal to extend the Commissioner's powers and remit to Northern Ireland. Responses to that consultation were overwhelmingly in favour of this proposal.

19. Clause 40 of the Modern Slavery Bill establishes the office of the Commissioner. Subsections (1) and (2) require the Secretary of State to appoint an Independent Anti-slavery Commissioner after consultation with Scottish Ministers and the Department of Justice in Northern Ireland and make clear that the Commissioner is to hold office in accordance with the terms of their appointment. Subsection (3) makes provision in respect of the Commissioner's pay and remuneration. Subsection (4) gives a power to the Secretary of State to provide the Commissioner with the necessary staff, accommodation and facilities. These are to be determined in consultation with the Commissioner. Subsections (5) to (7) make provision to align the office of Commissioner with existing disqualification legislation and the Freedom of Information Act 2000.

Functions of the Commissioner

20. The Commissioner's general functions are set out in clause 41. Subsection (1) requires the Commissioner to encourage good practice in:
- a. the prevention, detection, investigation and prosecution of slavery and human trafficking offences; and
 - b. the identification of those offences.
21. Subsection (2) defines what is meant by a slavery and human trafficking offence, including the existing offences under the law of Northern Ireland.
22. Subsection (3) sets out a list of things that the Commissioner may do in order to fulfil their functions, including:
- a. making reports on permitted matters to the Secretary of State, Scottish Ministers and the Northern Ireland Department of Justice;
 - b. making recommendations to any public authority;
 - c. undertaking or supporting research (the provision makes clear that support may include, but is not restricted to, financial support);
 - d. providing information, education or training;
 - e. consulting people; and
 - f. co-operating with other persons either in the United Kingdom or elsewhere.
23. Subsection (4) defines a "permitted matter" under (3)(a) as being a matter which the Secretary of State, Scottish Ministers or the Northern Ireland Department of Justice have asked the Commissioner to report on, or any matter covered by the Commissioner's existing strategic plan. Subsection (5) places a duty on the Commissioner to publish any report made under (3)(a), after having first ascertained whether the Secretary of State, Scottish

Ministers or the Northern Ireland Department of Justice wish to make any redactions, in line with their powers under subsections (6) to (8).

24. Subsection (6) provides a power for the Secretary of State to direct the Commissioner to omit material from any report before it is published. This power to redact reports is limited to material whose publication the Secretary of State thinks:
 - a. would be against the interests of national security;
 - b. might jeopardise the safety of an individual in England or Wales; or
 - c. might prejudice the investigation or prosecution of an offence under the law of England and Wales.
25. Similar powers of redaction are provided for Scottish Ministers under subsection (7) although these are restricted to material whose publication the Scottish Ministers think:
 - a. might jeopardise the safety of an individual in Scotland; or
 - b. might prejudice the investigation or prosecution of an offence under the law of Scotland.
26. Subsection (8) makes provision for equivalent powers of redaction for the Northern Ireland Department of Justice. Again, these are limited to any material whose publication the Department of Justice thinks:
 - a. might jeopardise the safety of an individual in Northern Ireland; or
 - b. might prejudice the investigation or prosecution of an offence under the law of Northern Ireland.
27. Subsection (9) requires any report laid before Parliament, the Scottish Parliament or the Northern Ireland Assembly to be laid as published under subsection (5).

Strategic plans and annual reports

28. Clause 42 makes provision in respect of the Commissioner's strategic plans and annual reports. Subsections (1) and (2) require the Commissioner to prepare a strategic plan for the approval of the Secretary of State as soon as reasonably practicable after appointment and set out the arrangements for agreeing strategic plans on an ongoing basis. Subsection (3) allows the Commissioner to revise a strategic plan at any time, subject to the agreement of the Secretary of State.
29. Subsections (4) to (6) define what is meant by a strategic plan and establish certain elements that such plan must include. In particular, subsection (5) states that a strategic plan must cover:

- a. the Commissioner's objectives and priorities;
 - b. any matters on which the Commissioner proposes to report; and
 - c. any other activities the Commissioner proposes to undertake.
30. Subsection (7) places a duty on the Secretary of State to consult the Scottish Ministers and the Northern Ireland Department of Justice before approving a plan and to send a copy of the approved plan to them. This is to ensure that devolved Ministers can be satisfied that the interests of their respective jurisdictions will be adequately covered by the plan.
31. Subsections (8) to (16) relate to the publication of annual reports. Subsection (8) requires the Commissioner to submit an annual report to Secretary of State, Scottish Ministers and to the Northern Ireland Department of Justice as soon as possible after the end of each calendar year. Subsection (9) makes clear that the annual report must cover:
- a. how far the Commissioner's objectives and priorities have been met in that year;
 - b. a statement of the matters on which the Commissioner has reported during the year; and
 - c. any other activities the Commissioner has undertaken during the year.
32. Subsections (10) to (12) require the Secretary of State, Scottish Ministers and the Northern Ireland Department of Justice to lay strategic plans and annual reports, as soon as reasonably practicable, before Parliament, the Scottish Parliament and the Northern Ireland Assembly respectively.
33. Subsections (13) to (16) provide powers of redaction for the Secretary of State, Scottish Ministers and the Northern Ireland Department of Justice to direct the Commissioner to remove material from an annual report, on the same grounds as those set out under clause 41(6) to (8) in respect of reports under clause 41(3)(a).

Duty to co-operate with Commissioner

34. Clause 43 places a statutory duty on certain public authorities (to be specified in regulations) to co-operate with the Commissioner. Subsections (1) and (2) set out the Commissioner may request a specified public authority to co-operate in any way that the Commissioner considers necessary for the purposes of their functions and that a specified public authority must comply with such a request, so far as reasonably practicable. Subsection (3) and (4) make provision in respect of information disclosure by a public authority to the Commissioner. Subsections (5) and (6) define what is meant by a specified public authority and set out the respective

powers of the Secretary of State, Scottish Ministers and the Northern Ireland Department of Justice to make regulations under this clause.

Restriction on exercise of functions

35. Clause 44 restricts the exercise of the Commissioner's functions so that they do not extend in relation to any individual case. Subsection (2), however, clarifies that the Commissioner is able to consider individual cases and draw conclusions for the purpose of, or in the context of, a general issue.

Part 6 - Transparency in supply chains etc.

36. Clause 51 is intended to help tackle human trafficking and slavery by enhancing transparency in supply chains. Under subsections (1) to (3) commercial organisations operating within the United Kingdom to supply goods or services and with a total turnover above a certain amount (which is to be prescribed by regulations) are required to prepare a slavery and human trafficking statement for each financial year.
37. Subsection (4) defines a slavery and human trafficking statement as being a statement of the steps the organisation has taken in the course of the financial year to ensure that its business and its supply chains are free of human trafficking and slavery, or, where no such steps have been taken, a statement that the organisation has not taken any such steps. Subsections (5) and (6) require the statement to be published prominently on the organisation's website or, where there is no website, for a copy of the statement to be provided to anyone who requests it in writing, within 30 days of the request being received.
38. Subsections (7) and (8) make provision for the Secretary of State to issue guidance about the duties imposed on commercial organisations by this provision and about the kind of information which may be included in a slavery and trafficking statement.
39. Subsection (9) makes provision relating to enforcement, including by a High Court injunction, brought by the Secretary of State, whilst subsection (10) sets out general interpretation provisions for the clause and makes clear that the definition of slavery and human trafficking includes conduct which would constitute a human trafficking or slavery offence under the law of Northern Ireland.

*These notes refer to the Modern Slavery Bill
as brought from the House of Commons on 5th November 2014 [HL Bill 51]*

MODERN SLAVERY BILL

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Modern Slavery Bill as brought from the House of Commons on 5th November 2014. They have been prepared by the Home Office in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
2. The Notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

SUMMARY

3. The Bill is in seven parts. Part 1 consolidates the current offences of slavery and human trafficking whilst increasing the maximum penalty for such offences. Part 2 provides for two new civil preventative orders, the Slavery and Trafficking Prevention Order and the Slavery and Trafficking Risk Order. Part 3 provides for new maritime enforcement powers in relation to ships. Part 4 establishes the office of Independent Anti-slavery Commissioner and sets out the functions of the Commissioner. Part 5 introduces a number of measures focussed on supporting and protecting victims, including a statutory defence for slavery or trafficking victims and special measures for witnesses in criminal proceedings. Part 6 requires certain businesses to disclose what activity they are undertaking to eliminate slavery and trafficking from their supply chain and their own business. Part 7 relates to general matters such as consequential provision and commencement.

BACKGROUND

4. Modern slavery is a brutal form of organised crime in which people are treated as commodities and exploited for criminal gain. The true extent of modern slavery in the United Kingdom, and indeed globally, is unknown. Modern slavery, in particular human trafficking, is an international problem and victims may have entered the United Kingdom legally, on forged documentation or clandestinely, or they may be British citizens living in the United

Kingdom. Modern slavery takes a number of forms, including sexual exploitation, forced labour and domestic servitude, and victims come from all walks of life. Victims are often unwilling to come forward to law enforcement or public protection agencies, not seeing themselves as victims, or fearing further reprisals from their traffickers, and/or may not always be recognised as trafficking victims by those who come into contact with them. In particular, there may be particular social and cultural barriers to men identifying themselves as victims.

5. There are a number of international instruments on human trafficking. The main international instrument is the Protocol to the United Nations Convention against Transnational Organized Crime, named the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the “Palermo Protocol”). The definition of trafficking contained in that instrument was adopted in the Council of Europe Convention on Action against Trafficking in Human Beings (the “Convention”). That international instrument was ratified by the United Kingdom on 17th December 2008. After this time, the European Commission tabled a proposal for a Directive on trafficking in human beings. A final text was agreed in March 2011 and was adopted on 5th April 2011: Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decisions 2002/629/JHA (the “Directive”). The Directive adopts and expands upon the obligations and definitions contained in the Palermo Protocol and the Convention. The United Kingdom has opted into the Directive. In order to ensure full compliance with the obligations contained in the Directive in England and Wales, Parliament made changes to the Sexual Offences Act 2003 and the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 through sections 109 and 110 of the Protection of Freedoms Act 2012.

6. In relation to slavery, servitude and forced or compulsory labour, the ILO Convention (No. 29) Concerning Forced or Compulsory Labour added a prohibition of forced or compulsory labour to the existing prohibition of slavery and servitude contained in the 1926 Slavery Convention. These instruments have been ratified by the United Kingdom. A related more recent ILO Convention, ratified by the United Kingdom on 22nd March 2000, is ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. That Convention commits signatories to take immediate action to prohibit and eliminate the worst forms of child labour. Article 4 of the European Convention on Human Rights prohibits holding a person in slavery or servitude, or requiring a person to perform forced or compulsory labour.

7. The Government has outlined its approach to modern slavery within the Serious and Organised Crime Strategy.¹ The Inter-Departmental Ministerial Group on Modern Slavery

¹ <https://www.gov.uk/government/publications/serious-organised-crime-strategy>

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also published its annual report² in October 2013 which highlights activity to fight modern slavery across the UK, as well as providing information on the nature and scale of the problem. The Inter-Departmental Ministerial Group published a further joint statement in October 2014.³

8. The intention to introduce a Modern Slavery Bill was announced by the Home Secretary on 25th August 2013. The Home Secretary subsequently announced a series of evidence sessions⁴ to gather information to support pre-legislative scrutiny of the draft Bill, led by Frank Field MP. A report from the evidence sessions was published on 16th December.⁵ A draft Bill was published on 16th December and was the subject of pre-legislative scrutiny, with the Joint Committee publishing its report on 8th April.⁶ To ensure the Bill is also informed by international best practice and the challenges faced in key source and transit countries, Anthony Steen, Chair of the Human Trafficking Foundation, was also commissioned as the Home Secretary's special envoy to report back on a series of international visits.

TERRITORIAL EXTENT AND APPLICATION

9. Clause 56 sets out the territorial extent of the Bill.

10. The majority of the Bill's provisions extend to England and Wales only (subject to some consequential amendments having the same extent as the provisions being amended), but certain provisions also extend to Scotland and Northern Ireland. The Human Trafficking

²<https://www.gov.uk/government/publications/human-trafficking-inter-departmental-ministerial-group-report-2013>

³ <https://www.gov.uk/government/publications/joint-statement-of-the-inter-departmental-ministerial-group-on-modern-slavery>

⁴ <https://www.gov.uk/government/news/home-secretary-begins-evidence-sessions-on-modern-slavery>

⁵<http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/Establishing-Britain-as-a-world-leader-in-the-fight-against-modern-slavery.pdf>

⁶The draft Bill is at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266165/Draft_Modern_Slavery_Bill.pdf

The Joint Committee report is at:

<http://www.publications.parliament.uk/pa/jt201314/jtselect/jtslavavery/166/166.pdf>

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offence provides for extra territorial jurisdiction over UK Nationals who commit trafficking offences overseas.

11. On being brought from the House of Commons, this Bill contains provisions that trigger the Sewel Convention. Those provisions relate to the maritime powers in Part 3 as they relate to Scotland and the remit of the Independent Anti-slavery Commissioner in Part 4 which includes devolved matters. The Sewel Convention provides that Westminster will not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish Parliament. Insofar as these provisions relate to devolved matters, the Cabinet Secretary for Justice has confirmed that he will seek the necessary legislative consent motion.

12. Part 6 in relation to transparency in supply chains etc does extend to Scotland, but relates to reserved matters.

13. The following provisions of the Bill extend to Northern Ireland and relate, in whole or in part, to transferred matters:

- relevant provisions in Part 3 of the Bill relating to maritime powers in Northern Irish waters;
- relevant provisions in Part 4 of the Bill relating to the role of the Independent Anti-slavery Commissioner; and
- Part 6 of the Bill relating to transparency in supply chains etc.

14. Insofar as these provisions relate to transferred matters, the Northern Ireland Minister of Justice has confirmed that he will seek the necessary legislative consent motion.

COMMENTARY ON CLAUSES

Part 1: Offences

Clause 1: Slavery, servitude and forced or compulsory labour

15. Subsection (1) provides for an offence of slavery, servitude and forced or compulsory labour. It replaces the existing such offence in section 71 of the Coroners and Justice Act 2009 which is accordingly repealed. The offence has been supplemented by provisions that clarify that regard may be had to all the circumstances of the case, including any circumstances that make the victim more vulnerable than others (an example would be where the person is a child). This reflects the position in case law.

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16. *Subsection (2) requires subsection (1) to be interpreted in accordance with Article 4 of the ECHR. That Article states:*

- 1) No one shall be held in slavery or servitude.
- 2) No one shall be required to perform forced or compulsory labour.
- 3) For the purpose of this Article the term “forced or compulsory labour” shall not include:
 - a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
 - b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
 - c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
 - d) any work or service which forms part of normal civic obligations.

17. *Subsection (3) provides that all the circumstances should be considered when determining whether someone has been held in slavery or servitude or required to perform forced or compulsory labour. The purpose of this subsection, together with subsection (4), is to ensure that regard is had to all the circumstances which may make an individual more vulnerable, such as being a child.*

18. *Subsection (4) highlights personal circumstances, which may make the individual more vulnerable, and which may be relevant when determining whether a person has been held in slavery or servitude or required to perform forced or compulsory labour. The list of particular vulnerabilities which may be considered is non-exhaustive.*

Clause 2: Human trafficking

19. This clause provides for a single offence of human trafficking covering sexual and non-sexual exploitation. It replaces the two existing offences in sections 59A of the Sexual Offences Act 2003 (which relates to human trafficking for the purposes of sexual exploitation), as inserted by section 109 of the Protection of Freedoms Act 2012 (which replaced the previous offences in sections 57 to 59 of the Sexual Offences Act 2003), and section 4 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (which relates to human trafficking for the purposes of labour or other exploitation); both these existing offences are repealed by Schedule 4. Introducing one offence for all types of

trafficking will make it administratively simpler for investigators and prosecutors to bring forward human trafficking prosecutions.

20. *Subsection (1)* makes it a criminal offence to arrange or facilitate the travel of another person with a view to their being exploited. Travel is defined in *subsection (5)* as arriving in, entering, departing, or travelling within any country.

21. *Subsection (2)* provides that for the purpose of a human trafficking offence the victim's consent to their travel is irrelevant.

22. *Subsection (3)* gives examples of what may amount to arranging or facilitating another person's travel. This includes recruiting, transporting, transferring, harbouring, receiving or exchanging control of that person. The language reflects the definitions of trafficking set out in the Council of Europe Convention and the associated Palermo Protocol.

23. *Subsection (4)* provides that the arranging or facilitating is done with a view to the exploitation of the victim (V) if the perpetrator either intends to exploit V, or knows or ought to know that any other person is likely to exploit V. It is irrelevant where in the world that exploitation might take place.

24. *Subsection (6)* makes the offence extra-territorial in its reach in relation to UK nationals. It provides that a UK national commits an offence regardless of where in the world the arranging or facilitating takes place or regardless of which country is the country of arrival, entry, travel or departure. For example, a UK national who trafficks a person from Spain to France could be prosecuted in England and Wales for this offence.

25. *Subsection (7)* provides for a more limited territorial reach in relation to a non-UK national. Such a person commits the offence if any part of the arranging or facilitating takes place in the UK or if the UK is the country of arrival, entry, travel or departure.

Clause 3: Meaning of Exploitation

26. The clause 2 offence is arranging or facilitating travel with a view to the victim's exploitation. This clause sets out the meaning of exploitation for the purposes of clause 2.

27. *Subsection (2)* sets out that exploitation includes slavery, servitude and forced or compulsory labour by reference to the offence under section 1. Equivalent conduct outside England and Wales also comes within this definition.

28. *Subsection (3)* sets out that exploitation includes sexual exploitation by reference to conduct which would constitute the commission of an offence of taking, or permitting to take, indecent photographs of children or any of the sexual offences provided for in Part 1 of the Sexual Offences Act 2003 (these include offences relating to rape, sexual assault, prostitution

and child pornography). Clause 3(3)(b) ensures that equivalent conduct committed outside of England and Wales also comes within the definition even though for jurisdictional reasons it would not be an offence under English law.

29. *Subsection (4)* sets out that exploitation includes exploitation in the context of trafficking for organ removal or for the sale of human tissue by references to offences in the Human Tissue Act 2004. Again, equivalent conduct outside England and Wales is within the definition.

30. *Subsection (5)* sets out that exploitation includes all other types of exploitation where a person is forced, threatened or deceived into providing a service of any kind, providing a person with benefits or enabling another to acquire benefits. This includes forcing a person to engage in activities such as begging or shop theft. It is not necessary for this conduct to be a criminal offence.

31. *Subsection (6)* broadens the type of exploitation described in *subsection (5)* so that it includes where a person is used to do something for such a purpose, having been chosen on the grounds that he or she is a child, is ill, disabled, or related to a person, in circumstances where a person without the illness, disability, or family relationship would be likely to refuse.

Clause 4: Committing offence with intent to commit offence under section 2

32. This clause provides that it is an offence to commit another offence with a view to committing a trafficking offence under clause 2. This separate offence ensures that the preparatory criminal conduct for a lesser offence, for example theft of a vehicle with the intention of using that vehicle to traffick individuals, can attract the higher penalties provided for in clause 5.

Clause 5: Penalties

33. This clause sets out the maximum penalties for the offences in clauses 1, 2 and 4.

34. *Subsection (1)* provides that the maximum sentence for a clause 1 or 2 offence is six months imprisonment (increasing to 12 months when the increase in magistrates' courts sentencing powers provided for in the Criminal Justice Act 2003 is brought into force) or an unlimited fine, or both in the case of a summary conviction and life imprisonment for conviction on indictment. This compares with a maximum of 14 years imprisonment for the existing slavery and human trafficking offences.

35. *Subsections (2) and (3)* provide for the maximum penalties for the clause 4 offence. In most instances the maximum is six months imprisonment (again increasing to 12 months when the increase in magistrates' courts sentencing powers is brought into force) or an unlimited fine, or both in the case of a summary conviction and 10 years imprisonment for

conviction on indictment. However, where the precursor offence committed under clause 4 is one of kidnapping or false imprisonment, the maximum penalty is life imprisonment.

36. In the case of conviction on indictment, the availability of a fine will be determined by section 163 of the Criminal Justice Act 2003 (general power of Crown Court to fine offender convicted on indictment).

Clause 6: Sentencing

37. This clause adds the clause 1 and 2 offences to the list of offences in Schedule 15 and Part 1 of Schedule 15B to the Criminal Justice Act 2003 (“the 2003 Act”). The effect is to engage the provisions in sections 224A, 226A(2) and 246A(2)(b) of the 2003 Act. By virtue of the provisions in section 224A of the 2003 Act, a court must impose a life sentence on a person aged 18 or over who is convicted of an offence listed in Part 1 of Schedule 15B to that Act which is serious enough to justify a sentence of imprisonment of 10 years or more, if that person has previously been convicted of an offence listed in any Part of Schedule 15B and was sentenced to imprisonment for life or for a period of 10 years or more in respect of that previous offence. However, the court is not obliged to impose a life sentence where it is of the opinion that there are particular circumstances which relate to the offence, the previous offence or the offender which would make it unjust to do so in all the circumstances.

38. Section 226A provides for extended sentences for adults. The sentence may be imposed in respect of the sexual and violent offences listed in Schedule 15 to the 2003 Act (which will now include the clause 1 and 2 offences) where certain conditions are met. The court must consider that the offender presents a substantial risk of causing serious harm through re-offending. In addition the court must either consider that the current offence is serious enough to merit a determinate sentence of at least 4 years, or at the time the present offence was committed the offender must have previously been convicted of an offence listed in Schedule 15B of the 2003 Act (which will now include the slavery and human trafficking offences). Where these conditions are made out, the court may impose an extended period for which the offender is to be subject to a licence of up to five years for a violent offence and up to eight years for a sexual offence. Schedule 15 to the 2003 Act lists violent and sexual offences separately.

39. Section 246A of the 2003 Act deals with the release arrangements in respect of persons sentenced to an extended sentence under section 226A of that Act. Offenders who have committed an offence listed in Parts 1 to 3 of Schedule 15B to the 2003 Act (Part 1 will now include the slavery and human trafficking offences), or whose offending merits a custodial term of 10 years or more, will be considered for release on licence by the Parole Board once the offender has served two-thirds of the appropriate custodial term, and will be released automatically at the end of the appropriate custodial term (that is, the term imposed by the court as the custodial element of the extended sentence) if the Parole Board has not already directed release.

Clause 7: Confiscation of assets

40. This clause amends Schedule 2 to the Proceeds of Crime Act 2002 (Lifestyle offences: England and Wales). The amendments add the offence of slavery, servitude and forced labour (clause 1) to the list of offences set out in that Schedule, and substitutes the human trafficking offence (clause 2) for predecessor offences.

41. Part 2 of the Proceeds of Crime Act 2002 (“the 2002 Act”) provides that confiscation orders are available to confiscate assets gained through criminal activity from offenders, after conviction. The purpose of confiscation proceedings is to recover the financial benefit that an offender has obtained from his criminal conduct. The court calculates the value of that benefit and orders the offender to pay an equivalent sum (or less where a lower sum is available for confiscation).

42. Section 6 of the 2002 Act makes provision for the making of confiscation orders by the Crown Court. In accordance with section 6, where the defendant is identified as having a “criminal lifestyle”, the proceeds of the defendant’s “general criminal conduct” are liable to confiscation. This means that an offender in relation to whom there are reasonable grounds to believe that he is living off crime will be required to account for his assets, and will have them confiscated to the extent that he is unable to account for their lawful origin. The criminal lifestyle tests are therefore designed to identify offenders who may be regarded as normally living off crime.

43. Under section 75 of the 2002 Act, a person has a criminal lifestyle if he satisfies one or more of the tests set out in that section. The first test is that he is convicted of an offence specified in Schedule 2 to the 2002 Act. Schedule 2 lists the offences which are so closely linked to a life of crime that a conviction for any of them will lead to the defendant being deemed to have a criminal lifestyle for the purposes of the confiscation regime in the 2002 Act. By including the slavery, servitude and forced labour offence (clause 1) and the human trafficking offence (clause 2) in Schedule 2 to the 2002 Act, this clause ensures that defendants convicted will be deemed to have a criminal lifestyle and will therefore be subject to the toughest regime in respect of calculating confiscation orders under the 2002 Act.

Clause 8: Power to make slavery and trafficking reparation orders

44. This clause enables the court, where a person is convicted of a slavery or trafficking offence, to order the defendant to provide reparation to the victim. Sections 130-134 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6 – “the 2000 Act”) already make provision for compensation orders to be made against convicted persons in favour of their victim(s). However, the number of compensation orders made in the last ten years in human trafficking and slavery cases is low. A specific reparation order for victims of slavery and trafficking will therefore enable courts to order a person convicted of a modern slavery offence to pay reparation to their victim or victims, in respect of the exploitation and

degradation they have suffered. A reparation order will only be made where the court is satisfied that the defendant has the means to pay.

45. *Subsection (1)* sets out that a slavery or trafficking reparation order can be made where the defendant is convicted of a slavery offence (clause 1) or trafficking offence (clause 2) or offence relating to preparatory conduct in relation to trafficking (clause 4), and the Court has made a confiscation order against the defendant.

46. *Subsection (2)* allows the Court to make a slavery and trafficking reparation order where a confiscation order is made against a defendant who absconds, but who is subsequently convicted of a clause 1, 2 or 4 offence.

47. *Subsection (3)* provides for the Court to make a reparation order in addition to dealing with the person in any other way, for example, imposing a fine or a sentence, and *subsection (4)* allows the Court to vary a sentence already imposed to make a slavery and trafficking reparation order.

48. *Subsection (5)* requires the court to consider the defendant's means, in determining whether to make a slavery and trafficking reparation order. This is to ensure that a reparation order is only made where the court is confident that the funds are available to pay the victim.

49. *Subsection (6)* provides that where a court considers that it would be appropriate to impose a fine and make a reparation order, but the defendant has insufficient means to pay both, priority is given to a reparation order.

50. *Subsection (7)* provides that the Court must consider making a slavery and trafficking reparation order in any case where it has power to make one, even where an application is not made. If the Court does not make an order it must give reasons for not doing so.

Clause 9: Effect of slavery and trafficking reparation orders

51. *Subsection (1)* provides that a slavery and trafficking reparation order is an order that requires the defendant to pay compensation to his or her victim, for the harm that the victim has suffered from a relevant offence. *Subsection (2)* defines relevant offence as a slavery or trafficking offence as set out in clause 1, 2 or 4 that the defendant is convicted of or has taken into account for sentencing.

52. *Subsection (3)* provides for the court to determine the amount of compensation to be awarded to the victim taking into account any evidence and representations made by the defendant or the prosecutor.

53. *Subsection (4)* sets out that the total amount of compensation payable under one or more slavery and trafficking reparation orders made in proceedings for an offence must not

exceed the amount the defendant is required to pay under the confiscation order made in relation to that offence.

54. *Subsection (5)* requires the court to consider the defendant's means, so far as they appear to be, or are known by the court, in determining the amount that the defendant must pay under the slavery and trafficking reparation order. These provisions ensure that reparation orders will be made for amounts that the defendant is capable of paying, so that the victim will not be the recipient of an order that is not likely to be paid in full.

Clause 10: Slavery and trafficking reparation orders: supplementary provision

55. *Subsection (1)* prevents a slavery and trafficking reparation order and a compensation order under the 2000 Act from being made in relation to the same offence, so as to avoid having multiple separate orders made for the purpose of compensating the victim of a slavery or trafficking offence.

56. *Subsection (2)* states that where the court makes a slavery and trafficking reparation order against a person who has already been sentenced, the person's sentence is to be regarded as being imposed on the day on which the reparation order is made for the purpose of any relevant appeal time limits.

57. *Subsection (3)* modifies sections 132 to 134 of the 2000 Act, which provide for appeal of and review of compensation orders made under section 130 of that Act, so that they will apply to slavery and trafficking reparation orders.

58. *Subsections (4) to (9)* enable a court that varies, quashes or discharges a confiscation order in accordance with Part 2 of the 2002 Act to vary, quash or discharge any slavery and trafficking reparation order that has been made in relation to the convictions that gave rise to the confiscation order so varied, quashed or discharged.

Clause 11: Forfeiture of land vehicle, ship or aircraft

59. This clause enables the court, when a person is convicted on indictment of a human trafficking offence under clause 2, to order the forfeiture of a vehicle, ship or aircraft used or intended to be used in connection with the offence of which the person is convicted. *Subsection (2)* lists the circumstances that would allow the forfeiture of a vehicle; *subsections (3) to (5)* do likewise for a ship or aircraft. *Subsection (6)* allows a person who claims to have an interest in a vehicle, ship or aircraft, and who makes an application to the court, to make representations on the question of forfeiture before the court may make an order for its forfeiture. Similar provisions are currently contained in section 60A of the Sexual Offences Act 2003 and supplement the more general provisions on forfeiture in section 143 of the Powers of the Criminal Courts (Sentencing) Act 2000.

Clause 12: Detention of land vehicle, ship or aircraft

60. *Subsections (1) to (3)* enable a constable or immigration officer not below the rank of chief immigration officer to detain a vehicle, ship or aircraft of a person arrested for an offence under clause 2 if it is one which the constable or officer concerned has reasonable grounds for believing could, on conviction of the arrested person for the offence for which he was arrested, be the subject of an order for forfeiture made under clause 11. Detention is permitted until a decision is taken whether or not to charge the arrested person, until the arrested person is acquitted, the charge against him dismissed or the proceedings discontinued, or, where the person is subsequently convicted, until the court makes a decision on forfeiture.

61. *Subsection (4)* lists the circumstances in which a person other than the arrested person may apply to the court for the release of that vehicle, ship or aircraft. *Subsection (5)* provides that on such an application the court may release the vehicle, ship or aircraft subject to satisfactory security or surety and on condition that it is made available to the court if the arrested person is convicted and if an order under clause 11 is made. Similar provisions are currently contained in section 60B of the Sexual Offences Act 2003.

Clause 13: Interpretation of Part 1

62. This clause defines terms used in Part 1.

PART 2: PREVENTION ORDERS

63. Part 2 makes provision (clauses 14 to 34) for the introduction of new civil orders to enable prohibitions to be imposed by the courts on individuals convicted of a slavery or trafficking offence, or those involved in slavery or trafficking but who have not been convicted of a slavery or trafficking offence. The rationale for creating these orders is to enable law enforcement bodies and the courts to take tougher action against those involved in trafficking, and to protect individuals from the harm caused by slavery or trafficking by preventing future offending. The new orders will complement existing civil orders⁷, enabling the courts to impose necessary prohibitions on individuals where there is evidence of that individual posing a risk of causing another person to be the victim of slavery, or trafficking for exploitation.

⁷ For example, see the orders available under the Sexual Offences Act 2003 (where the victims suffer sexual harm) or the Serious Crime Act 2007.

Clause 14 and Schedule 1: Slavery and trafficking prevention orders on sentencing

64. This clause provides for slavery and trafficking prevention orders (“STPO”) on conviction. *Subsection (1)* enables a court (for example, the magistrates’ court, youth court, Crown Court or in limited cases the Court of Appeal) to impose a STPO on a person on a conviction or other finding in respect of that person for a slavery or human trafficking offence. A slavery or human trafficking offence is defined in subsection (3) and clause 34(1) and means an offence listed in *Schedule 1* to the Bill. Schedule 1 includes reference to the new offences in Part 1 of the Bill, the preceding offences in England and Wales and equivalent offences in Scotland and Northern Ireland. Since clause 14 extends only to England and Wales, the power conferred by this clause will be available only where a court in England and Wales deals with a person for an offence under the law of England and Wales. Offences under the law of Scotland and Northern Ireland are, however, relevant to whether a court in England and Wales may make an order under clause 15.

65. *Subsection (2)* provides that the court must be satisfied that there is a risk that the defendant may commit a slavery or human trafficking offence and that it is necessary to make a STPO for the purposes of protecting persons generally, or particular persons, from physical or psychological harm which would be likely to occur if the defendant committed such an offence.

66. *Subsection (3)* defines “slavery or human trafficking offence” by reference to offences listed in Schedule 1.

67. *Subsection (4)* enables the Secretary of State to amend Schedule 1 by order. For example, this power could be used to add to Schedule 1 any new slavery or trafficking offences created by legislation in Scotland or Northern Ireland.

68. *Subsection (5)* provides that a STPO may be made in relation to a conviction and finding made before this clause comes into force.

69. *Schedule 1* sets out the offences which are slavery and human trafficking offences for the purposes of Part 2.

Clause 15: Slavery and trafficking prevention orders on application

70. This clause provides for a STPO in cases other than on conviction etc. An application for a STPO may be made to a magistrates’ court by a chief officer of police, an immigration officer or the Director General of the National Crime Agency (“NCA”) (*subsection (1)*). The NCA, established under section 1 of the Crime and Courts Act 2013, holds the national lead for tackling slavery and human trafficking. Where an application is made by an immigration officer or the Director General of the NCA, the immigration officer or Director General must

notify the chief officer of police for the area where the offender resides or is believed to intend to reside (*subsection (7)*).

71. The court in accordance with *subsection (2)* must be satisfied that the defendant is a relevant offender (defined in clause 16) and that, since the defendant became a relevant offender, he has acted in a way which demonstrates that there is a risk that the defendant may commit a slavery or human trafficking offence and that it is necessary to make a STPO for the purpose of protecting persons generally, or particular persons, from physical or psychological harm which would be likely to occur if the defendant committed such an offence.

72. *Subsection (9)* provides that a STPO may be made in relation to conduct that took place before this clause comes into force.

Clause 16: Meaning of “relevant offender”

73. *Subsections (1) to (3)* define a relevant offender for the purposes of clause 15. A relevant offender includes a person convicted, made the subject of a finding or cautioned for a slavery or human trafficking offence in any part of the United Kingdom, and also a person convicted etc. in relation to an equivalent offence outside the United Kingdom (defined in *subsections (4) to (5)*). Where an application is made in respect of an equivalent offence, it is open to the person in respect of whom the application is made to challenge whether the offence he or she has been convicted of is an equivalent offence. They can do this by serving a notice on the applicant setting out the grounds for such a challenge (*subsection (6)*), or without serving such a notice if the court permits. *Subsection (7)* provides that references in this clause to convictions etc. include those taking place before its commencement.

Clause 17: Effect of slavery and trafficking prevention orders

74. *Subsection (1)* provides that a STPO may prohibit the person in respect of whom the order is made from doing anything described in it. The nature of any prohibition is a matter for the court to determine. A prohibition may include preventing a person from participating in a particular type of business, operating as a gangmaster, visiting a particular place, working with children or travelling to a specified country. The court may only include in an order prohibitions which it is satisfied are necessary for the purpose of protecting persons generally, or particular persons, from physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence (*subsection (2)*).

75. *Subsections (3) to (5)* provide for the extent and duration of a STPO and the prohibitions in it. A STPO may last for a fixed period of at least five years or until further order. The prohibitions specified in it may each have different duration.

Clause 18: Prohibitions on foreign travel

76. A STPO may prohibit a person from travelling to any specified country outside the United Kingdom, any country other than a country specified in the order or any country outside the United Kingdom (*subsection (2)*). Such a prohibition may be for a fixed period not exceeding five years, but may be renewed at the end of that period (*subsections (1) and (3)*). A person prohibited from travelling to any country must surrender all his or her passports to the police (*subsection (4)*). The police must return any such passports, unless they have been returned to the relevant national or international issuing authorities, once the all-country prohibition ceases to have effect (*subsections (5) and (6)*).

Clause 19: Requirement to provide name and address

77. Clause 19 provides that a defendant subject to a slavery and trafficking prevention order may be required by the court to notify to the persons specified in the order, within three days, their name and address (including any subsequent changes to this information). *Subsection (2)* provides that the court must be satisfied that this requirement is necessary for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence. *Subsection (7)* sets out that where this information is provided to the National Crime Agency, the National Crime Agency must provide this information to the chief officer of police for each relevant police area, which is defined in *subsection (8)*.

Clause 20: Variation, renewal and discharge

78. This clause makes provision to enable a person in respect of whom a STPO has been made or the police, National Crime Agency, or an immigration officer (where they applied for the original order) to apply to the court which made the order to vary, renew or discharge the order (*subsections (1) and (2)*). This provision ensures that the order can be modified to reflect changing circumstances, both to ensure that it remains effective to manage the risk posed by activities relating to slavery or trafficking and that the order remains necessary for that purpose.

79. The person in respect of whom the order was made and, where relevant, the police, National Crime Agency, or an immigration officer have the right to be heard by the court (*subsection (3)*). In relation to the imposition of any additional prohibitions, the court must apply the same test as that which it applied when making the order (*subsection (4)*). An order may not be discharged within five years of it being made without the consent of the person concerned and the relevant chief officer of police (*subsection (6)*).

Clause 21: Interim slavery and trafficking prevention orders

80. *Subsections (1) and (2)* provide for an interim STPO to be made where an application has been made for a STPO under clause 15 and the court considers that it is just to do so. For example, the court may make an interim order in a case where it is satisfied that this is necessary for the purpose of protecting a person from immediate harm pending the full determination of the application for the order.

81. An interim order must be made for a specified period and ceases to have effect once the main application has been determined (*subsection (7)*). An interim order may be varied, renewed or discharged (*subsection (8)*).

Clause 22: Appeals

82. A person may appeal against the making of a STPO on conviction in the same manner as an appeal against sentence (*subsection (1)(a) and (b)*). For example, an order made by the magistrates' court may be appealed to the Crown Court. A STPO made on an application under clause 15 and an interim STPO may be appealed to the Crown Court (*subsection (1)(c) and (2)*).

83. A person in respect of whom an order is made may also appeal a decision under clause 20 to vary, renew or discharge an order (*subsection (3)*).

84. *Subsection (4)* sets out the powers of the Crown Court when determining an appeal. It will be open to the court to revoke the order or to amend its provision (either the duration or the prohibitions contained in it).

85. *Subsection (5)* provides that in cases specified in the subsection an order made by a Crown Court on an appeal is treated as if it were an order of the court from which the appeal was brought. For example, an order by the Crown Court on an appeal from a decision of the magistrates' court under clause 15 is treated as if it was an order of the magistrates' court for the purposes of a subsequent application to vary that order.

Clause 23: Slavery and trafficking risk orders

86. *Subsection (1)* enables a magistrates' court to make a slavery and trafficking risk order ("STRO") on an application by a chief officer of police, an immigration officer or the Director General of the NCA. A STRO may be made against either an adult or person under 18. Where an application is made by an immigration officer or the Director General of the NCA, the immigration officer or Director General must notify the chief officer of police for the area where the offender resides or is believed to intend to reside (*subsection (6)*).

87. *Subsection (2)* sets out the test for making a STRO, namely that the court is satisfied there is a risk that the defendant may commit a slavery or human trafficking offence and that it is necessary to make a STPO for the purpose of protecting persons generally, or particular persons, from physical or psychological harm which would be likely to occur if the defendant committed such an offence. There is no requirement for the person in respect of whom an order is sought to have previously been convicted or cautioned in relation to a criminal offence.

88. *Subsection (4)* provides that an application for a STRO is made by complaint.

89. *Subsection (5)* provides that in relation to a person aged under 18 a reference to a magistrates' court is to be taken as referring to a youth court.

90. *Subsection (8)* provides that an application for a STRO may be made in relation to conduct that took place before the commencement of this clause.

Clause 24: Effect of slavery and trafficking risk orders

91. *Subsection (1)* provides that a STRO may prohibit the person in respect of whom the order is made from doing anything described in it. The nature of any prohibition is a matter for the court to determine. A prohibition may include preventing a person from participating in a particular type of business, operating as a gangmaster, visiting a particular place, working with children or travelling to a specified country. The court may only include in an order prohibitions which it is satisfied are necessary for the purpose of protecting persons generally, or particular persons, from physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence (*subsection (2)*).

92. *Subsections (3) to (5)* provide for the extent and duration of a STRO and the prohibitions in it. A STRO may last for a fixed period of at least two years or until further order. The prohibitions specified in it may each have different duration.

Clause 25: Prohibitions on foreign travel

93. A STRO may prohibit a person from travelling to any specified country outside the United Kingdom, from travelling to any country other than a country specified in the order or from travelling to any country outside the United Kingdom (*subsection (2)*). Such a prohibition may be for a fixed period not exceeding five years, but may be renewed at the end of that period (*subsections (1) and (3)*). A person prohibited from travelling to any country must surrender all his or her passports to the police (*subsection (4)*). The police must return any such passports, unless they have been returned to the relevant national or international issuing authorities, once the all-country prohibition ceases to have effect (*subsections (5) and (6)*).

Clause 26: Requirement to provide name and address

94. This clause provides that a defendant subject to a slavery and trafficking risk order may be required by the court to notify to the persons specified in the order, within three days, their name and address (including any subsequent changes to this information). *Subsection (2)* provides that the court must be satisfied that this requirement is necessary for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence. *Subsection (7)* sets out that where this information is provided to the National Crime Agency, the National Crime Agency must provide this information to the chief officer of police for each relevant police area, which is defined in *subsection (8)*.

Clause 27: Variation, renewal and discharge

95. This clause makes provision to enable the person who is subject to a STRO, the police, National Crime Agency, or an immigration officer to apply to a magistrates' court to vary, renew or discharge the order (*subsections (1) and (2)*). This provision ensures that the order can be modified to reflect changing circumstances, both to ensure that it remains effective to manage the risk posed by activities related to slavery or trafficking and that the order remains necessary for that purpose.

96. The person in respect of whom the order was made, and, where relevant, the police, National Crime Agency, or an immigration officer have the right to be heard by the court (*subsection (3)*). In relation to the imposition of any additional prohibitions, the court must apply the same test as that which applied when making the order (*subsection (4)*). An order may not be discharged within two years of it being made without the consent of the person concerned and the relevant chief officer of police (*subsection (6)*).

Clause 28: Interim slavery and trafficking risk orders

97. *Subsections (1) to (3)* provide for an interim STRO to be made where an application has been made for an STRO and the court considers that it is just to do so. For example, the court may make an interim order in a case where it is satisfied that this is necessary for the purpose of protecting a person from immediate harm pending the full determination of the application for the order.

98. An interim order must be made for a specified period and ceases to have effect once the main application has been determined (*subsection (7)*). An interim order may be varied, renewed or discharged (*subsection (8)*).

Clause 29: Appeals

99. A person may appeal against the making of a STRO or an interim STRO, or the decision under clause 27 to vary, renew or discharge an order to the Crown Court (*subsection (1)*).

100. *Subsection (2)* sets out the powers of the Crown Court when determining an appeal. It will be open to the court to revoke the order or to amend its provision (either the duration or the prohibitions contained in it).

101. *Subsection (3)* provides that in cases specified in the subsection an order made by a Crown Court on an appeal is treated as if it were an order of the court from which the appeal was brought. For example, an order by the Crown Court on an appeal from a decision of the magistrates' court under clause 23 is treated as if it was an order of the magistrates' court for the purposes of a subsequent application to vary that order.

Clause 30: Offences

102. *Subsection (1)* makes it an offence for a person to do anything which is prohibited by an STPO, interim STPO, STRO or interim STRO without reasonable excuse.

103. Where an order includes a foreign travel prohibition in respect of all countries outside the United Kingdom, *subsection (2)* makes it an offence for the person subject to the order to fail, without reasonable excuse, to surrender all his or her passports. It is also an offence for a person to fail to comply with a requirement to provide his or her name and address.

104. The maximum penalty for either offence is six months imprisonment or a fine of £5,000 or both on summary conviction, or five years imprisonment following conviction on indictment (*subsection (3)*). *Subsection (4)* precludes the court from making an order for a conditional discharge following a conviction for an offence in this clause.

105. In the case of conviction on indictment, the availability of a fine will be determined by section 163 of the Criminal Justice Act 2003 (general power of Crown Court to fine offender convicted on indictment).

Clause 31: Cross-border enforcement

106. *Subsection (1)* confers power on the Secretary of State to add to the list of orders in clause 30(1) any "relevant UK order" (defined in *subsection (2)* as an equivalent or similar order made under the law of Scotland or Northern Ireland). This power is exercisable by the Secretary of State making regulations subject to the affirmative resolution procedure

107. The effect of this provision is to enable a breach of an order made in Scotland or Northern Ireland to be a criminal offence in England and Wales.

Clause 32: Rules of court

108. *Subsection (1)* allows for rules of court to provide that the youth court can give permission that an application for an STPO or STRO in relation to a person over 18 can be heard in a youth court if there is a linked case relating to an individual under 18 and there is reason for the cases to be heard together.

109. *Subsection (2)* provides that where an individual attains the age of 18 years after proceedings relating to an STPO or STRO have begun, rules of court may prescribe when the case may or must remain in the youth court, or should be transferred to a magistrates' court.

Clause 33: Guidance to chief officers of police etc

110. This clause confers a duty on the Secretary of State to issue guidance to chief officers of police, immigration officers and the Director General of the NCA in relation to their powers in relation to STPOs, interim STPOs, STROs or interim STROs (*subsection (1)*). The Secretary of State may issue revised guidance (*subsection (2)*). The Secretary of State is required to publish such guidance (*subsection (3)*); it is not subject to any Parliamentary procedure.

Clause 34: Interpretation of Part 2

111. This clause defines the meaning of a number of expressions used in Part 2 of the Bill.

112. *Subsection (1)* includes the definition of “cautioned”, which refers to a caution in respect of a slavery or human trafficking offence which, at the time the caution is given, that person has admitted.

113. *Subsection (8)* disapplies the usual six month time limit for making an application made by complaint to the magistrates' court.

PART 3: MARITIME ENFORCEMENT

Clause 35 and Part 1 of Schedule 2: Enforcement powers in relation to ships: England and Wales

114. Clause 35 provides additional powers for law enforcement in England and Wales (the police, port police, British Transport Police, designated National Crime Agency officers, customs officials, or a member of Her Majesty's Armed Forces) to tackle suspected human trafficking or slavery at sea. The details of the additional powers are set out in Part 1 of

Schedule 2. This is an issue because victims are in many cases trafficked illegally on vessels, and also may be the subject of slavery, servitude or forced labour on board vessels. Extending law enforcement powers in relation to suspected modern slavery offences will enable the police and other relevant bodies to better protect suspected victims and bring offenders to justice.

115. *Subsection (1)* sets out the scenarios in which a constable or law enforcement officer may use additional powers in relation to vessels where an offence of human trafficking or slavery is suspected. These restrictions are in line with UK court jurisdiction, so wherever a suspect is apprehended prosecution can take place. The only exception to this is in the case of a UK vessel or stateless vessel in the territorial waters of another state or relevant territory, where UK court jurisdiction only applies where the offender is a British citizen. However, as the nationality of a suspected offender may not be apparent prior to investigation, the power is provided for all UK vessels in this scenario.

116. *Subsection (2)* provides that these powers are only exercisable for the purpose of preventing, detecting, investigating or prosecuting a human trafficking or slavery offence, and in accordance with the conditions of this clause.

117. *Subsection (3)* provides that an enforcement officer must gain the authority of the Secretary of State prior to exercising the powers set out in Part 1 of Schedule 2 in relation to a UK vessel in foreign waters.

118. *Subsection (4)* sets out that the approval of the Secretary of State for the scenario in *Subsection (3)* can only be provided if the state or relevant territory in whose waters the powers would be exercised consents to the use of these powers.

119. *Subsection (5)* confirms that the authority of the Secretary of State is also required for law enforcement to use these powers in relation to a foreign vessel, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to the United Kingdom.

120. *Subsection (6)* sets out that, in relation to foreign ships, the approval of the Secretary of State for the scenario in *Subsection (5)* can only be provided if one of the listed conditions has been met. This ensures the measure is aligned with the UN Convention on the Law of the Sea (UNCLOS). The conditions are: that the home state has requested the assistance of the UK for the purposes set out in sub-section (2)(a); the home state has authorised the UK to act in that way; or UNCLOS otherwise permits the exercise of these powers.

121. *Subsection (7)* adds that, in giving this authority, the Secretary of State must also give effect to any conditions or limitations the home state in question has made a condition of their authority.

122. The detail of the powers set out in clause 35 is set out in Part 1 of Schedule 2. *Paragraph 1* introduces Part 1 of Schedule 2, which sets out the powers exercisable by the police, port police, British Transport Police, designated National Crime Agency officer, customs officials, or a relevant member of the Armed Forces ('enforcement officer') in relation to suspected slavery and human trafficking offences at sea (clause 35) and clause 38 (Hot pursuit of ships in United Kingdom waters).

123. *Paragraph 2* provides a power to stop and board a ship, and to direct the vessel to be taken to a port in England and Wales, or elsewhere, and detained there, where there are reasonable grounds to suspect that a slavery or human trafficking offence is being, or has been committed or the vessel is being used in connection with a slavery or trafficking offence. It notes that if the enforcement officer is acting on the authority of the Secretary of State, as set out in clause 35(5), the officer can require the vessel to be taken to a port in another country willing to take the vessel. In operating this power an enforcement officer has the power to require any member of a vessel's crew to take action necessary to support their enforcement activity in relation to the powers set out in *sub-paragraph 2(1)*. Written notice must be provided to the master of any vessel detained under this paragraph, which must state the ship is to be detained until withdrawn via a further written notice, signed by a constable or an enforcement officer.

124. *Paragraph 3* provides a power to search a vessel and any person or object on that vessel, where a constable or an enforcement officer has reasonable grounds to suspect that there is evidence on the ship relating to a slavery or trafficking offence, or a connected offence. It gives a constable or an enforcement officer the power to require a person on the vessel under investigation to give information about themselves or about anything on the vessel. It confirms that searching may include (although is not limited to) opening containers, requiring the production of documents, books or records (in either hard copy or electronic form) and making photographs or copies of anything the constable or officer has power to require. This power can only be used where a search is reasonably required to discover evidence of a slavery, trafficking or connected offence and does not authorise the removal of any clothing in public other than an outer coat, jacket or gloves.

125. *Paragraph 4* provides a power of arrest where a constable or an enforcement officer has reasonable grounds to suspect a slavery or human trafficking offence has been committed on the vessel under investigation. A constable or an enforcement officer can arrest without warrant anyone they have reasonable grounds to suspect may be guilty of a slavery or human trafficking offence. A constable or an officer may also seize and detain anything that appears to be evidence of that offence. The exception to this is any materials that the constable or officer has reasonable grounds to suspect are subject to legal privilege.

126. *Paragraph 5* provides for a Code of Practice for constables or law enforcement officers exercising the power of arrest set out in *paragraph 4*. The Code will provide guidance on the information to be given to a person at the time of arrest. Where a constable or an enforcement officer fails to comply with any provision of the Code it does not of itself

render the constable or officer liable to any criminal or civil proceeding. The code may be admissible in evidence in criminal and civil proceedings and may be taken into account by a court or tribunal where it appears to them to be relevant. The Secretary of State may at any time revise the whole, or a part of the Code. Any revision to the Code does not come into operation until the Secretary of State has provided for it in regulations, which will be made by statutory instrument.

127. *Paragraph 6* provides that a constable or an enforcement officer may take another person or relevant equipment or materials on board a vessel to support them in exercising the powers set out in this Part of the Schedule. The assistant may perform functions on behalf of the constable or officer under their supervision.

128. *Paragraph 7* confirms that a constable or an enforcement officer may use reasonable force, where necessary, in order to perform the functions set out in this Part of the Schedule.

129. *Paragraph 8* provides that, when required, a constable or an enforcement officer must provide evidence of their authority.

130. *Paragraph 9* confirms that a constable or an enforcement officer is not liable in any civil or criminal proceedings for anything done in performance of the functions in this Schedule, provided that a court is satisfied that the constable or officer acted in good faith and there were reasonable grounds for their actions.

131. *Paragraph 10* creates two offences where a person does not comply with the investigation. The first makes it an offence where a person intentionally obstructs a constable or an enforcement officer in exercising the powers in this Schedule, or fails to comply with a requirement of a constable or an enforcement officer, without reasonable excuse. The second makes it an offence where a person knowingly or recklessly provides false information, or intentionally fails to disclose anything material, in response to a constable or an enforcement officer requiring information when exercising the powers within this Schedule. Both of these offences are summary only and on conviction the defendant is liable to a fine.

Clause 36 and Part 2 of Schedule 2: Enforcement powers in relation to ships: Scotland

132. Clause 36 sets out powers for law enforcement in Scotland (the police, designated National Crime Agency officers, customs officials, or a member of Her Majesty's Armed Forces) to tackle suspected human trafficking or slavery at sea. The details of the additional powers are set out in Part 2 of Schedule 2.

133. *Subsection (1)* sets out the scenarios in which a Scottish constable or an enforcement officer may use additional powers in relation to vessels where an offence of human trafficking or slavery is suspected, in waters adjacent to Scotland, or in international or foreign waters. These restrictions are in line with UK court jurisdiction, so wherever a suspect is apprehended prosecution can take place. The only exception to this is in the case of a UK vessel in the

*These notes refer to the Modern Slavery Bill
as brought from the House of Commons on 5th November 2014 [HL Bill 51]*

territorial waters of another state, where UK court jurisdiction only applies where the offender is a British citizen. However, as the nationality of a suspected offender may not be apparent prior to investigation, the power is provided for all UK vessels in this scenario.

134. *Subsection (2)* provides that these powers are only exercisable for the purpose of preventing, detecting, or investigating a listed offence, set out in subsection (8), and in accordance with the conditions of this clause.

135. *Subsection (3)* provides that a Scottish constable or an enforcement officer must gain the authority of the Secretary of State prior to exercising the powers set out in Part 2 of Schedule 2 in relation to a UK vessel in foreign waters.

136. *Subsection (4)* sets out that the approval of the Secretary of State for the scenario in *Subsection (3)* can only be provided if the state or relevant territory in whose waters the powers would be exercised consents to the use of these powers.

137. *Subsection (5)* confirms that the authority of the Secretary of State is also required for a Scottish constable or enforcement officer to use these powers in relation to a foreign vessel, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to the United Kingdom.

138. *Subsection (6)* sets out that the approval of the Secretary of State for the scenario in *Subsection (5)* can only be provided in relation to a foreign ship if one of the listed conditions has been met. This ensures the measure is aligned with the UN Convention on the Law of the Sea (UNCLOS). The conditions are: that the home state has requested the assistance of the UK for the purposes set out in *Subsection (2)(a)*; the home state has authorised the UK to act in that way; or UNCLOS otherwise permits the exercise of these powers.

139. *Subsection (7)* adds that, in giving this authority in relation to a foreign ship, the Secretary of State must also give effect to any conditions or limitations the home state in question has made a condition of their authority.

140. *Subsection (8)* sets out the relevant Scottish offences for this clause.

141. The detail of the powers set out in clause 36 is set out in Part 2 of Schedule 2. *Paragraph 11* introduces Part 2, which sets out the powers exercisable by Scottish constables, designated National Crime Agency officers, and enforcement officers (customs officials or a relevant member of the Armed Forces) under clause 36 (Enforcement powers in relation to ships: Scotland) and clause 38 (Hot pursuit of ships in United Kingdom waters). *Sub-paragraph (2)* sets out the definitions of “items subject to legal privilege”, “listed offence”, and “the ship”.

142. *Paragraph 12* provides a power to stop and board a ship, and to direct the vessel to be taken to a port in Scotland, or elsewhere, and detained there, where there are reasonable grounds to suspect that a slavery or human trafficking offence is being, or has been committed or the vessel is being used in connection with a slavery or trafficking offence. It notes that if the Scottish constable or enforcement officer is acting on the authority of the Secretary of State, as set out in clause 36(5), the officer can require the vessel to be taken to a port in another country willing to take the vessel. In operating this power a Scottish constable or an enforcement officer has the power to require any member of a vessel's crew to take action necessary to support their enforcement activity in relation to the powers set out in *sub-paragraph 12(1)*. Written notice must be provided to the master of any vessel detained under this paragraph, which must state the ship is to be detained until withdrawn via a further written notice, signed by a Scottish constable or an enforcement officer.

143. *Paragraph 13* provides a power to search a vessel and any person or object on that vessel, where a Scottish constable or enforcement officer has reasonable grounds to suspect that there is evidence on the ship relating to a slavery or trafficking offence, or a connected offence. It gives a Scottish constable or enforcement officer the power to require a person on the vessel under investigation to give information about themselves. It confirms that searching may include (although is not limited to) opening containers, requiring the production of documents, books or records (in either hard copy or electronic form) and making photographs or copies of anything the a Scottish constable or officer has power to require. This power can only be used where a search is reasonably required to discover evidence of a slavery, trafficking or connected offence and does not authorise the removal of any clothing in public other than an outer coat, jacket or gloves.

144. *Paragraph 14* provides a power of arrest where a Scottish constable or enforcement officer has reasonable grounds to suspect a slavery or human trafficking offence has been committed on the vessel under investigation. A Scottish constable or an enforcement officer can arrest without warrant anyone they have reasonable grounds to suspect may be guilty of a slavery or human trafficking offence. A Scottish constable or an officer may also seize and detain anything that appears to be evidence of that offence. The exception to this is any materials that the constable or officer has reasonable grounds to suspect are subject to legal privilege.

145. *Paragraph 15* provides that a Scottish constable or enforcement officer may take another person or relevant equipment or materials on board a vessel to support them in exercising the powers set out in this Schedule. The assistant may perform functions on behalf of the constable or officer under their supervision.

146. *Paragraph 16* confirms that a Scottish constable or enforcement officer may use reasonable force, where necessary, in order to perform the functions set out in this Part of this Schedule.

147. *Paragraph 17* provides that, when required, a Scottish constable or enforcement officer must provide evidence of their authority.

148. *Paragraph 18* creates two offences where a person does not comply with the investigation. The first makes it an offence where a person intentionally obstructs a Scottish constable or an enforcement officer in performing the functions in this Part of this Schedule, or fails to comply with a requirement of a Scottish constable or an enforcement officer, without reasonable excuse. The second makes it an offence where a person knowingly or recklessly provides false information, or intentionally fails to disclose anything material, in response to a Scottish constable or an enforcement officer requiring information when exercising the powers within this Schedule.

149. Sub-paragraph (3) of *paragraph 18* sets out that a person convicted of this offence will be subject, on summary conviction, to a fine not exceeding the statutory maximum, or on conviction on indictment, to a fine.

Clause 37 and Part 3 of Schedule 2: Enforcement powers in relation to ships: Northern Ireland

150. Clause 37 sets out powers for law enforcement in Northern Ireland (the police, customs officials, a member of Her Majesty's Armed Forces) to tackle suspected human trafficking or slavery at sea. If an order is made by the Secretary of State under Schedule 24 to the Crime and Courts Act 2013, which would be dependent on the consent of the Northern Ireland Assembly, the powers would also become exercisable by certain NCA officers who would fall within the definition of a constable because they would be designated with the powers and privileges of a constable. The details of the additional powers are set out in Part 3 of Schedule 2.

151. *Subsection (1)* sets out the scenarios in which a Northern Ireland constable or an enforcement officer may use additional powers in relation to vessels where an offence of human trafficking or slavery is suspected, in waters adjacent to Northern Ireland, or in international or foreign waters. These restrictions are in line with UK court jurisdiction, so wherever a suspect is apprehended prosecution can take place. The only exception to this is in the case of a UK vessel in the territorial waters of another state, where UK court jurisdiction only applies where the offender is a British citizen. However, as the nationality of a suspected offender may not be apparent prior to investigation, the power is provided for all UK vessels in this scenario.

152. *Subsection (2)* provides that these powers are only exercisable for the purpose of preventing, detecting, investigating or prosecuting a listed offence, set out in subsection (9), and in accordance with the conditions of this clause.

*These notes refer to the Modern Slavery Bill
as brought from the House of Commons on 5th November 2014 [HL Bill 51]*

153. *Subsection (3)* provides that the authority of the Chief Constable of the Police Service of Northern Ireland is required before an enforcement officer (a customs officials or a member of Her Majesty's Armed Forces) may exercise any Part 3 powers.

154. *Subsection (4)* provides that a Northern Ireland constable or an enforcement officer must gain the authority of the Secretary of State prior to exercising the powers set out in Part 3 of Schedule 2 in relation to a UK vessel in foreign waters.

155. *Subsection (5)* sets out that the approval of the Secretary of State for the scenario in *Subsection (3)* can only be provided if the state or relevant territory in question consents to the use of these powers.

156. *Subsection (6)* confirms that the authority of the Secretary of State is also required for a Northern Ireland constable or enforcement officer to use these powers in relation to a foreign vessel, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to the United Kingdom.

157. *Subsection (7)* sets out that the approval of the Secretary of State for the scenario in *Subsection (6)* can only be provided in relation to a foreign ship if one of the listed conditions has been met. This ensures the measure is aligned with the UN Convention on the Law of the Sea (UNCLOS). The conditions are: that the home state has requested the assistance of the UK for the purposes set out in subsection (2)(a); the home state has authorised the UK to act in that way; or UNCLOS otherwise permits the exercise of these powers.

158. *Subsection (8)* adds that, in giving this authority in relation to a foreign ship, the Secretary of State must also give effect to any conditions or limitations the home state in question has made a condition of their authority.

159. *Subsection (9)* sets out the relevant Northern Ireland offences for this clause.

160. The detail of the powers set out in clause 37 is set out in Part 3 of Schedule 2. *Paragraph 19*, sub-paragraph (1) introduces Part 3, which sets out the powers exercisable by Northern Ireland constables and enforcement officers under clause 37 (Enforcement powers in relation to ships: Northern Ireland) and clause 38 (Hot pursuit of ships in United Kingdom waters). *Sub-paragraph 19(2)* sets out the definitions of "items subject to legal privilege", "listed offence", and "the ship".

161. *Paragraph 20* provides a power to stop and board a ship, and to direct the vessel to be taken to a port in Northern Ireland, or elsewhere, and detained there, where there are reasonable grounds to suspect that a slavery or human trafficking offence is being, or has been committed or the vessel is being used in connection with a slavery or trafficking offence. It notes that if the Northern Ireland constable or enforcement officer is acting on the authority of the Secretary of State, as set out in clause 37(6), the Northern Ireland constable or officer can

require the vessel to be taken to a port in another country willing to take the vessel. In operating this power a Northern Ireland constable or an enforcement officer has the power to require any member of a vessel's crew to take action necessary to support their enforcement activity. Written notice must be provided to the master of any vessel detained under this paragraph, which must state the ship is to be detained until withdrawn via a further written notice, signed by a Northern Ireland constable or an enforcement officer.

162. *Paragraph 21* provides a power to search a vessel and any person or object on that vessel, where a Northern Ireland constable or enforcement officer has reasonable grounds to suspect that there is evidence on the ship relating to a slavery or trafficking offence, or a connected offence. It gives a Northern Ireland constable or enforcement officer the power to require a person on the vessel under investigation to give information about themselves or about anything on the vessel. It confirms that searching may include (although is not limited to) opening containers, requiring the production of documents, books or records (in either hard copy or electronic form) and making photographs or copies of anything the constable or officer has power to require. This power can only be used where a search is reasonably required to discover evidence of a slavery, trafficking or connected offence and does not authorise the removal of any clothing in public other than an outer coat, jacket or gloves.

163. *Paragraph 22* provides a power of arrest where a Northern Ireland constable or enforcement officer has reasonable grounds to suspect a slavery or human trafficking offence has been committed on the vessel under investigation. A Northern Ireland constable or an enforcement officer can arrest without warrant anyone they have reasonable grounds to suspect may be guilty of a slavery or human trafficking offence. A Northern Ireland constable or an officer may also seize and detain anything that appears to be evidence of that offence. The exception to this is any materials that the constable or officer has reasonable grounds to suspect are subject to legal privilege.

164. *Paragraph 23* requires that the Department of Justice in Northern Ireland prepares and issues a code in respect of the practice to be followed by Northern Ireland constables and enforcement officers when arresting a person under the power conferred by *sub-paragraph 22(1)*, in particular providing guidance as to the information to be given to the person at the time of arrest (*sub-paragraph 23(2)*). Subparagraph (3) confirms that failure to comply with the code does not render a Northern Ireland constable or officer liable to criminal proceedings. *Sub-paragraph 23(4)* sets out that the code is admissible in criminal and civil proceedings and may be taken into account by a court or tribunal where relevant. *Sub-paragraph 23(5)* provides that the Department of Justice in Northern Ireland may make revisions to the code at any time and *sub-paragraph 23(6)* states that the code will only come into effect when the Department lays a draft of the code before the Northern Ireland Assembly and provides by order for the code or a revised code to come into operation. *Sub-paragraph 23(7)* provides that an order bringing the code into operation may contain relevant transitional provisions or savings. *Sub-paragraph 23(8)* provides that an order under this section is subject to negative resolution and *sub-paragraph 23(9)* provides this is exercisable by

statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

165. *Paragraph 24* provides that a Northern Ireland constable or enforcement officer may take another person or relevant equipment or materials on board a vessel to support them in exercising the powers set out in this Schedule. The assistant may perform functions on behalf of the officer under their supervision.

166. *Paragraph 25* confirms that a Northern Ireland constable or enforcement officer may use reasonable force, where necessary, in order to perform the functions set out in this Schedule.

167. *Paragraph 26* provides that, when required, a Northern Ireland constable or enforcement officer must provide evidence of their authority.

168. *Paragraph 27* confirms that a Northern Ireland constable or enforcement officer is not liable in any civil or criminal proceedings for anything done in performance of the functions in this Schedule, provided that a court is satisfied that the Northern Ireland constable or officer acted in good faith and there were reasonable grounds for their actions.

169. *Paragraph 28* creates two offences where a person does not comply with the investigation. The first makes it an offence where a person intentionally obstructs a Northern Ireland constable or an enforcement officer in exercising the powers in this Schedule, or fails to comply with a requirement of a Northern Ireland constable or an enforcement officer, without reasonable excuse. The second makes it an offence where a person knowingly or recklessly provides false information, or intentionally fails to disclose anything material, in response to a Northern Ireland constable or an enforcement officer requiring information when exercising the powers within this Schedule.

170. *Sub-paragraph 28(3)* sets out that a person guilty of an offence under this paragraph is liable on summary conviction, to a fine not exceeding the statutory maximum; and on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.

Clause 38: Hot pursuit of ships in United Kingdom waters

171. Clause 38 sets out powers of hot pursuit, where law enforcement seek to pursue a suspected vessel between waters adjacent to different jurisdictions within the UK or between UK and international waters.

172. *Subsection (1)* provides that an English and Welsh constable or an enforcement officer may exercise Part 1 powers in relation to a ship in Scotland waters or in Northern Ireland waters if the ship is pursued there from relevant waters, and the condition in *subsection (10)* is

met (that before the pursuit of the ship, a signal is given for it to stop, and the pursuit of the ship is not interrupted).

173. *Subsection (2)* sets out that powers in *subsection (1)* can only be exercised in relation to a ship for the purposes provided in *subsection (2)(a)* of clause 35 (Enforcement powers in relation to ships: England and Wales), and, if the ship is a foreign ship or registered under the law of a relevant territory, in accordance with *subsections (5) to (7)* of that clause.

174. *Subsection (3)* sets out that for the purpose of *subsection (1)* relevant waters means England and Wales waters or international waters (in the case of a United Kingdom ship or a ship without nationality) or England and Wales waters (in the case of a foreign ship or a ship registered under the law of a relevant territory).

175. *Subsection (4)* provides that a Scottish constable or an enforcement officer may exercise Part 2 powers in relation to a ship in England and Wales waters or in Northern Ireland waters if the ship is pursued there from relevant waters, and the condition in *subsection (10)* is met (that before the pursuit of the ship, a signal is given for it to stop, and the pursuit of the ship is not interrupted).

176. *Subsection (5)* sets out that powers in *subsection (4)* can only be exercised in relation to a ship for the purposes provided in *subsection (2)(a)* of clause 36 (Enforcement powers in relation to ships: Scotland), and, if the ship is a foreign ship or registered under the law of a relevant territory, in accordance with *subsections (5) to (7)* of that clause.

177. *Subsection (6)* sets out that for the purpose of *subsection (4)(b)* relevant waters means Scotland waters or international waters (in the case of a United Kingdom ship or a ship without nationality) or Scotland waters (in the case of a foreign ship or a ship registered under the law of a relevant territory).

178. *Subsection (7)* provides that a Northern Ireland constable or an enforcement officer may exercise Part 3 powers in relation to a ship in England and Wales waters or in Scottish waters if the ship is pursued there from relevant waters, and the condition in *subsection (10)* is met (that before the pursuit of the ship, a signal is given for it to stop, and the pursuit of the ship is not interrupted).

179. *Subsection (8)* sets out that powers in *subsection (7)* can only be exercised in relation to a ship for the purposes provided in *subsection (2)(a)* of clause 37 (Enforcement powers in relation to ships: Northern Ireland), and, if the ship is a foreign ship or registered under the law of a relevant territory, in accordance with *subsections (6) to (8)* of that clause.

180. *Subsection (9)* sets out that for the purpose of *subsection (7)(b)* relevant waters means Northern Ireland waters or international waters (in the case of a United Kingdom ship or a

ship without nationality) or Northern Ireland waters (in the case of a foreign ship or a ship registered under the law of a relevant territory).

181. *Subsection (10)* provides that for pursuit to meet the conditions of this clause, before the pursuit of the ship, a signal must be given for it to stop, and the pursuit of the ship must not be interrupted.

182. *Subsection (11)* provides that the signal referred to in *subsection (10)(a)* must be given in such a way as to be audible or visible from the ship in question

183. *Subsection (12)* provides that, for the purposes of *subsection (10)(b)*, pursuit is not considered interrupted simply because the method of carrying out the pursuit, or the identity of the ship or aircraft carrying out the pursuit, changes during the course of the pursuit.

184. *Subsection (13)* confirms that nothing in this Part affects any right of hot pursuit that a constable or an enforcement officer may have under international law.

Clause 39: Interpretation of Part 3

185. Clause 39 sets out the definitions used throughout Part 3 and Schedule 2. *Subsection (1)* sets out the relevant definitions. An enforcement officer in this context means a designated customs official or a member of Her Majesty's Armed Forces. A constable is defined for each of the jurisdictions. In England and Wales, a constable means a police constable, a National Crime Agency officer designated with the powers and privileges of a constable in England and Wales under Schedule 5 of the Crime and Courts Act 2013 (a "designated National Crime Agency Officer"), a member of the port police, or a member of the British Transport Police. In Scotland a constable means a member of Police Scotland or a National Crime Agency officer designated with the powers and privileges of a constable in Scotland under Schedule 5 of the Crime and Courts Act 2013 (a "designated National Crime Agency Officer"). In Northern Ireland a constable means a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve. After an order made by the Secretary of State under Schedule 24 of the Crime and Courts Act 2013 (which would be dependent on the consent of the Northern Ireland Assembly) a National Crime Agency officer designated with the powers and privileges of a constable in Northern Ireland would also fall within the definition. It also sets out the definitions for relevant territories and different UK territorial waters. *Subsection (2)* sets out the definition of a "United Kingdom connection", in the context of *subsection (1)*, which includes a British citizen, a British overseas territory citizen, a British overseas citizen, a person habitually resident in the UK or a body corporate established under the law of a part of the United Kingdom, whose principal place of business is in the United Kingdom.

PART 4: THE INDEPENDENT ANTI-SLAVERY COMMISSIONER

Clause 40: The Independent Anti-slavery Commissioner

186. *Subsection (1)* provides for the establishment of an Independent Anti-slavery Commissioner (“the Commissioner”) who will be an independent office holder appointed by the Secretary of State (in practice, the Home Secretary) following consultation with Scottish Ministers and the Department of Justice in Northern Ireland. The Commissioner will have a UK-wide remit. The duration of an appointment and provision for resignation and removal from office will be provided for in the terms of appointment (*subsection (2)*). *Subsection (3)* makes provision for the payment of expenses, remuneration or allowances. The Commissioner will not be a corporation sole able to employ staff or enter into contracts, as such staffing and accommodation will be provided by the Secretary of State after consultation with the Commissioner (*subsection (4)*). *Subsection (5)* has the effect of disqualifying the Commissioner from also being a Member of Parliament and *subsection (6)* disqualifies the Commissioner from being a member of the Northern Ireland Assembly. *Subsection (7)* makes the Commissioner subject to the provisions of the Freedom of Information Act 2000.

Clause 41: General functions of Commissioner

187. *Subsection (1)* states that the Commissioner must encourage good practice in the prevention, detection, investigation and prosecution of slavery and human trafficking offences and the identification of victims of those offences.

188. *Subsection (2)* lists the offences to which *subsection (1)* applies. These offences include all slavery and trafficking offences in England, Wales, Scotland and Northern Ireland. In practice the Commissioner will focus on improving the identification of victims as well as the effectiveness of the law enforcement response in the UK, to both encourage effective investigations leading to successful convictions of modern slavery offences and prevent future offences.

189. *Subsection (3)* sets out a non-exhaustive list of things the Commissioner may do in exercise of his general functions in subsection (1). In carrying out his general function the Commissioner may make reports to the Secretary of State, the Scottish Ministers and the Department for Justice in Northern Ireland on any matter which they asked the Commissioner to report on or which the current strategic plan states is a matter the Commissioner may report on (see *subsections (3)(a) and (4)*). Clause 41(3) and 42 mean that the Commissioner will report on an annual basis based on the strategic plan they agree with the Secretary of State. This clause means the Commissioner could also report at other times, for example if they are undertaking a specific programme of work on a particular topic. The Commissioner may make recommendations to public authorities about the exercise of their functions. The Commissioner may undertake research and may support others to do so. This could be administrative support or financial support, where funds are available. The Commissioner

may also provide information, education or training to any person, for example to law enforcement agencies on good practice in investigating modern slavery offences. The Commissioner may also consult any person they feel is appropriate in carrying out their functions and co-operate with or work jointly with others in the UK or abroad.

190. *Subsection (6)* sets out a power for the Secretary of State to remove from any report information that she thinks would be against the interests of national security, would prejudice the safety of any individual in England and Wales or prejudice a criminal investigation or prosecution of offences under the law of England and Wales. Subsection (7) sets out a similar power for Scottish Ministers to remove material from any report which might prejudice the safety of any person in Scotland or the investigation or prosecution of offences under the law of Scotland. Subsection (8) provides the same power for the Department of Justice in Northern Ireland in relation to the safety of any person in Northern Ireland or offences under the law of Northern Ireland. *Subsection (9)* states that if the Secretary of State, Scottish Ministers or the Department of Justice in Northern Ireland lay a report before their respective legislatures, the report must be laid as it is published by the Commissioner under subsection (5).

Clause 42: Strategic plans and annual reports

191. *Subsection (1)* requires the Commissioner to prepare a strategic plan of their programme of work and priorities, as soon as reasonably practicable after their appointment, for approval by the Secretary of State.

192. *Subsection (2)* provides that the Commissioner must prepare a strategic plan, prior to the end of the period of a current strategic plan and submit it to the Secretary of State for approval.

193. *Subsection (3)* allows the Commissioner to prepare a revised strategic plan, at any time, and to submit it to the Secretary of State for approval.

194. *Subsection (4)* states that a strategic plan is a plan prepared by the Commissioner setting out how the Commissioner will perform their functions, for the period of the plan. It also states that a strategic plan must be prepared for a period of not less than one year and no more than three years.

195. *Subsection (5)* provides that a strategic plan must set out: the Commissioner's priorities for the period of the plan; which matters the Commissioner proposes to report on in line with their functions; and state any activities that the Commissioner intends to undertake in carrying out his or her functions, for the period of the plan.

196. *Subsection (6)* allows the Secretary of State to approve the strategic plan, either without modifications or with modifications agreed with the Commissioner. In practice the

*These notes refer to the Modern Slavery Bill
as brought from the House of Commons on 5th November 2014 [HL Bill 51]*

Commissioner will work collaboratively with the Secretary of State to produce a mutually agreed plan which is focused on priority areas.

197. *Subsection (7)* requires the Secretary of State to consult the Scottish Ministers and the Department of Justice in Northern Ireland before approving a strategic plan and sending a copy of the final plan to those devolved administrations.

198. *Subsection (8)* requires the Commissioner to provide a report on the activities they have undertaken to fulfil their functions as soon as is reasonably practicable after the end of each calendar year to the Secretary of State, Scottish Ministers and the Department of Justice in Northern Ireland.

199. *Subsection (9)* provides that in producing an annual report the Commissioner must include an assessment of the extent to which they have met the objectives and priorities they set out in their annual plan. The Commissioner must also include a statement of the matters on which the Commissioner has reported under clause 41(3)(a) and a statement of the other activities they have undertaken in the year in carrying out their functions.

200. *Subsections (10), (11) and (12)* require the Secretary of State, Scottish Ministers and the Department of Justice in Northern Ireland to lay any strategic plan the Secretary of State approves and any annual report they receive from the Commissioner before Parliament, the Scottish Parliament and the Northern Ireland Assembly respectively, as soon as reasonably practicable after receipt.

201. *Subsection (13)* provides that any annual report that is laid before a legislature under *subsections (10) to (12)* must not contain any material which has been removed from the report under *subsections (14) to (16)*.

202. *Subsection (14)* gives the Secretary of State the power to remove information from an annual report where the Secretary of State thinks that including it would be against the interests of national security, might jeopardise an individual's safety in England and Wales or might prejudice a criminal investigation or prosecution under the law in England and Wales.

203. *Subsection (15)* gives Scottish Ministers the power to remove material from an annual report where the Scottish Ministers think that it might jeopardise the safety of any person in Scotland, or might prejudice the investigation or prosecution of an offence under the law of Scotland.

204. *Subsection (16)* gives the Department of Justice in Northern Ireland the power to remove information from an annual report where the Department thinks that it might jeopardise the safety of any person in Northern Ireland, or might prejudice the investigation or prosecution of an offence under the law of Northern Ireland.

Clause 43: Duty to co-operate with Commissioner

205. *Subsection (1)* provides that the Commissioner may request co-operation from a specified public authority where the Commissioner considers that the co-operation is necessary for the purposes of the Commissioner's functions.

206. *Subsection (2)* provides that a specified public authority, where it is reasonably practicable to do so, must comply with any request for co-operation made to it by the Commissioner.

207. *Subsection (3)* and *subsection (4)* provide that information disclosed by an authority to the Commissioner pursuant to *subsection (2)* will not breach any obligation of confidence owed by the public authority making the disclosure, but must not be in contravention of any other restrictions on the disclosure of information.

208. *Subsection (5)* defines "specified public authority" as a public authority which is specified in regulations for the purposes of this clause.

209. *Subsection (6)* gives Scottish Ministers the power to make regulations under this clause relating to a public authority which has functions that are only exercisable in or as regards Scotland. The Department of Justice in Northern Ireland has the power to make regulations relating to a public authority which has functions that are only exercisable in or as regards Northern Ireland. The Secretary of State may make regulations in relation to any other public authority – this includes those authorities only having functions in England and Wales together with those having a UK-wide remit.

Clause 44: Restriction on exercise of functions

210. This clause restricts the Commissioner from exercising their functions in relation to particular individuals or cases, but does not prevent the Commissioner from drawing conclusions from individual cases in the context of considering a general issue.

PART 5: PROTECTION OF VICTIMS

Clause 45 and Schedule 3: Defence for slavery or trafficking victims compelled to commit an offence

211. Clause 45 provides for a defence for slavery or trafficking victims who have been compelled to commit an offence as a direct consequence of their trafficking or slavery situation. This is intended to provide further encouragement to victims to come forward and give evidence without the fear of being convicted of offences that they were compelled to commit. The defence will not apply in the case of certain serious offences. Currently, in cases

where a slavery or trafficking victim may have committed an offence as a direct consequence of their trafficking or slavery situation, the Crown Prosecution Service apply specific guidance as to whether or not to bring a prosecution.

212. *Subsection (1)* provides that a person is not guilty of an offence if they commit an offence because they are compelled to do so; they were compelled as a result of slavery or relevant exploitation; and a reasonable person with relevant characteristics in the same position as the person would have no realistic alternative to committing the offence.

213. *Subsection (2)* provides that the relevant characteristics of the victim claiming the defence that will be considered for the purposes of the reasonable person test in subsection (1) are age, sex, and any mental or physical illness.

214. *Subsection (3)* provides that a person may be compelled to commit an offence by another person or by the person's circumstances.

215. *Subsection (4)* explains that compulsion is only attributable to slavery or relevant exploitation if it is part of conduct which constitutes an offence under section 1 or conduct which constitutes relevant exploitation, or it is a direct consequence of a person being, or having been, a victim of slavery or relevant exploitation.

216. *Subsection (5)* sets out that 'relevant exploitation' is exploitation which is attributable to the person being or having been a victim of trafficking.

217. *Subsection (6)* provides that any reference to an act also includes an omission.

218. *Subsection (7)* introduces Schedule 3, which sets out those offences to which the defence will not apply. The defence will not apply to certain serious offences, mainly serious sexual or violent offences, to avoid creating a legal loophole for serious criminals to escape justice. Where the defence does not apply because the offence is too serious, the Crown Prosecution Service will still be able to decide not to prosecute if it would not be in the public interest to do so.

219. *Subsection (8)* enables the Secretary of State to amend Schedule 3 through regulations.

Clause 46: Special measures for witnesses in criminal proceedings

220. Clause 46 extends certain legislative provisions relating to special measures to victims of the clause 1 and 2 offences. These include provisions whereby witnesses in certain cases are automatically treated as eligible for special measures (unless they tell the court they do not want to be eligible). Special measures apply to witnesses who are giving evidence in court and include screening the witness from the accused, giving evidence by live link, giving evidence in private, removal of wigs and gowns, video recorded evidence in chief and video

recorded cross-examination or re-examination. Trafficking victims are currently already covered by the relevant provisions, so the effect in practice is to extend coverage to slavery victims too, so that (for example) all victims of slavery and trafficking are automatically eligible for special measures.

Clause 47: Child trafficking advocates

221. *Subsections (1) and (3)* provide the Secretary of State with a duty to make such arrangements as she considers reasonable so that specialist child trafficking advocates are available to support and represent children who there is reason to believe may be victims of trafficking. Such arrangements can include paying for such advocates. This duty is subject to the commencement provision set out in clause 57, 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. Child trafficking advocates are currently being trialled. The commencement provision allows the trials to finish and be evaluated, and the Secretary of State to report to Parliament (as required by *subsection (6)*), before Parliament takes a decision on whether the child trafficking advocates provision should be commenced.

222. *Subsection (2)* requires the Secretary of State to have regard to the principle that such advocates should as far as practicable be wholly independent of those professionals responsible for making decisions about the child.

223. *Subsection (4)* enables the Secretary of State to make regulations about child trafficking advocates, including the circumstances and conditions under which a person may act as an advocate, arrangements for the approval of child trafficking advocates, their functions and any requirements that may be placed on public authorities to co-operate with and provide information to these advocates, to ensure the cooperation of the various agencies the advocate will need to work with when supporting the child.

224. *Subsection (5)* places a duty on any person exercising the functions of a child trafficking advocate to act in the child's best interests.

225. *Subsection (6)* 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 advocates for victims of child trafficking under these powers. The Secretary of State is required to report back to Parliament within 9 months after the day on which this Act is passed.

Clause 48: Guidance about identifying and supporting victims

226. Clause 48 requires guidance to be issued to public authorities and other persons as considered appropriate by the Secretary of State in relation to identifying and supporting victims. The guidance will cover the sorts of things which indicate that a person may be a

victim of slavery or human trafficking; arrangements for the provision of assistance and support to persons who there is reason to believe may be victims of slavery or human trafficking and any arrangements for determining whether a person is to be treated as a victim of slavery or human trafficking. The purpose of the guidance is to further support effective identification of potential victims of slavery and human trafficking and to set out the assistance and support on offer to all slavery and trafficking victims, taking into account international requirements set out in the European Convention on Action against Trafficking and the EU Directive on Trafficking of Human Beings.

Clause 49: Presumption about age

227. The purpose of this clause is to reflect in this Bill the presumption at Article 13(2) of the EU Directive on preventing and combating trafficking in human beings and protecting its victims that where the age of a person subject to trafficking in human beings is uncertain and there are reasons to believe that the person is a child, that person is presumed to be a child in order to receive immediate access to assistance, support and protection in accordance with Articles 14 and 15. The Council of Europe Convention on Action against Trafficking in Human Beings contains a similar provision at Article 10(3).

228. *Subsection (1)(a) and (b)* set out who the clause applies to. *Subsection (2)* sets out the terms under which the presumption may be applied and allows for the presumption to be removed when the person's age has been determined by a lawfully compliant age assessment or other determination.

229. *Subsection (3)* defines "relevant arrangements" in terms of the assistance and support provided by public authorities as set out in statutory guidance under clause 48.

230. *Subsection (4)* defines "local authority".

Clause 50: Duty to notify NCA about suspected victims of slavery or human trafficking

231. *Subsection (1)* places a duty on public authorities specified in regulations made by the Secretary of State to notify the NCA where there is reason to believe that a person may be a victim of slavery or human trafficking. There is a range of guidance already available to specified public authorities and wider front-line workers who may encounter potential victims of trafficking⁸. In addition, clause 48(1)(a) places a duty on the Secretary of State to issue guidance to public authorities and other persons who the Secretary of State considers appropriate as to the sorts of things that indicate that a person may be a victim of human trafficking or slavery.

⁸<https://www.gov.uk/government/policies/reducing-and-preventing-crime--2/supporting-pages/human-trafficking>

232. It is envisaged that the specified public authorities will include police forces and local authorities. It is not intended that the specified public authorities should include non-governmental voluntary organisations. This duty will be different from the existing non-statutory National Referral Mechanism (“NRM”).

233. The NRM is a system for children and consenting adults to have their cases assessed by two Competent Authorities within the UK (within the NCA and the Home Office). Individuals can also gain access to support and accommodation once they have received a positive “reasonable grounds” assessment from a Competent Authority. Further advice regarding the NRM process is available on the NCA website⁹. Currently this is the key source of data on trafficking victims in the UK, but many cases are not reported. In 2012, 1,186 individuals were referred to the NRM, but a further 1,477 were identified through the UK Human Trafficking Centre’s 2012 Strategic Assessment. This new duty to report will mean that adult potential victims of trafficking who do not wish to be referred, assessed and supported through the NRM process will still be referred through for data purposes by specified public authorities, and that additional information on victims of other forms of modern slavery will also be captured.

234. *Subsection (2)* enables the Secretary of State by regulations to prescribe the information that must be included in a notification under *subsection (1)*. It is envisaged that, as a general rule, such information will include the nationality of the victim, type of exploitation experienced and the location and dates it took place.

235. *Subsection (3)* provides that identifying information about an adult potential victim of slavery or trafficking should only be included in a notification where the individual concerned has given their consent. In the case of child potential victims, this information can be provided without their consent.

236. *Subsection (4)* provides that regulations made under this section cannot require the disclosure of information in contravention of the Data Protection Act 1998.

237. *Subsection (5)* notes that the public authorities to whom this duty applies will be specified in regulations made by the Secretary of State.

PART 6: TRANSPARENCY IN SUPPLY CHAINS ETC

Clause 51: Transparency in supply chains etc

238. Clause 51 requires commercial organisations over a certain size to publish a slavery and human trafficking statement each year which sets out the steps it has taken to ensure there

⁹ <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre/national-referral-mechanism>

is no slavery or trafficking in its supply chains or its own business, or states that it has taken no such steps. Clause 51 does not mandate what a slavery and human trafficking statement must contain nor require commercial organisations to take any particular action beyond preparation of the annual statement.

239. *Subsection (1)* requires a commercial organisation within *subsection (2)* to prepare a slavery and human trafficking statement for each financial year of the organisation.

240. *Subsection (2)* applies the disclosure duty to commercial organisations that supply goods or services and have a minimum total turnover, which will be set in regulations. Regulations will also set out how an organisation's total turnover is to be determined (*subsection (3)*).

241. *Subsection (4)* explains that a slavery and human trafficking statement is a statement of the steps that an organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place either in its supply chains or its own business. Alternatively, it can be a statement that the organisation has taken no such steps.

242. *Subsection (5)* provides that an organisation must publish the slavery and human trafficking statement on its website, if it has one, and that there must be a prominent link to this statement on the homepage. If an organisation does not have a website, it must provide a copy of the slavery and human trafficking statement to anyone who requests one in writing, within 30 days of that request (*subsection (6)*).

243. *Subsection (7)* gives the Secretary of State the power to issue guidance about the duties imposed by this clause, and to publish that guidance in a way the Secretary of State considers appropriate. Such guidance may include guidance about the kind of information which organisations may include in a slavery and human trafficking statement (*subsection (8)*).

244. *Subsection (9)* sets out the enforcement mechanism for the disclosure duty. If a commercial organisation fails to comply, the Secretary of State may bring civil proceedings in the High Court for an injunction requiring that organisation to comply (or, in Scotland, in the Court of Session for specific performance of a statutory duty).

245. *Subsection (10)* defines terms used in the clause, including “commercial organisation”, “partnership” and “slavery and human trafficking”. A commercial organisation is defined as a body corporate or partnership which carries on a business, or part of a business, in the UK.

Part 7: Final provisions

246. Clauses 52 to 58 contain general provisions. Clause 52 defines certain terms used in the Bill. Clause 53 and Schedule 4 make minor and consequential amendments and allow the

Secretary of State by regulations to make consequential provision (including by changing any other legislation). Clause 54 concerns the parliamentary procedure to be adopted for the regulation making powers under the Bill. Clause 56 sets out that the Bill will extend to England and Wales only, apart from clauses relating to the Independent Anti-slavery Commissioner, maritime powers, transparency in supply chains etc and Part 7, which include UK provisions (and subject to some consequential amendments having the same extent as the provisions being amended). Clause 57 deals with commencement with a particular procedure in relation to clause 47 which is set out in the notes dealing with that clause. The main provisions of the Bill (Parts 1-6) will be brought into force by means of regulations made by the Secretary of State, with the exception of clause 47(6) which will commence automatically two months after Royal Assent.

FINANCIAL EFFECTS OF THE BILL

247. The average annual net cost of the Bill is expected to be around £0.5m.

248. There are only four measures in the Bill which are expected to incur non-negligible costs. All costs and benefits can be attributed to the public sector.

249. The Independent Anti-slavery Commissioner will have an annual budget of up to £500,000 provided by the Home Office. This will provide for the Commissioner's salary and the employment of a small team of support staff. It will enable the Commissioner to travel, conduct research and produce reports, as the role requires.

250. The introduction of Slavery and Trafficking Risk and Prevention Orders is expected to create costs of around £48,000 per year for law enforcement and the criminal justice system. However, by preventing modern slavery offences from taking place, these orders are expected to create savings for the criminal justice system. These have been estimated at around £180,000, creating an overall net benefit per year of £130,000.

251. Extending the maximum sentence available for slavery and trafficking offences to life imprisonment is expected to create an average annual cost of £76,000 for the criminal justice system.

252. Introducing a statutory duty for specified public bodies to notify the National Crime Agency about potential cases of modern slavery is expected to create costs of £36,000 per year.

253. The £0.5m per year estimate (and the calculations in the Impact Assessment) excludes the child advocates scheme, as the Bill provides an enabling power, with the detail of the scheme to be developed after the results of trials are known. However, the proposed child advocates scheme could cost between £2m and £5m per year.

*These notes refer to the Modern Slavery Bill
as brought from the House of Commons on 5th November 2014 [HL Bill 51]*

SUMMARY OF IMPACT ASSESSMENT

254. Overall, the Government expects that the benefits of this Bill will substantially outweigh the costs.

255. The main social and economic benefit of this Bill – reducing modern slavery – is difficult to quantify. However, the social and economic cost of human trafficking for sexual exploitation alone has been estimated to be £890m per year (source: Home Office, Understanding Organised Crime, 2013).

256. The total cost of the Bill, spread over ten years, is expected to be £3.93m. This means that the Bill would have to prevent 12 cases of slavery over ten years to be cost neutral.

257. The Bill will be accompanied by an impact assessment which sets out these costs and benefits in more detail. The impact assessment concludes that the benefits of the Bill are expected to substantially outweigh the costs. All costs can be attributed to the public sector and there are no impacts on businesses or non-governmental organisations.

EUROPEAN CONVENTION ON HUMAN RIGHTS

258. Section 19 of the Human Rights Act 1998 requires the Minister in charge of a Bill in either House of Parliament to make a statement before Second Reading about the compatibility of the provisions of the Bill with the Convention rights (as defined by section 1 of that Act). The Parliamentary Under Secretary of State Lord Bates has made the following statement: "In my view the provisions of the Modern Slavery Bill are compatible with the Convention rights." The Government has published a separate ECHR memorandum with its assessment of the compatibility of the Bill's provisions with the Convention rights; the memorandum is available on the Bill webpage of the Home Office website.

MODERN SLAVERY BILL

EXPLANATORY NOTES

*These notes refer to the Modern Slavery Bill
as brought from the House of Commons on 5th November 2014
[HL Bill 51]*

*Ordered to be Printed,
5th November 2014*

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Modern Slavery Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Home Office, are published separately as HL Bill 51—EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord Bates has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Modern Slavery Bill are compatible with the Convention rights.

Modern Slavery Bill

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B I L L

TO

Make provision about slavery, servitude and forced or compulsory labour; to make provision about human trafficking; to make provision for an Independent Anti-slavery Commissioner; 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:—

PART 1

OFFENCES

Offences

1 Slavery, servitude and forced or compulsory labour

- (1) A person commits an offence if—5
- (a) the person holds another person in slavery or servitude and the circumstances are such that the person knows or ought to know that the other person is held in slavery or servitude, or
 - (b) the person requires another person to perform forced or compulsory labour and the circumstances are such that the person knows or ought to know that the other person is being required to perform forced or compulsory labour.
- (2) In subsection (1) the references to holding a person in slavery or servitude or requiring a person to perform forced or compulsory labour are to be construed in accordance with Article 4 of the Human Rights Convention.10
- (3) In determining whether a person is being held in slavery or servitude or required to perform forced or compulsory labour regard may be had to all the circumstances.15
- (4) For example, regard may be had to any of the person's personal circumstances (such as their age, family relationships, and any mental or physical illness) which may make the person more vulnerable than other persons.20

2 Human trafficking

- (1) A person commits an offence if the person arranges or facilitates the travel of another person (“V”) with a view to V being exploited.
- (2) It is irrelevant whether V consents to the travel.
- (3) A person may in particular arrange or facilitate V’s travel by recruiting V, transporting or transferring V, harbouring or receiving V, or transferring or exchanging control over V. 5
- (4) A person arranges or facilitates V’s travel with a view to V being exploited only if—
 - (a) the person intends to exploit V (in any part of the world) during or after the travel, or
 - (b) the person knows or ought to know that another person is likely to exploit V (in any part of the world) during or after the travel.
- (5) “Travel” means—
 - (a) arriving in, or entering, any country,
 - (b) departing from any country,
 - (c) travelling within any country.
- (6) A person who is a UK national commits an offence under this section regardless of—
 - (a) where the arranging or facilitating takes place, or
 - (b) where the travel takes place.
- (7) A person who is not a UK national commits an offence under this section if—
 - (a) any part of the arranging or facilitating takes place in the United Kingdom, or
 - (b) the travel consists of arrival in or entry into, departure from, or travel within, the United Kingdom. 25

3 Meaning of exploitation

- (1) For the purposes of section 2 a person is exploited only if one or more of the following subsections apply in relation to the person.

Slavery, servitude and forced or compulsory labour 30
- (2) The person is the victim of behaviour—
 - (a) which involves the commission of an offence under section 1, or
 - (b) which would involve the commission of an offence under that section if it took place in England and Wales.

Sexual exploitation 35
- (3) Something is done to or in respect of the person—
 - (a) which involves the commission of an offence under—
 - (i) section 1(1)(a) of the Protection of Children Act 1978 (indecent photographs of children), or
 - (ii) Part 1 of the Sexual Offences Act 2003 (sexual offences), as it has effect in England and Wales, or

- (b) which would involve the commission of such an offence if it were done in England and Wales.

Removal of organs etc

- (4) The person is encouraged, required or expected to do anything –
- (a) which involves the commission, by him or her or another person, of an offence under section 32 or 33 of the Human Tissue Act 2004 (prohibition of commercial dealings in organs and restrictions on use of live donors) as it has effect in England and Wales, or
- (b) which would involve the commission of such an offence, by him or her or another person, if it were done in England and Wales.

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Securing services etc by force, threats or deception

- (5) The person is subjected to force, threats or deception designed to induce him or her –
- (a) to provide services of any kind,
- (b) to provide another person with benefits of any kind, or
- (c) to enable another person to acquire benefits of any kind.

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Securing services etc from children and vulnerable persons

- (6) Another person uses or attempts to use the person for a purpose within paragraph (a), (b) or (c) of subsection (5), having chosen him or her for that purpose on the grounds that –
- (a) he or she is a child, is mentally or physically ill or disabled, or has a family relationship with a particular person, and
- (b) an adult, or a person without the illness, disability, or family relationship, would be likely to refuse to be used for that purpose.

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4 Committing offence with intent to commit offence under section 2 25

A person commits an offence under this section if the person commits any offence with the intention of committing an offence under section 2 (including an offence committed by aiding, abetting, counselling or procuring an offence under that section).

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Penalties and sentencing

5 Penalties

- (1) A person guilty of an offence under section 1 or 2 is liable –
- (a) on conviction on indictment, to imprisonment for life;
- (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine or both.
- (2) A person guilty of an offence under section 4 is liable (unless subsection (3) applies) –
- (a) on conviction on indictment, to imprisonment for a term not exceeding 10 years;
- (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine or both.

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- (3) Where the offence under section 4 is committed by kidnapping or false imprisonment, a person guilty of that offence is liable, on conviction on indictment, to imprisonment for life.
- (4) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the references in subsections (1)(b) and (2)(b) to 12 months are to be read as references to 6 months.

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6 Sentencing

- (1) The Criminal Justice Act 2003 is amended as follows.
- (2) In Part 1 of Schedule 15 (specified offences for purposes of Chapter 5 of Part 12 - violent offences), after paragraph 63F insert –
 - “63G An offence under section 1 of the Modern Slavery Act 2014 (slavery, servitude and forced or compulsory labour).
 - 63H An offence under section 2 of that Act (human trafficking) which is not within Part 2 of this Schedule.”
- (3) In Part 2 of Schedule 15 (specified offences for purposes of Chapter 5 of Part 12 - sexual offences), after paragraph 152 insert –
 - “152A An offence under section 2 of the Modern Slavery Act 2014 (human trafficking) committed with a view to exploitation that consists of or includes behaviour within section 3(3) of that Act (sexual exploitation).”
- (4) In Part 1 of Schedule 15B (offences listed for purposes of sections 224A, 226A and 246A), after paragraph 43 insert –
 - “43A An offence under section 1 of the Modern Slavery Act 2014 (slavery, servitude and forced or compulsory labour).
 - 43B An offence under section 2 of that Act (human trafficking).”

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7 Confiscation of assets

- (1) Schedule 2 to the Proceeds of Crime Act 2002 (criminal lifestyle offences in England and Wales) is amended as follows.
- (2) After paragraph 3 insert –

“*Slavery etc*
- (3) In paragraph 4 (people trafficking) –
 - (a) omit sub-paragraphs (2) and (3);
 - (b) at the end insert –
 - “(4) An offence under section 2 of the Modern Slavery Act 2014 (human trafficking).”

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8 Power to make slavery and trafficking reparation orders

- (1) The Crown Court may make a slavery and trafficking reparation order against a person if—
- (a) the person has been convicted of an offence under section 1, 2 or 4, and
 - (b) the Crown Court makes a confiscation order against the person in respect of the offence.
- (2) The Crown Court may also make a slavery and trafficking reparation order against a person if—
- (a) by virtue of section 28 of the Proceeds of Crime Act 2002 (defendants who abscond during proceedings) it has made a confiscation order against a person in respect of an offence under section 1, 2 or 4, and
 - (b) the person is later convicted of the offence.
- (3) The court may make a slavery and trafficking reparation order against the person in addition to dealing with the person in any other way (subject to section 10(1)).
- (4) In a case within subsection (1) the court may make a slavery and trafficking reparation order against the person even if the person has been sentenced for the offence before the confiscation order is made.
- (5) In determining whether to make a slavery and trafficking reparation order against the person the court must have regard to the person's means.
- (6) If the court considers that—
- (a) it would be appropriate both to impose a fine and to make a slavery and trafficking reparation order, but
 - (b) the person has insufficient means to pay both an appropriate fine and appropriate compensation under such an order,
- the court must give preference to compensation (although it may impose a fine as well).
- (7) In any case in which the court has power to make a slavery and trafficking reparation order it must—
- (a) consider whether to make such an order (whether or not an application for such an order is made), and
 - (b) if it does not make an order, give reasons.
- (8) In this section—
- (a) “confiscation order” means a confiscation order under section 6 of the Proceeds of Crime Act 2002;
 - (b) a confiscation order is made in respect of an offence if the offence is the offence (or one of the offences) concerned for the purposes of Part 2 of that Act.

9 Effect of slavery and trafficking reparation orders

- (1) A slavery and trafficking reparation order is an order requiring the person against whom it is made to pay compensation to the victim of a relevant offence for any harm resulting from that offence.
- (2) “Relevant offence” means—
- (a) the offence under section 1, 2 or 4 of which the person is convicted;

- (b) any other offence under section 1, 2 or 4 which is taken into consideration in determining the person's sentence.
- (3) The amount of the compensation is to be such amount as the court considers appropriate having regard to any evidence and to any representations made by or on behalf of the person or the prosecutor, but subject to subsection (4). 5
- (4) The amount of the compensation payable under the slavery and trafficking reparation order (or if more than one order is made in the same proceedings, the total amount of the compensation payable under those orders) must not exceed the amount the person is required to pay under the confiscation order.
- (5) In determining the amount to be paid by the person under a slavery and trafficking reparation order the court must have regard to the person's means. 10
- (6) In subsection (4) "the confiscation order" means the confiscation order within section 8(1)(b) or (2)(a) (as the case may be).
- 10 Slavery and trafficking reparation orders: supplementary provision**
- (1) A slavery and trafficking reparation order and a compensation order under section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 may not both be made in respect of the same offence. 15
 - (2) Where the court makes a slavery and trafficking reparation order as mentioned in section 8(4), for the purposes of the following provisions the person's sentence is to be regarded as imposed or made on the day on which the order is made –
 - (a) section 18(2) of the Criminal Appeal Act 1968 (time limit for notice of appeal or application for leave to appeal);
 - (b) paragraph 1 of Schedule 3 to the Criminal Justice Act 1988 (time limit for notice of application for leave to refer a case under section 36 of that Act). 25
 - (3) Sections 132 to 134 of the Powers of Criminal Courts (Sentencing) Act 2000 (appeals, review etc of compensation orders) apply to slavery and trafficking reparation orders as if –
 - (a) references to a compensation order were references to a slavery and trafficking reparation order;
 - (b) references to the court of trial were references to the Crown Court;
 - (c) references to injury, loss or damage were references to harm;
 - (d) the reference in section 133(3)(c)(iii) to a slavery and trafficking reparation order under section 8 were to a compensation order under section 130 of that Act; 35
 - (e) section 133(5)(a) were omitted;
 - (f) in section 134 the references to service compensation orders were omitted.
 - (4) If under section 21 or 22 of the Proceeds of Crime Act 2002 the court varies a confiscation order so as to increase the amount required to be paid under that order, it may also vary any slavery and trafficking reparation order made by virtue of the confiscation order so as to increase the amount required to be paid under the slavery and trafficking reparation order. 40
 - (5) If under section 23 or 29 of that Act the court varies a confiscation order so as to reduce the amount required to be paid under that order, it may also – 45

- (a) vary any relevant slavery and trafficking reparation order so as to reduce the amount which remains to be paid under that order;
- (b) discharge any relevant slavery and trafficking reparation order.
- (6) If under section 24 of that Act the court discharges a confiscation order, it may also discharge any relevant slavery and trafficking reparation order. 5
- (7) For the purposes of subsections (5) and (6) a slavery and trafficking reparation order is relevant if it is made by virtue of the confiscation order and some or all of the amount required to be paid under it has not been paid.
- (8) If on an appeal under section 31 of the Proceeds of Crime Act 2002 the Court of Appeal— 10
- (a) quashes a confiscation order, it must also quash any slavery and trafficking reparation order made by virtue of the confiscation order;
- (b) varies a confiscation order, it may also vary any slavery and trafficking reparation order made by virtue of the confiscation order;
- (c) makes a confiscation order, it may make any slavery and trafficking reparation order the Crown Court could have made if it had made the confiscation order. 15
- (9) If on an appeal under section 33 of that Act the Supreme Court—
- (a) quashes a confiscation order, it must also quash any slavery and trafficking reparation order made by virtue of the confiscation order; 20
- (b) varies a confiscation order, it may also vary any slavery and trafficking reparation order made by virtue of the confiscation order.
- (10) For the purposes of this section—
- (a) a slavery and trafficking reparation order made under section 8(1) is made by virtue of the confiscation order within section 8(1)(b); 25
- (b) a slavery and trafficking reparation order made under section 8(2) is made by virtue of the confiscation order within section 8(2)(a).
- 11 Forfeiture of land vehicle, ship or aircraft**
- (1) This section applies if a person is convicted on indictment of an offence under section 2. 30
- (2) The court may order the forfeiture of a land vehicle used or intended to be used in connection with the offence if the convicted person—
- (a) owned the vehicle at the time the offence was committed,
- (b) was at that time a director, secretary or manager of a company which owned the vehicle, 35
- (c) was at that time in possession of the vehicle under a hire-purchase agreement,
- (d) was at that time a director, secretary or manager of a company which was in possession of the vehicle under a hire-purchase agreement, or
- (e) was driving the vehicle in the course of the commission of the offence. 40
- (3) The court may order the forfeiture of a ship or aircraft used or intended to be used in connection with the offence if the convicted person—
- (a) owned the ship or aircraft at the time the offence was committed,
- (b) was at that time a director, secretary or manager of a company which owned the ship or aircraft, 45

- (c) was at that time in possession of the ship or aircraft under a hire-purchase agreement,
 - (d) was at that time a director, secretary or manager of a company which was in possession of the ship or aircraft under a hire-purchase agreement,
 - (e) was at that time a charterer of the ship or aircraft, or
 - (f) committed the offence while acting as captain of the ship or aircraft.
- (4) But where subsection (3)(a) or (b) does not apply to the convicted person, forfeiture of a ship or aircraft may be ordered only if subsection (5) applies or—
- (a) in the case of a ship other than a hovercraft, its gross tonnage is less than 500 tons;
 - (b) in the case of an aircraft, the maximum weight at which it may take off in accordance with its certificate of airworthiness is less than 5,700 kilogrammes.
- (5) This subsection applies where a person who, at the time the offence was committed—
- (a) owned the ship or aircraft, or
 - (b) was a director, secretary or manager of a company which owned it, knew or ought to have known of the intention to use it in the course of the commission of an offence under section 2.
- (6) Where a person who claims to have an interest in a land vehicle, ship or aircraft applies to a court to make representations about its forfeiture, the court may not order its forfeiture without giving the person an opportunity to make representations.

Supplementary

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12 Detention of land vehicle, ship or aircraft

- (1) If a person (“P”) has been arrested for an offence under section 2, a constable or senior immigration officer may detain a relevant land vehicle, ship or aircraft.
- (2) A land vehicle, ship or aircraft is relevant if the constable or officer has reasonable grounds to believe that an order for its forfeiture could be made under section 11 if P were convicted of the offence.
- (3) The land vehicle, ship or aircraft may be detained—
- (a) until a decision is taken as to whether or not to charge P with the offence,
 - (b) if P has been charged, until P is acquitted, the charge against P is dismissed or the proceedings are discontinued, or
 - (c) if P has been charged and convicted, until the court decides whether or not to order forfeiture of the vehicle, ship or aircraft.
- (4) A person (other than P) may apply to the court for the release of the land vehicle, ship or aircraft on the grounds that the person—
- (a) owns the vehicle, ship or aircraft,
 - (b) was, immediately before the detention of the vehicle, ship or aircraft, in possession of it under a hire-purchase agreement, or
 - (c) is a charterer of the ship or aircraft.

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- (5) The court to which an application is made under subsection (4) may, if satisfactory security or surety is tendered, release the land vehicle, ship or aircraft on condition that it is made available to the court if—
- (a) P is convicted, and
 - (b) an order for its forfeiture is made under section 11.
- (6) In this section, “the court” means—
- (a) if P has not been charged, or P has been charged but proceedings for the offence have not begun to be heard, a magistrates’ court;
 - (b) if P has been charged and proceedings for the offence have begun to be heard, the court hearing the proceedings.
- (7) In this section, “senior immigration officer” means an immigration officer not below the rank of chief immigration officer.

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13 Interpretation of Part 1

- (1) In this Part—
- “captain” means master (of a ship) or commander (of an aircraft);
 - “confiscation order” has the meaning given by section 8(8);
 - “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 4th November 1950;
 - “land vehicle” means any vehicle other than a ship or aircraft;
 - “ship” includes every description of vessel (including a hovercraft) used in navigation;
 - “slavery and trafficking reparation order” means an order made under section 8;
 - “UK national” means—
 - (a) a British citizen,
 - (b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has a right of abode in the United Kingdom, or
 - (c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.
- (2) In sections 11 and 12, a reference to being an owner of a vehicle, ship or aircraft includes a reference to being any of a number of persons who jointly own it.

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PART 2

PREVENTION ORDERS

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Slavery and trafficking prevention orders

14 Slavery and trafficking prevention orders on sentencing

- (1) A court may make a slavery and trafficking prevention order against a person (“the defendant”) where it deals with the defendant in respect of—
- (a) a conviction for a slavery or human trafficking offence,
 - (b) a finding that the defendant is not guilty of a slavery or human trafficking offence by reason of insanity, or

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- (c) a finding that the defendant is under a disability and has done the act charged against the defendant in respect of a slavery or human trafficking offence.
 - (2) The court may make the order only if it is satisfied that—
 - (a) there is a risk that the defendant may commit a slavery or human trafficking offence, and
 - (b) it is necessary to make the order for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed such an offence.5
 - (3) A “slavery or human trafficking offence” means an offence listed in Schedule 1.
 - (4) The Secretary of State may by regulations amend Schedule 1.
 - (5) For the purposes of this section, convictions and findings include those taking place before this section comes into force.
- 15 Slavery and trafficking prevention orders on application** 15
- (1) A magistrates’ court may make a slavery and trafficking prevention order against a person (“the defendant”) on an application by—
 - (a) a chief officer of police,
 - (b) an immigration officer, or
 - (c) the Director General of the National Crime Agency (“the Director General”).20
 - (2) The court may make the order only if it is satisfied that—
 - (a) the defendant is a relevant offender (see section 16), and
 - (b) since the defendant first became a relevant offender, the defendant has acted in a way which means that the condition in subsection (3) is met.25
 - (3) The condition is that—
 - (a) there is a risk that the defendant may commit a slavery or human trafficking offence, and
 - (b) it is necessary to make the order for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed such an offence.30
 - (4) A chief officer of police may make an application under this section only in respect of a person—
 - (a) who lives in the chief officer’s police area, or
 - (b) who the chief officer believes is in that area or is intending to come to it.35
 - (5) An application under this section is to be made by complaint, and may be made to any magistrates’ court acting for a local justice area that includes—
 - (a) any part of a relevant police area, or
 - (b) any place where it is alleged that the defendant acted in a way mentioned in subsection (2)(b).40
 - (6) Where the defendant is under 18, a reference in this section to a magistrates’ court is to be taken as referring to a youth court (subject to any rules of court made under section 32).

- (7) Where an immigration officer or the Director General makes an application under this section, the officer or the Director General must give notice of the application to the chief officer of police for a relevant police area.
- (8) In this section “relevant police area” means –
- (a) where the applicant is a chief officer of police, the officer’s police area;
- (b) where the applicant is an immigration officer or the Director General, the police area where the defendant lives or a police area which the officer or the Director General believes the defendant is in or is intending to come to.
- (9) The acts of the defendant which may be relied on for the purposes of subsection (2)(b) include acts taking place before this section comes into force.

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16 Meaning of “relevant offender”

- (1) A person is a “relevant offender” for the purposes of section 15 if subsection (2) or (3) applies to the person.
- (2) This subsection applies to a person if –
- (a) the person has been convicted of a slavery or human trafficking offence,
- (b) a court has made a finding that the person is not guilty of a slavery or human trafficking offence by reason of insanity,
- (c) a court has made a finding that the person is under a disability and has done the act charged against the person in respect of a slavery or human trafficking offence, or
- (d) the person has been cautioned in respect of a slavery or human trafficking offence.
- (3) This subsection applies to a person if, under the law of a country outside the United Kingdom –
- (a) the person has been convicted of an equivalent offence (whether or not the person has been punished for it),
- (b) a court has made, in relation to an equivalent offence, a finding equivalent to a finding that the person is not guilty by reason of insanity,
- (c) a court has made, in relation to an equivalent offence, a finding equivalent to a finding that the person is under a disability and has done the act charged against the person, or
- (d) the person has been cautioned in respect of an equivalent offence.
- (4) An “equivalent offence” means an act which –
- (a) constituted an offence under the law of the country concerned, and
- (b) would have constituted a slavery or human trafficking offence under the law of England and Wales if it had been done in England and Wales, or by a UK national, or as regards the United Kingdom.
- (5) For the purposes of subsection (4) an act punishable under the law of a country outside the United Kingdom constitutes an offence under that law, however it is described in that law.
- (6) On an application under section 15 where subsection (3) is alleged to apply to the defendant, the condition in subsection (4)(b) is to be taken as met unless –
- (a) not later than provided by rules of court, the defendant serves on the applicant a notice which states that in the defendant’s opinion the

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<p>condition is not met, shows the grounds for that opinion, and requires the applicant to prove that the condition is met, or</p> <p>(b) the court permits the defendant to require the applicant to prove that the condition is met without service of such a notice.</p> <p>(7) References in this section to convictions, findings and cautions include those taking place before this section comes into force.</p>	5
17 Effect of slavery and trafficking prevention orders	
<p>(1) A slavery and trafficking prevention order is an order prohibiting the defendant from doing anything described in the order.</p> <p>(2) The only prohibitions that may be included in the order are those which the court is satisfied are necessary for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence.</p> <p>(3) The order may prohibit the defendant from doing things in any part of the United Kingdom, and anywhere outside the United Kingdom.</p> <p>(4) Subject to section 18(1), a prohibition contained in a slavery and trafficking prevention order has effect—</p> <ul style="list-style-type: none"> (a) for a fixed period, specified in the order, of at least 5 years, or (b) until further order. <p>(5) A slavery and trafficking prevention order—</p> <ul style="list-style-type: none"> (a) may specify that some of its prohibitions have effect until further order and some for a fixed period; (b) may specify different periods for different prohibitions. <p>(6) If a court makes a slavery and trafficking prevention order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order ceases to have effect.</p>	10 15 20 25
18 Prohibitions on foreign travel	
<p>(1) A prohibition on foreign travel contained in a slavery and trafficking prevention order must be for a fixed period of not more than 5 years.</p> <p>(2) A “prohibition on foreign travel” means—</p> <ul style="list-style-type: none"> (a) a prohibition on travelling to any country outside the United Kingdom named or described in the order, (b) a prohibition on travelling to any country outside the United Kingdom other than a country named or described in the order, or (c) a prohibition on travelling to any country outside the United Kingdom. <p>(3) Subsection (1) does not prevent a prohibition on foreign travel from being extended for a further period (of no more than 5 years each time) under section 20.</p> <p>(4) A slavery and trafficking prevention order that contains a prohibition within subsection (2)(c) must require the defendant to surrender all of the defendant’s passports at a police station specified in the order—</p> <ul style="list-style-type: none"> (a) on or before the date when the prohibition takes effect, or 	30 35 40

- (b) within a period specified in the order.
- (5) Any passports surrendered must be returned as soon as reasonably practicable after the person ceases to be subject to a slavery and trafficking prevention order containing a prohibition within subsection (2)(c).
- (6) Subsection (5) does not apply in relation to—
- (a) a passport issued by or on behalf of the authorities of a country outside the United Kingdom if the passport has been returned to those authorities;
 - (b) a passport issued by or on behalf of an international organisation if the passport has been returned to that organisation.
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19 Requirement to provide name and address

- (1) A slavery and trafficking prevention order may (as well as imposing prohibitions on the defendant) require the defendant to comply with subsections (3) to (6).
- (2) It may do so only if the court is satisfied that the requirement is necessary for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence.
- (3) Before the end of the period of 3 days beginning with the day on which a slavery and trafficking prevention order requiring the defendant to comply with subsections (3) to (6) is first served the defendant must, in the way specified in the order, notify the person specified in the order of the relevant matters.
- (4) The relevant matters are—
- (a) the defendant's name and, where the defendant uses one or more other names, each of those names, and
 - (b) the defendant's home address.
- (5) If while the defendant is subject to the order the defendant—
- (a) uses a name which has not been notified under the order, or
 - (b) changes home address,
- the defendant must, in the way specified in the order, notify the person specified in the order of the new name or the new home address.
- (6) The notification must be given before the end of the period of 3 days beginning with the day on which the defendant uses the name or changes home address.
- (7) Where the order requires the defendant to notify the Director General of the National Crime Agency or an immigration officer, the Director General or the officer must give details of any notification to the chief officer of police for each relevant police area.
- (8) “Relevant police area” means—
- (a) where the defendant notifies a new name, the police area where the defendant lives;
 - (b) where the defendant notifies a change of home address, the police area where the defendant lives and (if different) the police area where the defendant lived before the change of home address.
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20 Variation, renewal and discharge

- (1) A person within subsection (2) may apply to the appropriate court for an order varying, renewing or discharging a slavery and trafficking prevention order.
- (2) The persons are—
 - (a) the defendant;
 - (b) the chief officer of police for the area in which the defendant lives;
 - (c) a chief officer of police who believes that the defendant is in, or is intending to come to, that officer's police area;
 - (d) where the order was made on an application under section 15 by a chief officer of police, that officer;
 - (e) where the order was made on an application under section 15 by an immigration officer, an immigration officer;
 - (f) where the order was made on an application under section 15 by the Director General of the National Crime Agency ("the Director General"), the Director General.
- (3) On the application the court, after hearing—
 - (a) the person making the application, and
 - (b) the other persons mentioned in subsection (2) (if they wish to be heard), may make any order varying, renewing or discharging the slavery and trafficking prevention order that the court considers appropriate.
- (4) An order may be renewed, or varied so as to impose additional prohibitions on the defendant or require the defendant to comply with section 19(3) to (6), only if the court is satisfied that—
 - (a) there is a risk that the defendant may commit a slavery or human trafficking offence, and
 - (b) it is necessary to renew or vary the order for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed such an offence.
- (5) Any renewed or varied order—
 - (a) may contain only those prohibitions which the court is satisfied are necessary for that purpose,
 - (b) may require the defendant to comply with section 19(3) to (6) only if the court is satisfied that the requirement is necessary for that purpose.
- (6) The court must not discharge an order before the end of 5 years beginning with the day on which the order was made, without the consent of—
 - (a) the defendant and the chief officer of police for the area in which the defendant lives, or
 - (b) where the application is made by a chief officer of police, the defendant and that chief officer.
- (7) Subsection (6) does not apply to an order containing a prohibition on foreign travel and no other prohibitions.
- (8) An application under this section may be made—
 - (a) where the appropriate court is the Crown Court, in accordance with rules of court;
 - (b) in any other case, by complaint.

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- (9) Where an immigration officer or the Director General makes an application under this section, the officer or the Director General must give notice of the application to the chief officer of police for—
- (a) the police area where the defendant lives, or
 - (b) a police area which the immigration officer or the Director General believes the defendant is in or is intending to come to.
- (10) In this section “the appropriate court” means—
- (a) where the Crown Court or the Court of Appeal made the slavery and trafficking prevention order, the Crown Court;
 - (b) where an adult magistrates’ court made the order—
 - (i) that court,
 - (ii) an adult magistrates’ court for the area in which the defendant lives, or
 - (iii) where the application is made by a chief officer of police, any adult magistrates’ court acting for a local justice area that includes any part of the chief officer’s police area;
 - (c) where a youth court made the order and the defendant is under 18—
 - (i) that court,
 - (ii) a youth court for the area in which the defendant lives, or
 - (iii) where the application is made by a chief officer of police, any youth court acting for a local justice area that includes any part of the chief officer’s police area;
 - (d) where a youth court made the order and the defendant is 18 or over—
 - (i) an adult magistrates’ court for the area in which the defendant lives, or
 - (ii) where the application is made by a chief officer of police, any adult magistrates’ court acting for a local justice area that includes any part of the chief officer’s police area.

21 Interim slavery and trafficking prevention orders

- (1) This section applies where an application under section 15 (“the main application”) has not been determined.
- (2) An application for an interim slavery and trafficking prevention order—
- (a) may be made by the complaint by which the main application is made, or
 - (b) if the main application has been made, may be made by the person who has made that application, by complaint to the court to which that application has been made.
- (3) The court may, if it considers it just to do so, make an interim slavery and trafficking prevention order.
- (4) An interim slavery and trafficking prevention order is an order which prohibits the defendant from doing anything described in the order.
- (5) The order may prohibit the defendant from doing things in any part of the United Kingdom, and anywhere outside the United Kingdom.
- (6) The order may (as well as imposing prohibitions on the defendant) require the defendant to comply with subsections (3) to (6) of section 19.

If it does, those subsections apply as if references to a slavery and trafficking prevention order were to an interim slavery and trafficking prevention order.

- (7) The order—
- (a) has effect only for a fixed period, specified in the order;
 - (b) ceases to have effect, if it has not already done so, on the determination of the main application. 5
- (8) The applicant or the defendant may by complaint apply to the court that made the interim slavery and trafficking prevention order for the order to be varied, renewed or discharged.

22 Appeals 10

- (1) A defendant may appeal against the making of a slavery and trafficking prevention order—
 - (a) where the order was made under section 14(1)(a), as if the order were a sentence passed on the defendant for the offence;
 - (b) where the order was made under section 14(1)(b) or (c), as if the defendant had been convicted of the offence and the order were a sentence passed on the defendant for the offence;
 - (c) where the order was made on an application under section 15, to the Crown Court.
- (2) A defendant may appeal to the Crown Court against the making of an interim slavery and trafficking prevention order. 20
- (3) A defendant may appeal against the making of an order under section 20, or the refusal to make such an order—
 - (a) where the application for such an order was made to the Crown Court, to the Court of Appeal;
 - (b) in any other case, to the Crown Court. 25
- (4) On an appeal under subsection (1)(c), (2) or (3)(b), the Crown Court may make such orders as may be necessary to give effect to its determination of the appeal, and may also make such incidental or consequential orders as appear to it to be just. 30
- (5) Any order made by the Crown Court on an appeal under subsection (1)(c) or (2) is for the purposes of section 20(10) or 21(8) (respectively) to be treated as if it were an order of the court from which the appeal was brought.
- (6) Subsection (5) does not apply to an order directing that an application be re-heard by a magistrates' court. 35

Slavery and trafficking risk orders

23 Slavery and trafficking risk orders

- (1) A magistrates' court may make a slavery and trafficking risk order against a person ("the defendant") on an application by—
 - (a) a chief officer of police,
 - (b) an immigration officer, or
 - (c) the Director General of the National Crime Agency ("the Director General"). 40

- (2) The court may make the order only if it is satisfied that the defendant has acted in a way which means that—
- (a) there is a risk that the defendant will commit a slavery or human trafficking offence, and
 - (b) it is necessary to make the order for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed such an offence.
- (3) A chief officer of police may make an application under this section only in respect of a person—
- (a) who lives in the chief officer's police area, or
 - (b) who the chief officer believes is in that area or is intending to come to it.
- (4) An application under this section is to be made by complaint, and may be made to any magistrates' court acting for a local justice area that includes—
- (a) any part of a relevant police area, or
 - (b) any place where it is alleged that the person acted in a way mentioned in subsection (2).
- (5) Where the defendant is under 18, a reference in this section to a magistrates' court is to be taken as referring to a youth court (subject to any rules of court made under section 32).
- (6) Where an immigration officer or the Director General makes an application under this section, the officer or the Director General must give notice of the application to the chief officer of police for a relevant police area.
- (7) “Relevant police area” means—
- (a) where the applicant is a chief officer of police, the officer's police area;
 - (b) where the applicant is an immigration officer or the Director General, the police area where the defendant lives or a police area which the officer or Director General believes the defendant is in or is intending to come to.
- (8) The acts of the defendant which may be relied on for the purposes of subsection (2) include acts taking place before this section comes into force.

24 Effect of slavery and trafficking risk orders

- (1) A slavery and trafficking risk order is an order which prohibits the defendant from doing anything described in the order.
- (2) The only prohibitions that may be included in the order are those which the court is satisfied are necessary for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence.
- (3) The order may prohibit the defendant from doing things in any part of the United Kingdom, and anywhere outside the United Kingdom.
- (4) Subject to section 25(1), a prohibition contained in a slavery and trafficking risk order has effect—
- (a) for a fixed period, specified in the order, of at least 2 years, or
 - (b) until further order.

- (5) A slavery and trafficking risk order –
 - (a) may specify that some of its prohibitions have effect until further order and some for a fixed period;
 - (b) may specify different periods for different prohibitions.
- (6) Where a court makes a slavery and trafficking risk order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order ceases to have effect. 5

25 Prohibitions on foreign travel

- (1) A prohibition on foreign travel contained in a slavery and trafficking risk order must be for a fixed period of not more than 5 years. 10
- (2) A “prohibition on foreign travel” means –
 - (a) a prohibition on travelling to any country outside the United Kingdom named or described in the order,
 - (b) a prohibition on travelling to any country outside the United Kingdom other than a country named or described in the order, or 15
 - (c) a prohibition on travelling to any country outside the United Kingdom.
- (3) Subsection (1) does not prevent a prohibition on foreign travel from being extended for a further period (of no more than 5 years each time) under section 27.
- (4) A slavery and trafficking risk order that contains a prohibition within subsection (2)(c) must require the defendant to surrender all of the defendant’s passports at a police station specified in the order –
 - (a) on or before the date when the prohibition takes effect, or
 - (b) within a period specified in the order.
- (5) Any passports surrendered must be returned as soon as reasonably practicable after the person ceases to be subject to a slavery and trafficking risk order containing a prohibition within subsection (2)(c). 25
- (6) Subsection (5) does not apply in relation to –
 - (a) a passport issued by or on behalf of the authorities of a country outside the United Kingdom if the passport has been returned to those authorities;
 - (b) a passport issued by or on behalf of an international organisation if the passport has been returned to that organisation. 30

26 Requirement to provide name and address

- (1) A slavery and trafficking risk order may (as well as imposing prohibitions on the defendant) require the defendant to comply with subsections (3) to (6). 35
- (2) It may do so only if the court is satisfied that the requirement is necessary for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence. 40
- (3) Before the end of the period of 3 days beginning with the day on which a slavery and trafficking risk order requiring the defendant to comply with subsections (3) to (6) is first served the defendant must, in the way specified in the order, notify the person specified in the order of the relevant matters.

- (4) The relevant matters are—
- (a) the defendant's name and, where the defendant uses one or more other names, each of those names, and
 - (b) the defendant's home address.
- (5) If while the defendant is subject to the order the defendant—
- (a) uses a name which has not been notified under the order, or
 - (b) changes home address,
- the defendant must, in the way specified in the order, notify the person specified in the order of the new name or the new home address.
- (6) The notification must be given before the end of the period of 3 days beginning with the day on which the defendant uses the name or changes home address.
- (7) Where the order requires the defendant to notify the Director General of the National Crime Agency or an immigration officer, the Director General or the officer must give details of any notification to the chief officer of police for each relevant police area.
- (8) “Relevant police area” means—
- (a) where the defendant notifies a new name, the police area where the defendant lives;
 - (b) where the defendant notifies a change of home address, the police area where the defendant lives and (if different) the police area where the defendant lived before the change of home address.
- 27 Variation, renewal and discharge**
- (1) A person within subsection (2) may by complaint to the appropriate court apply for an order varying, renewing or discharging a slavery and trafficking risk order.
- (2) The persons are—
- (a) the defendant;
 - (b) the chief officer of police for the area in which the defendant lives;
 - (c) a chief officer of police who believes that the defendant is in, or is intending to come to, that officer's police area;
 - (d) where the order was made on an application by a chief officer of police, that officer;
 - (e) where the order was made on an application by an immigration officer, an immigration officer;
 - (f) where the order was made on an application by the Director General of the National Crime Agency (“the Director General”), the Director General.
- (3) On the application the court, after hearing—
- (a) the person making the application, and
 - (b) the other persons mentioned in subsection (2) (if they wish to be heard), may make any order varying, renewing or discharging the slavery and trafficking risk order that the court considers appropriate.
- (4) An order may be renewed, or varied so as to impose additional prohibitions on the defendant or require the defendant to comply with section 26(3) to (6), only if the court is satisfied that—

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- (a) there is a risk that the defendant may commit a slavery or human trafficking offence, and
 - (b) it is necessary to renew or vary the order for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed such an offence.
- (5) Any renewed or varied order –
- (a) may contain only those prohibitions which the court is satisfied are necessary for that purpose;
 - (b) may require the defendant to comply with section 26(3) to (6) only if the court is satisfied that the requirement is necessary for that purpose.
- (6) The court must not discharge an order before the end of 2 years beginning with the day on which the order was made, without the consent of –
- (a) the defendant and the chief officer of police for the area in which the defendant lives, or
 - (b) where the application is made by a chief officer of police, the defendant and that chief officer.
- (7) Where an immigration officer or the Director General makes an application under this section, the officer or the Director General must give notice of the application to the chief officer of police for –
- (a) the police area where the defendant lives, or
 - (b) a police area which the immigration officer or the Director General believes the defendant is in or is intending to come to.
- (8) In this section “the appropriate court” means –
- (a) where an adult magistrates’ court made the slavery and trafficking risk order –
 - (i) that court,
 - (ii) any adult magistrates’ court for the area in which the defendant lives, or
 - (iii) where the application is made by a chief officer of police, any adult magistrates’ court acting for a local justice area that includes any part of the chief officer’s police area;
 - (b) where a youth court made the order and the defendant is under 18 –
 - (i) that court,
 - (ii) a youth court for the area in which the defendant lives, or
 - (iii) where the application is made by a chief officer of police, any youth court acting for a local justice area that includes any part of the chief officer’s police area;
 - (c) where a youth court made the order and the defendant is 18 or over –
 - (i) an adult magistrates’ court for the area in which the defendant lives, or
 - (ii) where the application is made by a chief officer of police, any adult magistrates’ court acting for a local justice area that includes any part of the chief officer’s police area.

28 Interim slavery and trafficking risk orders

- (1) This section applies where an application for a slavery and trafficking risk order (“the main application”) has not been determined.

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- (2) An application for an interim slavery and trafficking risk order –
- (a) may be made by the complaint by which the main application is made, or
 - (b) if the main application has been made, may be made by the person who has made that application, by complaint to the court to which that application has been made.
- (3) The court may, if it considers it just to do so, make an interim slavery and trafficking risk order.
- (4) An interim slavery and trafficking risk order is an order which prohibits the defendant from doing anything described in the order.
- (5) The order may prohibit the defendant from doing things in any part of the United Kingdom, and anywhere outside the United Kingdom.
- (6) The order may (as well as imposing prohibitions on the defendant) require the defendant to comply with subsections (3) to (6) of section 26.
If it does, those subsections apply as if references to a slavery and trafficking risk order were to an interim slavery and trafficking risk order.
- (7) The order –
- (a) has effect only for a fixed period, specified in the order;
 - (b) ceases to have effect, if it has not already done so, on the determination of the main application.
- (8) The applicant or the defendant may by complaint apply to the court that made the interim slavery and trafficking risk order for the order to be varied, renewed or discharged.
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29 Appeals

- (1) A defendant may appeal to the Crown Court –
- (a) against the making of a slavery and trafficking risk order;
 - (b) against the making of an interim slavery and trafficking risk order;
 - (c) against the making of an order under section 27, or the refusal to make such an order.
- (2) The Crown Court may make such orders as may be necessary to give effect to its determination of the appeal, and may also make such incidental or consequential orders as appear to it to be just.
- (3) An order made by the Crown Court on an appeal against the making of a slavery and trafficking risk order or an interim slavery and trafficking risk order is to be treated for the purposes of section 27(8) or 28(8) (respectively) as if it were an order of the court from which the appeal was brought.
- (4) Subsection (3) does not apply to an order directing that an application be re-heard by a magistrates' court.
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Offences and supplementary provision

- 30 Offences**
- (1) A person who, without reasonable excuse, does anything that the person is prohibited from doing by –
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- (a) a slavery and trafficking prevention order,
 (b) an interim slavery and trafficking prevention order,
 (c) a slavery and trafficking risk order, or
 (d) an interim slavery and trafficking risk order,
 commits an offence. 5
- (2) A person commits an offence if, without reasonable excuse, the person fails to comply with a requirement imposed under—
 (a) section 18(4) or 25(4) (requirement to surrender passports), or
 (b) section 19(1), 21(6), 26(1) or 28(6) (requirement to provide name and address). 10
- (3) A person guilty of an offence under this section is liable—
 (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years;
 (b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding £5,000 or both. 15
- (4) Where a person is convicted of an offence under this section, it is not open to the court by or before which the person is convicted to make an order for conditional discharge in respect of the offence.
- (5) The Secretary of State may by regulations amend subsection (3)(b) to increase or remove the limit on the amount of the fine which may be imposed under that subsection. 20
- 31 Cross-border enforcement**
- (1) The Secretary of State may by regulations amend section 30(1) so as to add to or remove from the list of orders in that section any relevant UK order.
- (2) “Relevant UK order” means an order under the law of Scotland or Northern Ireland which appears to the Secretary of State to be equivalent or similar to—
 (a) a slavery and trafficking prevention order,
 (b) an interim slavery and trafficking prevention order,
 (c) a slavery and trafficking risk order, or
 (d) an interim slavery and trafficking risk order. 25
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- 32 Rules of court**
- (1) Rules of court may provide for a youth court to give permission for an application under section 15 or 23 against a person aged 18 or over to be made to the youth court if—
 (a) an application to the youth court has been made, or is to be made, under that section against a person aged under 18, and
 (b) the youth court thinks that it would be in the interests of justice for the applications to be heard together. 35
- (2) Rules of court may, in relation to a person reaching the age of 18 after proceedings against that person by virtue of this Part have begun—
 (a) prescribe circumstances in which the proceedings may or must remain in the youth court; 40

- (b) make provision for the transfer of the proceedings from the youth court to an adult magistrates' court (including provision applying sections 21 and 28 with modifications).

33 Guidance to chief officers of police etc

- (1) The Secretary of State must issue guidance to chief officers of police, immigration officers and the Director General of the National Crime Agency in relation to the exercise by them of their powers under this Part. 5
- (2) The Secretary of State may, from time to time, revise the guidance issued under subsection (1). 10
- (3) The Secretary of State must arrange for any guidance issued or revised under this section to be published in a way the Secretary of State considers appropriate.

34 Interpretation of Part 2

- (1) In this Part—
- “adult magistrates court” means a magistrates’ court that is not a youth court; 15
- “cautioned” means cautioned after the person concerned has admitted the offence;
- “interim slavery and trafficking prevention order” means an order made under section 21; 20
- “interim slavery and trafficking risk order” means an order made under section 28;
- “slavery or human trafficking offence” means an offence listed in Schedule 1;
- “slavery and trafficking prevention order” means an order made under section 14 or 15; 25
- “slavery and trafficking risk order” means an order made under section 23.
- (2) In this Part “passport” means—
- (a) a United Kingdom passport within the meaning of the Immigration Act 1971; 30
- (b) a passport issued by or on behalf of the authorities of a country outside the United Kingdom, or by or on behalf of an international organisation;
- (c) a document that can be used (in some or all circumstances) instead of a passport. 35
- (3) In this Part a reference to a conviction includes a conviction for an offence in respect of which an order for conditional discharge is made, despite—
- (a) section 14(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (conviction with conditional discharge deemed not to be a conviction); 40
- (b) article 6(1) of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)) (equivalent provision for Northern Ireland).
- (4) Subsection (3) applies only to convictions after this Part comes into force.

- (5) In this Part a reference to a conviction includes a finding of a court in summary proceedings that the accused did the act charged, where the court makes an order under—
 - (a) section 37(3) of the Mental Health Act 1983,
 - (b) section 58(3) of the Criminal Procedure (Scotland) Act 1995, or
 - (c) article 44(4) of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)),
 (hospital and guardianship orders). 5
- (6) In relation to an offence under the law of Scotland, a reference in this Part to a person being found not guilty by reason of insanity is to be treated as a reference to a person being acquitted by reason of the special defence in section 51A of the Criminal Procedure (Scotland) Act 1995. 10
- (7) In this Part, a reference to a finding that a person is under a disability and has done the act charged against the person in respect of an offence includes a finding that a person is insane or unfit to be tried and has done the act charged against the person in respect of an offence. 15
- (8) Section 127 of the Magistrates' Courts Act 1980 (time limits) does not apply to a complaint under any provision of this Part.
- (9) A person's age is to be treated for the purposes of this Part as being that which it appears to the court to be after considering any available evidence. 20

PART 3

MARITIME ENFORCEMENT

35 Enforcement powers in relation to ships: England and Wales

- (1) An English and Welsh constable or an enforcement officer may exercise the powers set out in Part 1 of Schedule 2 (“Part 1 powers”) in relation to—
 - (a) a United Kingdom ship in England and Wales waters, foreign waters or international waters,
 - (b) a ship without nationality in England and Wales waters or international waters,
 - (c) a foreign ship in England and Wales waters, or
 - (d) a ship, registered under the law of a relevant territory, in England and Wales waters.25
 - (2) But Part 1 powers may be exercised only—
 - (a) for the purpose of preventing, detecting, investigating or prosecuting an offence under section 1 or 2, and
 - (b) in accordance with the rest of this section.30
 - (3) The authority of the Secretary of State is required before an English and Welsh constable or an enforcement officer may exercise Part 1 powers in relation to a United Kingdom ship in foreign waters.
 - (4) Authority for the purposes of subsection (3) may be given only if the State or relevant territory in whose waters the powers would be exercised consents to the exercise of the powers. 35
 - (5) The authority of the Secretary of State is required before an English and Welsh constable or an enforcement officer may exercise Part 1 powers in relation to a
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- foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to the United Kingdom.
- (6) Authority for the purposes of subsection (5) may be given in relation to a foreign ship only if—
- (a) the home state has requested the assistance of the United Kingdom for the purpose mentioned in subsection (2)(a),
 - (b) the home state has authorised the United Kingdom to act for that purpose, or
 - (c) the Convention otherwise permits the exercise of Part 1 powers in relation to the ship.
- (7) In giving authority for the purposes of subsection (5) in relation to a foreign ship the Secretary of State must give effect to any conditions or limitations that the home state imposes as part of a request or authorisation of the kind mentioned in subsection (6)(a) or (b) (if the authority is given as a result of that request or authorisation).
- 36 Enforcement powers in relation to ships: Scotland**
- (1) A Scottish constable or an enforcement officer may exercise the powers set out in Part 2 of Schedule 2 (“Part 2 powers”) in relation to—
- (a) a United Kingdom ship in Scotland waters, foreign waters or international waters,
 - (b) a ship without nationality in Scotland waters or international waters,
 - (c) a foreign ship in Scotland waters, or
 - (d) a ship, registered under the law of a relevant territory, in Scotland waters.
- (2) But Part 2 powers may be exercised only—
- (a) for the purpose of preventing, detecting or investigating a listed offence, and
 - (b) in accordance with the rest of this section.
- (3) The authority of the Secretary of State is required before a Scottish constable or an enforcement officer may exercise Part 2 powers in relation to a United Kingdom ship in foreign waters.
- (4) Authority for the purposes of subsection (3) may be given only if the State or relevant territory in whose waters the powers would be exercised consents to the exercise of the powers.
- (5) The authority of the Secretary of State is required before a Scottish constable or an enforcement officer may exercise Part 2 powers in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to the United Kingdom.
- (6) Authority for the purposes of subsection (5) may be given in relation to a foreign ship only if—
- (a) the home state has requested the assistance of the United Kingdom for the purpose mentioned in subsection (2)(a),
 - (b) the home state has authorised the United Kingdom to act for that purpose, or
 - (c) the Convention otherwise permits the exercise of Part 2 powers in relation to the ship.

- (7) In giving authority for the purposes of subsection (5) in relation to a foreign ship the Secretary of State must give effect to any conditions or limitations that the home state imposes as part of a request or authorisation of the kind mentioned in subsection (6)(a) or (b) (if the authority is given as a result of that request or authorisation). 5
- (8) For the purposes of subsection (2)(a), “listed offence” means an offence under –
- (a) section 22 of the Criminal Justice (Scotland) Act 2003 (asp 7) (traffic in prostitution etc);
 - (b) section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking for exploitation); 10
 - (c) section 47 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (slavery, servitude and forced or compulsory labour).

37 Enforcement powers in relation to ships: Northern Ireland

- (1) A Northern Ireland constable or an enforcement officer may exercise the powers set out in Part 3 of Schedule 2 (“Part 3 powers”) in relation to –
- (a) a United Kingdom ship in Northern Ireland waters, foreign waters or international waters,
 - (b) a ship without nationality in Northern Ireland waters or international waters, 20
 - (c) a foreign ship in Northern Ireland waters, or
 - (d) a ship, registered under the law of a relevant territory, in Northern Ireland waters.
- (2) But Part 3 powers may be exercised only –
- (a) for the purpose of preventing, detecting, investigating or prosecuting a listed offence, and 25
 - (b) in accordance with the rest of this section.
- (3) The authority of the Chief Constable of the Police Service of Northern Ireland is required before an enforcement officer may exercise any Part 3 powers.
- (4) The authority of the Secretary of State is required before a Northern Ireland constable or an enforcement officer may exercise Part 3 powers in relation to a United Kingdom ship in foreign waters. 30
- (5) Authority for the purposes of subsection (4) may be given only if the State or relevant territory in whose waters the powers would be exercised consents to the exercise of the powers. 35
- (6) The authority of the Secretary of State is required before a Northern Ireland constable or an enforcement officer may exercise Part 3 powers in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to the United Kingdom.
- (7) Authority for the purposes of subsection (6) may be given in relation to a foreign ship only if –
- (a) the home state has requested the assistance of the United Kingdom for the purpose mentioned in subsection (2)(a),
 - (b) the home state has authorised the United Kingdom to act for that purpose, or 40

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- (c) the Convention otherwise permits the exercise of Part 3 powers in relation to the ship.
- (8) In giving authority for the purposes of subsection (6) in relation to a foreign ship the Secretary of State must give effect to any conditions or limitations that the home state imposes as part of a request or authorisation of the kind mentioned in subsection (7)(a) or (b) (if the authority is given as a result of that request or authorisation). 5
- (9) For the purposes of subsection (2)(a), “listed offence” means an offence under –
 - (a) section 57, 58, 58A or 59 of the Sexual Offences Act 2003 (trafficking for sexual exploitation); 10
 - (b) section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking for exploitation);
 - (c) section 71 of the Coroners and Justice Act 2009 (slavery, servitude and forced or compulsory labour). 15

38 Hot pursuit of ships in United Kingdom waters

- (1) An English and Welsh constable or an enforcement officer may exercise Part 1 powers in relation to a ship in Scotland waters or in Northern Ireland waters if –
 - (a) the ship is pursued there, 20
 - (b) immediately before the pursuit of the ship, the ship was in relevant waters, and
 - (c) the condition in subsection (10) is met.
- (2) Part 1 powers may be exercised under subsection (1) only –
 - (a) for the purpose mentioned in subsection (2)(a) of section 35, and 25
 - (b) (if relevant) in accordance with subsections (5) to (7) of that section.
- (3) For the purposes of subsection (1)(b), “relevant waters” are –
 - (a) in the case of a United Kingdom ship or a ship without nationality, England and Wales waters or international waters; 30
 - (b) in the case of a foreign ship or a ship registered under the law of a relevant territory, England and Wales waters.
- (4) A Scottish constable or an enforcement officer may exercise Part 2 powers in relation to a ship in England and Wales waters or in Northern Ireland waters if –
 - (a) the ship is pursued there, 35
 - (b) immediately before the pursuit of the ship, the ship was in relevant waters, and
 - (c) the condition in subsection (10) is met.
- (5) Part 2 powers may be exercised under subsection (4) only –
 - (a) for the purpose mentioned in subsection (2)(a) of section 36, and 40
 - (b) (if relevant) in accordance with subsections (5) to (7) of that section.
- (6) For the purposes of subsection (4)(b), “relevant waters” are –
 - (a) in the case of a United Kingdom ship or a ship without nationality, Scotland waters or international waters;

- (b) in the case of a foreign ship or a ship registered under the law of a relevant territory, Scotland waters.
 - (7) A Northern Ireland constable or an enforcement officer may exercise Part 3 powers in relation to a ship in England and Wales waters or in Scotland waters if—
 - (a) the ship is pursued there,
 - (b) immediately before the pursuit of the ship, the ship was in relevant waters, and
 - (c) the condition in subsection (10) is met.
 - (8) Part 3 powers may be exercised under subsection (7) only—
 - (a) for the purpose mentioned in subsection (2)(a) of section 37, and
 - (b) (if relevant) in accordance with subsections (6) to (8) of that section.
 - (9) For the purposes of subsection (7)(b), “relevant waters” are—
 - (a) in the case of a United Kingdom ship or a ship without nationality, Northern Ireland waters or international waters;
 - (b) in the case of a foreign ship or a ship registered under the law of a relevant territory, Northern Ireland waters.
 - (10) The condition referred to in subsection (1)(c), (4)(c) and (7)(c) is that—
 - (a) before the pursuit of the ship, a signal is given for it to stop, and
 - (b) the pursuit of the ship is not interrupted.
 - (11) The signal referred to in subsection (10)(a) must be given in such a way as to be audible or visible from the ship.
 - (12) For the purposes of subsection (10)(b), pursuit is not interrupted by reason only of the fact that—
 - (a) the method of carrying out the pursuit, or
 - (b) the identity of the ship or aircraft carrying out the pursuit, changes during the course of the pursuit.
 - (13) Nothing in this Part affects any right of hot pursuit that a constable or an enforcement officer may have under international law.
- 39 Interpretation of Part 3** 30
- (1) In this Part—
 - “the Convention” means the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) and any modifications of that Convention agreed after the passing of this Act that have entered into force in relation to the United Kingdom;
 - “England and Wales waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to England and Wales;
 - “English and Welsh constable” means only a person who is—
 - (a) a member of a police force in England and Wales,
 - (b) a member of the British Transport Police Force,
 - (c) a port constable, within the meaning of section 7 of the Marine Navigation Act 2013, or a person appointed to act as a constable under provision made by virtue of section 16 of the Harbours Act 1964, or

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- (d) a National Crime Agency officer having the powers and privileges of a constable in England and Wales under the Crime and Courts Act 2013;
- “enforcement officer” means—
- (a) a designated customs official, within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009 (see section 14(6) of that Act), 5
- (b) a person who is a commissioned officer of any of Her Majesty’s ships, or
- (c) a person in command or charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force; 10
- “foreign ship” means a ship which—
- (a) is registered in a State other than the United Kingdom, or
- (b) is not so registered but is entitled to fly the flag of a State other than the United Kingdom; 15
- “foreign waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to any relevant territory or State other than the United Kingdom;
- “home state”, in relation to a foreign ship, means—
- (a) the State in which the ship is registered, or 20
- (b) the State whose flag the ship is otherwise entitled to fly;
- “international waters” means waters beyond the territorial sea of the United Kingdom or of any other State or relevant territory;
- “Northern Ireland constable” means a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve; 25
- “Northern Ireland waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to Northern Ireland;
- “Part 1 powers” means the powers set out in Part 1 of Schedule 2;
- “Part 2 powers” means the powers set out in Part 2 of that Schedule;
- “Part 3 powers” means the powers set out in Part 3 of that Schedule; 30
- “relevant territory” means—
- (a) the Isle of Man;
- (b) any of the Channel Islands;
- (c) a British overseas territory; 35
- “Scottish constable” means only a person who is—
- (a) a constable, within the meaning of section 99 of the Police and Fire Reform (Scotland) Act 2012 (asp 8), or
- (b) a National Crime Agency officer having the powers and privileges of a constable in Scotland under the Crime and Courts Act 2013; 40
- “Scotland waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to Scotland;
- “ship” includes every description of vessel (including a hovercraft) used in navigation;
- “ship without nationality” means a ship which— 45
- (a) is not registered in, or otherwise entitled to fly the flag of, any State or relevant territory, or
- (b) sails under the flags of two or more States or relevant territories, or under the flags of a State and relevant territory, using them according to convenience; 50

“United Kingdom ship” means a ship which—

- (a) is registered under Part 2 of the Merchant Shipping Act 1995,
- (b) is a Government ship within the meaning of that Act,
- (c) is not registered in any State or relevant territory but is wholly owned by persons each of whom has a United Kingdom connection, or
- (d) is registered under an Order in Council under section 1 of the Hovercraft Act 1968.

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- (2) For the purposes of paragraph (c) of the definition of “United Kingdom ship” in subsection (1), a person has a “United Kingdom connection” if the person is—
- (a) a British citizen, a British overseas territories citizen or a British Overseas citizen,
 - (b) an individual who is habitually resident in the United Kingdom, or
 - (c) a body corporate which is established under the law of a part of the United Kingdom and has its principal place of business in the United Kingdom.

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PART 4

THE INDEPENDENT ANTI-SLAVERY COMMISSIONER

40 The Independent Anti-slavery Commissioner

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- (1) The Secretary of State must, after consulting the Scottish Ministers and the Department of Justice in Northern Ireland, appoint a person as the Independent Anti-slavery Commissioner (in this Part “the Commissioner”).
- (2) The Commissioner is to hold office in accordance with the terms of the Commissioner’s appointment.
- (3) The Secretary of State may pay in respect of the Commissioner any expenses, remuneration or allowances that the Secretary of State may determine.
- (4) The Secretary of State may, after consultation with the Commissioner, provide the Commissioner with—
 - (a) such staff, and
 - (b) such accommodation, equipment and other facilities, as the Secretary of State considers necessary for the exercise of the Commissioner’s functions.
- (5) In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership: other disqualifying offices) at the appropriate place insert—
“Independent Anti-slavery Commissioner”.
- (6) In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (offices disqualifying for membership: other disqualifying offices) at the appropriate place insert—
“Independent Anti-slavery Commissioner”.
- (7) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general) at the appropriate place insert—
“The Independent Anti-slavery Commissioner”.

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41 General functions of Commissioner

- (1) The Commissioner must encourage good practice in—
- (a) the prevention, detection, investigation and prosecution of slavery and human trafficking offences;
 - (b) the identification of victims of those offences.
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- (2) For the purposes of subsection (1) a slavery and human trafficking offence is an offence under—
- (a) section 1, 2 or 4 of this Act,
 - (b) section 57, 58, 58A or 59 of the Sexual Offences Act 2003 (trafficking for sexual exploitation),
 - (c) section 22 of the Criminal Justice (Scotland) Act 2003 (asp 7) (traffic in prostitution etc),
 - (d) section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking for exploitation),
 - (e) section 71 of the Coroners and Justice Act 2009 (slavery, servitude and forced or compulsory labour),
 - (f) section 47 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (slavery, servitude and forced or compulsory labour).
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- (3) The things that the Commissioner may do in pursuance of subsection (1) include—
- (a) making reports on any permitted matter to the Secretary of State, the Scottish Ministers and the Department of Justice in Northern Ireland;
 - (b) making recommendations to any public authority about the exercise of its functions;
 - (c) undertaking or supporting (financially or otherwise) the carrying out of research;
 - (d) providing information, education or training;
 - (e) consulting people;
 - (f) co-operating with or working jointly with other persons, in the United Kingdom or elsewhere.
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- (4) In subsection (3)(a) “permitted matter” means a matter which—
- (a) the Secretary of State, the Scottish Ministers or the Department of Justice in Northern Ireland have asked the Commissioner to report on, or
 - (b) the current strategic plan, approved by the Secretary of State under section 42(6), states is a matter the Commissioner proposes to report on.
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- (5) The Commissioner must (after ascertaining whether the Secretary of State, the Scottish Ministers or the Department of Justice in Northern Ireland wish to exercise the powers conferred by subsections (6) to (8)) publish each report made under subsection (3)(a).
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- (6) The Secretary of State may direct the Commissioner to omit from any report before publication any material whose publication the Secretary of State thinks—
- (a) would be against the interests of national security,
 - (b) might jeopardise the safety of any person in England and Wales, or
 - (c) might prejudice the investigation or prosecution of an offence under the law of England and Wales.
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- (7) The Scottish Ministers may direct the Commissioner to omit from any report before publication any material whose publication the Scottish Ministers think—
 - (a) might jeopardise the safety of any person in Scotland, or
 - (b) might prejudice the investigation or prosecution of an offence under the law of Scotland.5
- (8) The Department of Justice in Northern Ireland may direct the Commissioner to omit from any report before publication any material whose publication the department thinks—
 - (a) might jeopardise the safety of any person in Northern Ireland, or
 - (b) might prejudice the investigation or prosecution of an offence under the law of Northern Ireland.10
- (9) If the Secretary of State, the Scottish Ministers or the Department of Justice in Northern Ireland lay before Parliament, the Scottish Parliament or the Northern Ireland Assembly a report made by the Commissioner under subsection (3)(a), they must lay the report as it is published by the Commissioner under subsection (5).15

42 Strategic plans and annual reports

- (1) The Commissioner must, as soon as reasonably practicable after the Commissioner's appointment, prepare a strategic plan and submit it to the Secretary of State for approval.20
- (2) The Commissioner must, before the end of the period to which a strategic plan relates ("the current period"), prepare a strategic plan for a period immediately following the current period and submit it to the Secretary of State for approval.25
- (3) The Commissioner may at any time prepare a revised strategic plan and submit it to the Secretary of State for approval.
- (4) A strategic plan is a plan setting out how the Commissioner proposes to exercise the Commissioner's functions in the period to which the plan relates, which must be not less than one year and not more than three years.30
- (5) A strategic plan must in particular—
 - (a) state the Commissioner's objectives and priorities for the period to which the plan relates;
 - (b) state any matters on which the Commissioner proposes to report under section 41(3)(a) during that period;
 - (c) state any other activities the Commissioner proposes to undertake during that period in the exercise of the Commissioner's functions.35
- (6) The Secretary of State may approve a strategic plan either without modifications or with modifications agreed with the Commissioner.
- (7) The Secretary of State must—
 - (a) before approving a strategic plan, consult the Scottish Ministers and the Department of Justice in Northern Ireland, and
 - (b) after approving a strategic plan, send a copy of the plan to the Scottish Ministers and the Department of Justice in Northern Ireland.40

- (8) As soon as reasonably practicable after the end of each calendar year the Commissioner must submit to the Secretary of State, the Scottish Ministers and the Department of Justice in Northern Ireland an annual report on the exercise of the Commissioner's functions during the year.
- (9) An annual report must include—
- (a) an assessment of the extent to which the Commissioner's objectives and priorities have been met in that year;
 - (b) a statement of the matters on which the Commissioner has reported under section 41(3)(a) during the year;
 - (c) a statement of the other activities the Commissioner has undertaken during the year in the exercise of the Commissioner's functions.
- (10) The Secretary of State must lay before Parliament—
- (a) any strategic plan the Secretary of State approves, and
 - (b) any annual report the Secretary of State receives,
- and must do so as soon as reasonably practicable after approving the plan or receiving the report.
- (11) The Scottish Ministers must lay before the Scottish Parliament—
- (a) any strategic plan the Secretary of State approves, and,
 - (b) any annual report they receive,
- and must do so as soon as reasonably practicable after receiving the plan or the report.
- (12) The Department of Justice in Northern Ireland must lay before the Northern Ireland Assembly—
- (a) any strategic plan the Secretary of State approves, and
 - (b) any annual report it receives,
- and must do so as soon as reasonably practicable after receiving the plan or the report.
- (13) An annual report laid under any of subsections (10) to (12) must not contain material removed from the report under any of subsections (14) to (16).
- (14) The Secretary of State may remove from an annual report any material whose publication the Secretary of State thinks—
- (a) would be against the interests of national security,
 - (b) might jeopardise the safety of any person in England and Wales, or
 - (c) might prejudice the investigation or prosecution of an offence under the law of England and Wales.
- (15) The Scottish Ministers may remove from an annual report any material whose publication the Scottish Ministers think—
- (a) might jeopardise the safety of any person in Scotland, or
 - (b) might prejudice the investigation or prosecution of an offence under the law of Scotland.
- (16) The Department of Justice in Northern Ireland may remove from an annual report any material whose publication the department thinks—
- (a) might jeopardise the safety of any person in Northern Ireland, or
 - (b) might prejudice the investigation or prosecution of an offence under the law of Northern Ireland.

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43 Duty to co-operate with Commissioner

- (1) The Commissioner may request a specified public authority to co-operate with the Commissioner in any way that the Commissioner considers necessary for the purposes of the Commissioner’s functions.
- (2) A specified public authority must so far as reasonably practicable comply with a request made to it under this section. 5
- (3) A public authority which discloses information to the Commissioner in pursuance of subsection (2) does not breach any obligation of confidence owed by the public authority.
- (4) But subsection (2) does not require or authorise any disclosure of information which contravenes any other restriction on the disclosure of information (however imposed). 10
- (5) In this section “specified public authority” means a public authority which is specified in, or is of a description specified in, regulations made for the purposes of this section. 15
- (6) The power to make regulations under subsection (5) is exercisable –
 - (a) in relation to a public authority having only functions which are exercisable in or as regards Scotland, by the Scottish Ministers,
 - (b) in relation to a public authority having only functions which are exercisable in or as regards Northern Ireland, by the Department of Justice in Northern Ireland, and 20
 - (c) in relation to any other public authority, by the Secretary of State.

44 Restriction on exercise of functions

- (1) The Commissioner must not exercise any function in relation to an individual case.
- (2) Subsection (1) does not prevent the Commissioner considering individual cases and drawing conclusions about them for the purpose of, or in the context of, considering a general issue. 25

PART 5

PROTECTION OF VICTIMS

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45 Defence for slavery or trafficking victims compelled to commit an offence

- (1) A person is not guilty of an offence if –
 - (a) the person does the act which constitutes the offence because the person is compelled to do that act,
 - (b) the compulsion is attributable to slavery or to relevant exploitation, and 35
 - (c) a reasonable person in the same situation as the person and having the person’s relevant characteristics would have no realistic alternative to doing that act.
- (2) “Relevant characteristics” means age, sex and any physical or mental illness or disability. 40
- (3) A person may be compelled to do something by another person or by the person’s circumstances.

- (4) Compulsion is attributable to slavery or to relevant exploitation only if—
 (a) it is, or is part of, conduct which constitutes an offence under section 1 or conduct which constitutes relevant exploitation, or
 (b) it is a direct consequence of a person being, or having been, a victim of slavery or a victim of relevant exploitation.
- (5) “Relevant exploitation” is exploitation (within the meaning of section 3) that is attributable to the exploited person being, or having been, a victim of human trafficking.
- (6) In this section references to an act include an omission.
- (7) Subsection (1) does not apply to an offence listed in Schedule 3.
- (8) The Secretary of State may by regulations amend Schedule 3.
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46 Special measures for witnesses in criminal proceedings

- (1) The Youth Justice and Criminal Evidence Act 1999 is amended as follows.
- (2) In section 17(4) (witnesses eligible for assistance on grounds of fear or distress about testifying) for “section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004” substitute “section 1 or 2 of the Modern Slavery Act 2014”.
- (3) In section 25(4)(a) (offences where court may direct evidence to be given in private) for “section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004” substitute “section 1 or 2 of the Modern Slavery Act 2014”.
- (4) In section 33(6)(d) (offences where certain witnesses presumed to be under 18) for “section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004” substitute “section 1 or 2 of the Modern Slavery Act 2014”.
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47 Child trafficking advocates

- (1) The Secretary of State must make such arrangements as the Secretary of State considers reasonable to enable persons (“child trafficking advocates”) to be available to represent and support children who there is reason to believe may be victims of human trafficking.
- (2) In making arrangements under subsection (1) the Secretary of State must have regard to the principle that, so far as practicable, a child should be represented and supported by someone who is independent of any person who will be responsible for making decisions about the child.
- (3) The arrangements may include provision for payments to be made to, or in relation to, persons carrying out functions in accordance with the arrangements.
- (4) The Secretary of State may make regulations about child trafficking advocates, and may in particular make provision—
 (a) about the circumstances in which, and any conditions subject to which, a person may act as a child trafficking advocate;
 (b) for the appointment of a person as a child trafficking advocate to be subject to approval in accordance with the regulations;
 (c) about the functions of child trafficking advocates;
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- (d) requiring public authorities to co-operate with, and provide information to, child trafficking advocates.
- (5) A person exercising the functions of a child trafficking advocate in relation to a child must act in the child's best interests.
- (6) The Secretary of State must, no later than 9 months after the day on which this Act is passed, lay before Parliament a report on the steps the Secretary of State proposes to take in relation to the powers conferred by this section.

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48 Guidance about identifying and supporting victims

- (1) The Secretary of State must issue guidance to such public authorities and other persons as the Secretary of State considers appropriate about—
 - (a) the sorts of things which indicate that a person may be a victim of slavery or human trafficking;
 - (b) arrangements for providing assistance and support to persons who there is reason to believe may be victims of slavery or human trafficking;
 - (c) arrangements for determining whether a person is to be treated as a victim of slavery or human trafficking.
- (2) The Secretary of State may, from time to time, revise the guidance issued under subsection (1).
- (3) The Secretary of State must arrange for any guidance issued or revised under this section to be published in a way the Secretary of State considers appropriate.

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49 Presumption about age

- (1) This section applies where—
 - (a) a public authority with functions under relevant arrangements has reason to believe a person may be a victim of human trafficking, and
 - (b) the authority is not certain of the person's age but has reason to believe the person may be under 18.
- (2) Until an assessment of the person's age is carried out by a local authority or the person's age is otherwise determined, the public authority must assume for the purposes of its functions under relevant arrangements that the person is under 18.
- (3) “Relevant arrangements” means arrangements for providing assistance and support to persons who there is reason to believe may be victims of human trafficking, as set out in guidance issued under section 48(1)(b).
- (4) “Local authority” has the same meaning as in the Children Act 1989 (see section 105 of that Act).

50 Duty to notify NCA about suspected victims of slavery or human trafficking

- (1) A specified public authority must notify the National Crime Agency if it has reason to believe that a person may be a victim of slavery or human trafficking.
- (2) The Secretary of State may by regulations make provision about the information to be included in a notification.

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- (3) The regulations must provide that a notification relating to a person aged 18 or over may not include information that—
- (a) identifies the person, or
 - (b) enables the person to be identified (either by itself or in combination with other information),
- unless the person consents to the inclusion of the information.
- (4) The regulations may not require information to be included if its inclusion would result in a disclosure which contravenes the Data Protection Act 1998.
- (5) In this section “specified public authority” means a public authority specified in regulations made by the Secretary of State for the purposes of this section.

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PART 6

TRANSPARENCY IN SUPPLY CHAINS ETC

51 Transparency in supply chains etc

- (1) A commercial organisation within subsection (2) must prepare a slavery and human trafficking statement for each financial year of the organisation.
- (2) A commercial organisation is within this subsection if it—
- (a) supplies goods or services, and
 - (b) has a total turnover of not less than an amount prescribed by regulations made by the Secretary of State.
- (3) For the purposes of subsection (2)(b), an organisation’s total turnover is to be determined in accordance with regulations made by the Secretary of State.
- (4) A slavery and human trafficking statement for a financial year is—
- (a) a statement of the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place—
 - (i) in any of its supply chains, and
 - (ii) in any part of its own business, or
 - (b) a statement that the organisation has taken no such steps.
- (5) If the organisation has a website, it must—
- (a) publish the slavery and human trafficking statement on that website, and
 - (b) include a link to the slavery and human trafficking statement in a prominent place on that website’s homepage.
- (6) If the organisation does not have a website, it must provide a copy of the slavery and human trafficking statement to anyone who makes a written request for one, and must do so before the end of the period of 30 days beginning with the day on which the request is received.
- (7) The Secretary of State—
- (a) may issue guidance about the duties imposed on commercial organisations by this section;
 - (b) must publish any such guidance in a way the Secretary of State considers appropriate.

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- (8) The guidance may in particular include guidance about the kind of information which may be included in a slavery and human trafficking statement.
- (9) The duties imposed on commercial organisations by this section are enforceable by the Secretary of State bringing civil proceedings in the High Court for an injunction or, in Scotland, for specific performance of a statutory duty under section 45 of the Court of Session Act 1988. 5
- (10) For the purposes of this section –
- “commercial organisation” means –
- (a) a body corporate (wherever incorporated) which carries on a business, or part of a business, in any part of the United Kingdom, or 10
 - (b) a partnership (wherever formed) which carries on a business, or part of a business, in any part of the United Kingdom, and for this purpose “business” includes a trade or profession; 15
- “partnership” means –
- (a) a partnership within the Partnership Act 1890,
 - (b) a limited partnership registered under the Limited Partnerships Act 1907, or
 - (c) a firm, or an entity of a similar character, formed under the law of a country outside the United Kingdom; 20
- “slavery and human trafficking” means –
- (a) conduct which constitutes an offence under any of the following –
- (i) section 1, 2 or 4 of this Act, 25
 - (ii) section 57, 58, 58A or 59 of the Sexual Offences Act 2003 (trafficking for sexual exploitation),
 - (iii) section 22 of the Criminal Justice (Scotland) Act 2003 (asp 7) (traffic in prostitution etc),
 - (iv) section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking for exploitation),
 - (v) section 71 of the Coroners and Justice Act 2009 (slavery, servitude and forced or compulsory labour),
 - (vi) section 47 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (slavery, servitude and forced or compulsory labour), or 30
- (b) conduct which would constitute an offence in a part of the United Kingdom under any of those provisions if the conduct took place in that part of the United Kingdom. 35

PART 7

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FINAL PROVISIONS

52 Interpretation

- (1) For the purposes of this Act a person is a victim of slavery if he or she is a victim of –
- (a) conduct which constitutes an offence under section 1, or 45

- (b) conduct which would have constituted an offence under that section if that section had been in force when the conduct occurred.
- (2) For the purposes of this Act a person is a victim of human trafficking if he or she is the victim of—
- (a) conduct which constitutes an offence under section 2, or would constitute an offence under that section if the person responsible for the conduct were a UK national, or
- (b) conduct which would have been within paragraph (a) if section 2 had been in force when the conduct occurred.
- (3) In this Act—
- “country” includes territory or other part of the world;
- “immigration officer” means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971;
- “public authority” means any public authority within the meaning of section 6 of the Human Rights Act 1998 (other than a court or tribunal);
- “UK national” has the meaning given by section 13.
- 53 Consequential provision**
- (1) Schedule 4 contains minor and consequential amendments.
- (2) The Secretary of State may by regulations make whatever provision the Secretary of State thinks appropriate in consequence of this Act.
- (3) The provision which may be made by regulations under subsection (2) includes provision amending, repealing or revoking any provision of an Act or subordinate legislation (including an Act passed or subordinate legislation made in the same session as this Act).
- 54 Regulations**
- (1) Any power of the Secretary of State to make regulations under this Act is exercisable by statutory instrument.
- (2) A statutory instrument containing regulations made by the Secretary of State under this Act is subject to annulment in pursuance of a resolution of either House of Parliament, unless—
- (a) it contains only regulations under section 57 (commencement), or
- (b) it contains regulations to which subsection (4) applies.
- (3) A statutory instrument containing regulations to which subsection (4) applies may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) This section applies to—
- (a) regulations under section 14(4) (power to amend Schedule 1);
- (b) regulations under section 31(1) (power to amend section 30);
- (c) regulations under section 45(8) (power to amend Schedule 3);
- (d) regulations under section 47(4) (child trafficking advocates);
- (e) regulations under section 51(2) (transparency in supply chains etc);
- (f) regulations under section 53(2) (consequential provision) which amend, or repeal any provision of, an Act.

- (5) Regulations made by the Scottish Ministers under section 43 are subject to the negative procedure.
- (6) The power of the Department of Justice in Northern Ireland to make regulations under section 43 is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (7) Regulations made by the Department of Justice in Northern Ireland under section 43 are subject to negative resolution (within the meaning of section 41(6) of the Interpretation (Northern Ireland) Act 1954 (c. 33 (N.I.))).
- (8) Regulations made under this Act may—
 - (a) make different provision for different purposes;
 - (b) include saving, transitional, transitory, supplementary or consequential provision.
- (9) This section (apart from subsection (8)) does not apply to regulations under paragraph 5 of Schedule 2.

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55 Financial provisions

There is to be paid out of money provided by Parliament—

- (a) any expenditure incurred under or by virtue of this Act by the Secretary of State;
- (b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

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56 Extent

- (1) Parts 1, 2 and 5 extend to England and Wales only, subject to subsection (4).
- (2) Part 3 extends as follows—
 - (a) section 35 extends to England and Wales only;
 - (b) section 36 extends to Scotland only;
 - (c) section 37 extends to Northern Ireland only;
 - (d) sections 38 and 39, and Schedule 2, extend to England and Wales, Scotland and Northern Ireland.
- (3) Parts 4, 6 and 7 extend to England and Wales, Scotland and Northern Ireland, subject to subsections (4) and (5).
- (4) An amendment or repeal made by this Act has the same extent as the provision amended or repealed.
- (5) But the amendments and repeals made by the following provisions of Schedule 4 extend to England and Wales only—
 - (a) paragraph 2,
 - (b) paragraph 5(2),
 - (c) paragraph 6,
 - (d) paragraph 8,
 - (e) paragraph 18.
- (6) Her Majesty may by Order in Council provide for any of the provisions of this Act to extend, with or without modifications, to any of the Channel Islands or to the Isle of Man.

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57 Commencement

- (1) This Act comes into force on whatever day or days the Secretary of State appoints by regulations, subject to subsections (2) and (3). 5
- (2) Section 47(6) comes into force at the end of the period of 2 months beginning with the day on which this Act is passed. 10
- (3) This Part, other than section 53(1) and Schedule 4, comes into force on the day on which this Act is passed.
- (4) Before making regulations bringing into force any of the provisions of Part 3, the Secretary of State must consult—
- (a) the Scottish Ministers, so far as the provisions extend to Scotland;
 - (b) the Department of Justice in Northern Ireland, so far as the provisions extend to Northern Ireland. 15
- (5) The Secretary of State may not make regulations under subsection (1) bringing section 47(1) to (5) (or any part of it) into force before the end of the period of 9 months beginning with the day on which this Act is passed. 20
- (6) After the end of that period—
- (a) if a resolution is passed by each House of Parliament that section 47(1) to (5) (or any part of it) should come into force, the Secretary of State must make regulations under subsection (1) bringing into force that section (or that part of it);
 - (b) the Secretary of State may not make regulations under subsection (1) bringing into force section 47(1) to (5) (or any part of it) unless required to do so by paragraph (a). 25
- (7) Regulations made by virtue of subsection (6)(a) must bring into force section 47(1) to (5) (or the part of it specified in the resolutions) before the end of the period of one month beginning with the day on which the resolutions are passed (or, if they are passed on different days, the day on which the later of them is passed). 30
- (8) The Secretary of State may by regulations make whatever saving, transitory or transitional provision the Secretary of State thinks appropriate in connection with the coming into force of any provision of this Act.

58 Short title

This Act may be cited as the Modern Slavery Act 2014.

SCHEDULES

SCHEDULE 1

Section 14

SLAVERY AND HUMAN TRAFFICKING OFFENCES

Nationality, Immigration and Asylum Act 2002 (c. 41)

- 1 An offence under section 145 of the Nationality, Immigration and Asylum Act 2002 (trafficking for prostitution). 5

Sexual Offences Act 2003 (c. 42)

- 2 (1) An offence under section 57, 58, 58A, 59 or 59A of the Sexual Offences Act 2003 (trafficking for sexual exploitation).
(2) An offence under section 62 of that Act (committing offence with intent to commit relevant sexual offence), where the relevant sexual offence the person in question intended to commit was an offence under section 57, 58, 58A, 59 or 59A of that Act. 10

Criminal Justice (Scotland) Act 2003 (asp 7)

- 3 An offence under section 22 of the Criminal Justice (Scotland) Act 2003 (traffic in prostitution etc). 15

Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19)

- 4 An offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking for exploitation). 20

Coroners and Justice Act 2009 (c. 25)

- 5 An offence under section 71 of the Coroners and Justice Act 2009 (slavery, servitude and forced or compulsory labour). 25

Criminal Justice and Licensing (Scotland) Act 2010 (asp 13)

- 6 An offence under section 47 of the Criminal Justice and Licensing (Scotland) Act 2010 (slavery, servitude and forced or compulsory labour). 25

Modern Slavery Act 2014

- 7 An offence under section 1, 2 or 4 of this Act.

Ancillary offences

- 8 (1) An offence of attempting or conspiring to commit an offence listed in this Schedule.
- (2) An offence committed by aiding, abetting, counselling, procuring or inciting the commission of an offence listed in this Schedule.
- (3) An offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting) where the offence (or one of the offences) which the person in question intends or believes would be committed is an offence listed in this Schedule.

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SCHEDULE 2

Section 35, 36 and 37

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ENFORCEMENT POWERS IN RELATION TO SHIPS

PART 1

ENGLAND AND WALES

Introductory

- 1 (1) This Part of this Schedule sets out the powers exercisable by English and Welsh constables and enforcement officers under sections 35 and 38(1). 15
- (2) In this Part of this Schedule –
“items subject to legal privilege” has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 10 of that Act);
“the ship” means the ship in relation to which the powers set out in this Part of this Schedule are exercised. 20

Power to stop, board, divert and detain

- 2 (1) This paragraph applies if an English and Welsh constable or an enforcement officer has reasonable grounds to suspect that –
(a) an offence under section 1 or 2 is being, or has been, committed on the ship, or
(b) the ship is otherwise being used in connection with the commission of an offence under either of those sections. 25
- (2) The constable or enforcement officer may –
(a) stop the ship;
(b) board the ship;
(c) require the ship to be taken to a port (in England and Wales or elsewhere) and detained there. 30
- (3) Except as provided by sub-paragraph (5), authority of the Secretary of State is required before a constable or an enforcement officer may exercise the power conferred by sub-paragraph (2)(c) to require the ship to be taken to a port outside the United Kingdom. 35

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| <p>(4) Authority for the purposes of sub-paragraph (3) may be given only if the State or relevant territory in which the port is located is willing to receive the ship.</p> <p>(5) If the constable or enforcement officer is acting under authority given for the purposes of section 35(5), the constable or enforcement officer may require the ship to be taken to—</p> <ul style="list-style-type: none"> (a) a port in the home state or relevant territory in question, or (b) if the home state or relevant territory requests, any other State or relevant territory willing to receive the ship. <p>(6) The constable or enforcement officer may require the master of the ship, or any member of its crew, to take such action as is necessary for the purposes of sub-paragraph (2) or (5).</p> <p>(7) A constable or an enforcement officer must give notice in writing to the master of any ship detained under this paragraph.</p> <p>(8) The notice must state that the ship is to be detained until the notice is withdrawn by the giving of a further notice in writing signed by a constable or an enforcement officer.</p> | <p style="margin: 0;">5</p> <p style="margin: 0;">10</p> <p style="margin: 0;">15</p> |
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Power to search and obtain information

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| <p>3 (1) This paragraph applies if an English and Welsh constable or an enforcement officer has reasonable grounds to suspect that there is evidence on the ship (other than items subject to legal privilege) relating—</p> <ul style="list-style-type: none"> (a) to an offence under section 1 or 2, or (b) to an offence that is connected with an offence under either of those sections. <p>(2) The constable or enforcement officer may search—</p> <ul style="list-style-type: none"> (a) the ship; (b) anyone on the ship; (c) anything on the ship (including cargo). <p>(3) The constable or enforcement officer may require a person on the ship to give information about himself or herself or about anything on the ship.</p> <p>(4) The power to search conferred by sub-paragraph (2)—</p> <ul style="list-style-type: none"> (a) is only a power to search to the extent that it is reasonably required for the purpose of discovering evidence of the kind mentioned in sub-paragraph (1), and (b) in the case of a search of a person, does not authorise a constable or an enforcement officer to require the person to remove any clothing in public other than an outer coat, jacket or gloves. <p>(5) In exercising a power conferred by sub-paragraph (2) or (3) a constable or an enforcement officer may—</p> <ul style="list-style-type: none"> (a) open any containers; (b) require the production of documents, books or records relating to the ship or anything on it (but not including anything the constable or enforcement officer has reasonable grounds to believe to be an item subject to legal privilege); (c) make photographs or copies of anything the production of which the constable or enforcement officer has power to require. | <p style="margin: 0;">20</p> <p style="margin: 0;">25</p> <p style="margin: 0;">30</p> <p style="margin: 0;">35</p> <p style="margin: 0;">40</p> <p style="margin: 0;">45</p> |
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- (6) The power in sub-paragraph (5)(b) to require the production of documents, books or records includes, in relation to documents, books or records kept in electronic form, power to require the provision of the documents, books or records in a form in which they are legible and can be taken away.
- (7) Sub-paragraph (5) is without prejudice to the generality of the powers conferred by sub-paragraphs (2) and (3).

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Power of arrest and seizure

- 4 (1) This paragraph applies if an English and Welsh constable or an enforcement officer has reasonable grounds to suspect that an offence under section 1 or 2 has been, or is being, committed on the ship.
- (2) The constable or enforcement officer may arrest without warrant anyone whom the constable or officer has reasonable grounds for suspecting to be guilty of the offence.
- (3) The constable or enforcement officer may seize and detain anything found on the ship which appears to the constable or officer to be evidence of the offence (but not including anything that the constable or officer has reasonable grounds to believe to be an item subject to legal privilege).

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Code of practice

- 5 (1) The Secretary of State must prepare and issue a code in respect of the practice to be followed by English and Welsh constables and enforcement officers when arresting a person under the power conferred by paragraph 4.
- (2) The code must in particular provide guidance as to the information to be given to the person at the time of arrest (whether about procedural rights or other matters).
- (3) A failure of a constable or an enforcement officer to comply with any provision of the code does not of itself render the constable or officer liable to any criminal or civil proceedings.
- (4) The code –
- (a) is admissible in evidence in criminal and civil proceedings, and
- (b) may be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.
- (5) The Secretary of State may at any time revise the whole or any part of the code.
- (6) The code, or any revision of the code, does not come into operation until the Secretary of State so provides in regulations.
- (7) Regulations under this paragraph are to be made by statutory instrument.
- (8) An instrument containing regulations under this paragraph that bring the code into operation may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (9) An instrument containing regulations under this paragraph that bring a revision of the code into operation must be laid before Parliament (if the regulations are made without a draft having been laid and approved as mentioned in sub-paragraph (8)).

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- (10) Where an instrument, or a draft of an instrument, is laid, the code or revision of the code to which it relates must also be laid.

Assistants

- 6 (1) An English and Welsh constable or an enforcement officer may – 5
 (a) be accompanied by other persons, and
 (b) take equipment or materials,
 to assist the constable or officer in the exercise of powers under this Part of this Schedule.
- (2) A person accompanying a constable or an enforcement officer under subparagraph (1) may perform any of the constable's or officer's functions under this Part of this Schedule, but only under the constable's or officer's supervision. 10

Reasonable force

- 7 An English and Welsh constable or an enforcement officer may use reasonable force, if necessary, in the performance of functions under this Part of this Schedule. 15

Evidence of authority

- 8 An English and Welsh constable or an enforcement officer must produce evidence of the constable's or officer's authority if asked to do so.

Protection of constables and enforcement officers 20

- 9 An English and Welsh constable or an enforcement officer is not liable in any criminal or civil proceedings for anything done in the purported performance of functions under this Part of this Schedule if the court is satisfied that – 25
 (a) the act was done in good faith, and
 (b) there were reasonable grounds for doing it.

Offences

- 10 (1) A person commits an offence under the law of England and Wales if the person – 30
 (a) intentionally obstructs a constable or an enforcement officer in the performance of functions under this Part of this Schedule, or
 (b) fails without reasonable excuse to comply with a requirement made by a constable or an enforcement officer in the performance of those functions.
- (2) A person who provides information in response to a requirement made by a constable or an enforcement officer in the performance of functions under this Part of this Schedule commits an offence under the law of England and Wales if – 35
 (a) the information is false in a material particular, and the person either knows it is or is reckless as to whether it is, or
 (b) the person intentionally fails to disclose any material particular. 40

- (3) A person guilty of an offence under this paragraph is liable on summary conviction to a fine.

PART 2

SCOTLAND

Introductory

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- 11 (1) This Part of this Schedule sets out the powers exercisable by Scottish constables and enforcement officers under sections 36 and 38(4).

- (2) In this Part of this Schedule—

“items subject to legal privilege” has the same meaning as in Chapter 3 of Part 8 of the Proceeds of Crime Act 2002 (see section 412 of that Act);

“listed offence” has the meaning given by section 36(8);

“the ship” means the ship in relation to which the powers set out in this Part of this Schedule are exercised.

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Power to stop, board, divert and detain

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- 12 (1) This paragraph applies if a Scottish constable or an enforcement officer has reasonable grounds to suspect that—

- (a) a listed offence is being, or has been, committed on the ship, or
(b) the ship is otherwise being used in connection with the commission of a listed offence.

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- (2) The constable or enforcement officer may—

- (a) stop the ship;
(b) board the ship;
(c) require the ship to be taken to a port (in Scotland or elsewhere) and detained there.

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- (3) Except as provided by sub-paragraph (5), authority of the Secretary of State is required before a constable or an enforcement officer may exercise the power conferred by sub-paragraph (2)(c) to require the ship to be taken to a port outside the United Kingdom.

- (4) Authority for the purposes of sub-paragraph (3) may be given only if the State or relevant territory in which the port is located is willing to receive the ship.

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- (5) If the constable or enforcement officer is acting under authority given for the purposes of section 36(5), the constable or officer may require the ship to be taken to—

- (a) a port in the home state or relevant territory in question, or
(b) if the home state or relevant territory requests, any other State or relevant territory willing to receive the ship.

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- (6) The constable or enforcement officer may require the master of the ship, or any member of its crew, to take such action as is necessary for the purposes of sub-paragraph (2) or (5).

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- (7) A constable or an enforcement officer must give notice in writing to the master of any ship detained under this paragraph.

- (8) The notice must state that the ship is to be detained until the notice is withdrawn by the giving of a further notice in writing signed by a constable or an enforcement officer.

Power to search and obtain information

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| 13 | <p>(1) This paragraph applies if a Scottish constable or an enforcement officer has reasonable grounds to suspect that there is evidence on the ship (other than items subject to legal privilege) relating—</p> <ul style="list-style-type: none"> (a) to a listed offence, or (b) to an offence that is connected with a listed offence. <p>(2) The constable or enforcement officer may search—</p> <ul style="list-style-type: none"> (a) the ship; (b) anyone on the ship; (c) anything on the ship (including cargo). <p>(3) The constable or enforcement officer may require a person on the ship to give information about himself or herself.</p> <p>(4) The power to search conferred by sub-paragraph (2)—</p> <ul style="list-style-type: none"> (a) is only a power to search to the extent that it is reasonably required for the purpose of discovering evidence of the kind mentioned in sub-paragraph (1), and (b) in the case of a search of a person, does not authorise a constable or an enforcement officer to require the person to remove any clothing in public other than an outer coat, jacket or gloves. <p>(5) In exercising a power conferred by sub-paragraph (2) or (3) a constable or an enforcement officer may—</p> <ul style="list-style-type: none"> (a) open any containers; (b) require the production of documents, books or records relating to the ship or anything on it (but not including anything the constable or officer has reasonable grounds to believe to be an item subject to legal privilege); (c) make photographs or copies of anything the production of which the constable or officer has power to require. <p>(6) The power in sub-paragraph (5)(b) to require the production of documents, books or records includes, in relation to documents, books or records kept in electronic form, power to require the provision of the documents, books or records in a form in which they are legible and can be taken away.</p> <p>(7) Sub-paragraph (5) is without prejudice to the generality of the powers conferred by sub-paragraphs (2) and (3).</p> | 5
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Power of arrest and seizure

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| 14 | <p>(1) This paragraph applies if a Scottish constable or an enforcement officer has reasonable grounds to suspect that a listed offence has been, or is being, committed on the ship.</p> <p>(2) The constable or enforcement officer may arrest without warrant anyone whom the constable or officer has reasonable grounds for suspecting to be guilty of the offence.</p> | 40 |
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- (3) The constable or enforcement officer may seize and detain anything found on the ship which appears to the constable or officer to be evidence of the offence (but not including anything that the constable or officer has reasonable grounds to believe to be an item subject to legal privilege).

Assistants

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- 15 (1) A Scottish constable or an enforcement officer may –
(a) be accompanied by other persons, and
(b) take equipment or materials,
to assist the constable or officer in the exercise of powers under this Part of this Schedule.
- (2) A person accompanying a constable or an enforcement officer under subparagraph (1) may perform any of the constable's or officer's functions under this Part of this Schedule, but only under the constable's or officer's supervision.

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Reasonable force

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- 16 A Scottish constable or an enforcement officer may use reasonable force, if necessary, in the performance of functions under this Part of this Schedule.

Evidence of authority

- 17 A Scottish constable or an enforcement officer must produce evidence of the constable's or officer's authority if asked to do so.

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Offences

- 18 (1) A person commits an offence under the law of Scotland if the person –
(a) intentionally obstructs a constable or an enforcement officer in the performance of functions under this Part of this Schedule, or
(b) fails without reasonable excuse to comply with a requirement made by a constable or an enforcement officer in the performance of those functions.
- (2) A person who provides information in response to a requirement made by a Scottish constable or an enforcement officer in the performance of functions under this Part of this Schedule commits an offence under the law of Scotland if –
(a) the information is false in a material particular, and the person either knows it is or is reckless as to whether it is, or
(b) the person intentionally fails to disclose any material particular.
- (3) A person guilty of an offence under this paragraph is liable –
(a) on summary conviction, to a fine not exceeding the statutory maximum;
(b) on conviction on indictment, to a fine.

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PART 3

NORTHERN IRELAND

Introductory

19 (1) This Part of this Schedule sets out the powers exercisable by Northern Ireland constables and enforcement officers under sections 37 and 38(7). 5

(2) In this Part of this Schedule –

“items subject to legal privilege” has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (1989/1341 (N.I. 12)) (see Article 12 of that Order);

“listed offence” has the meaning given by section 37(9); 10

“the ship” means the ship in relation to which the powers set out in this Part of this Schedule are exercised.

Power to stop, board, divert and detain

20 (1) This paragraph applies if a Northern Ireland constable or an enforcement officer has reasonable grounds to suspect that – 15

- (a) a listed offence is being, or has been, committed on the ship, or
- (b) the ship is otherwise being used in connection with the commission of a listed offence.

(2) The constable or enforcement officer may –

- (a) stop the ship;
- (b) board the ship;
- (c) require the ship to be taken to a port (in Northern Ireland or elsewhere) and detained there. 20

(3) Except as provided by sub-paragraph (5), authority of the Secretary of State is required before a constable or an enforcement officer may exercise the power conferred by sub-paragraph (2)(c) to require the ship to be taken to a port outside the United Kingdom. 25

(4) Authority for the purposes of sub-paragraph (3) may be given only if the State or relevant territory in which the port is located is willing to receive the ship. 30

(5) If the constable or enforcement officer is acting under authority given for the purposes of section 37(6), the constable or officer may require the ship to be taken to –

- (a) a port in the home state or relevant territory in question, or
- (b) if the home state or relevant territory requests, any other State or relevant territory willing to receive the ship. 35

(6) The constable or enforcement officer may require the master of the ship, or any member of its crew, to take such action as is necessary for the purposes of sub-paragraph (2) or (5).

(7) A constable or an enforcement officer must give notice in writing to the master of any ship detained under this paragraph. 40

- (8) The notice must state that the ship is to be detained until the notice is withdrawn by the giving of a further notice in writing signed by a constable or an enforcement officer.

Power to search and obtain information

- 21 (1) This paragraph applies if a Northern Ireland constable or an enforcement officer has reasonable grounds to suspect that there is evidence on the ship (other than items subject to legal privilege) relating – 5
 (a) to a listed offence, or
 (b) to an offence that is connected with a listed offence.
- (2) The constable or enforcement officer may search – 10
 (a) the ship;
 (b) anyone on the ship;
 (c) anything on the ship (including cargo).
- (3) The constable or enforcement officer may require a person on the ship to give information about himself or herself or about anything on the ship. 15
- (4) The power to search conferred by sub-paragraph (2) –
 (a) is only a power to search to the extent that it is reasonably required for the purpose of discovering evidence of the kind mentioned in sub-paragraph (1), and
 (b) in the case of a search of a person, does not authorise a constable or an enforcement officer to require the person to remove any clothing in public other than an outer coat, jacket or gloves. 20
- (5) In exercising a power conferred by sub-paragraph (2) or (3) a constable or an enforcement officer may – 25
 (a) open any containers;
 (b) require the production of documents, books or records relating to the ship or anything on it (but not including anything the constable or officer has reasonable grounds to believe to be an item subject to legal privilege);
 (c) make photographs or copies of anything the production of which the constable or officer has power to require. 30
- (6) The power in sub-paragraph (5)(b) to require the production of documents, books or records includes, in relation to documents, books or records kept in electronic form, power to require the provision of the documents, books or records in a form in which they are legible and can be taken away. 35
- (7) Sub-paragraph (5) is without prejudice to the generality of the powers conferred by sub-paragraphs (2) and (3).

Power of arrest and seizure

- 22 (1) This paragraph applies if a Northern Ireland constable or an enforcement officer has reasonable grounds to suspect that a listed offence has been, or is being, committed on the ship. 40
 (2) The constable or enforcement officer may arrest without warrant anyone whom the constable or officer has reasonable grounds for suspecting to be guilty of the offence.

- (3) The constable or enforcement officer may seize and detain anything found on the ship which appears to the constable or officer to be evidence of the offence (but not including anything that the constable or officer has reasonable grounds to believe to be an item subject to legal privilege).

Code of practice

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- 23 (1) The Department of Justice in Northern Ireland must prepare and issue a code in respect of the practice to be followed by Northern Ireland constables and enforcement officers when arresting a person under the power conferred by paragraph 22.

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- (2) The code must in particular provide guidance as to the information to be given to the person at the time of arrest (whether about procedural rights or other matters).

- (3) A failure of a constable or an enforcement officer to comply with any provision of the code does not of itself render the constable or officer liable to any criminal or civil proceedings.

15

- (4) The code –

- (a) is admissible in evidence in criminal and civil proceedings, and
- (b) may be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

- (5) The Department of Justice may at any time revise the whole or any part of the code.

20

- (6) The code, or any revision of the code, does not come into operation until the Department of Justice –

25

- (a) lays a draft of the code, or revised code, before the Northern Ireland Assembly, and
- (b) provides by order for the code, or revised code, to come into operation.

- (7) An order bringing the code into operation may contain such transitional provisions or savings as appear to the Department of Justice to be necessary or expedient.

30

- (8) An order under this paragraph is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.))).

35

- (9) The power of the Department of Justice to make an order under this paragraph is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

Assistants

- 24 (1) A Northern Ireland constable or an enforcement officer may –

- (a) be accompanied by other persons, and
- (b) take equipment or materials,

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to assist the constable or officer in the exercise of powers under this Part of this Schedule.

- (2) A person accompanying a constable or an enforcement officer under subparagraph (1) may perform any of the constable's or officer's functions

under this Part of this Schedule, but only under the constable's or officer's supervision.

Reasonable force

- 25 A Northern Ireland constable or an enforcement officer may use reasonable force, if necessary, in the performance of functions under this Part of this Schedule. 5

Evidence of authority

- 26 A Northern Ireland constable or an enforcement officer must produce evidence of the constable's or officer's authority if asked to do so.

Protection of constables and enforcement officers 10

- 27 A Northern Ireland constable or an enforcement officer is not liable in any criminal or civil proceedings for anything done in the purported performance of functions under this Part of this Schedule if the court is satisfied that—
(a) the act was done in good faith, and
(b) there were reasonable grounds for doing it. 15

Offences

- 28 (1) A person commits an offence under the law of Northern Ireland if the person—
(a) intentionally obstructs a constable or an enforcement officer in the performance of functions under this Part of this Schedule, or
(b) fails without reasonable excuse to comply with a requirement made by a constable or an enforcement officer in the performance of those functions. 20
- (2) A person who provides information in response to a requirement made by a Northern Ireland constable or an enforcement officer in the performance of functions under this Part of this Schedule commits an offence under the law of Northern Ireland if—
(a) the information is false in a material particular, and the person either knows it is or is reckless as to whether it is, or
(b) the person intentionally fails to disclose any material particular. 25
- (3) A person guilty of an offence under this paragraph is liable—
(a) on summary conviction, to a fine not exceeding the statutory maximum;
(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both. 30
- 35

SCHEDULE 3

Section 45

OFFENCES TO WHICH DEFENCE IN SECTION 45(1) DOES NOT APPLY

Common law offences

1	False imprisonment.	
2	Kidnapping.	5
3	Manslaughter.	
4	Murder.	
5	Perverting the course of justice.	
6	Piracy.	

<i>Offences against the Person Act 1861 (c. 100)</i>	<i>10</i>
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7	An offence under any of the following provisions of the Offences Against the Person Act 1861 –	
	section 4 (soliciting murder)	
	section 16 (threats to kill)	
	section 18 (wounding with intent to cause grievous bodily harm)	15
	section 20 (malicious wounding)	
	section 21 (attempting to choke, suffocate or strangle in order to commit or assist in committing an indictable offence)	
	section 22 (using drugs etc to commit or assist in the committing of an indictable offence)	20
	section 23 (maliciously administering poison etc so as to endanger life or inflict grievous bodily harm)	
	section 27 (abandoning children)	
	section 28 (causing bodily injury by explosives)	
	section 29 (using explosives with intent to do grievous bodily harm)	25
	section 30 (placing explosives with intent to do bodily injury)	
	section 31 (setting spring guns etc with intent to do grievous bodily harm)	
	section 32 (endangering safety of railway passengers)	
	section 35 (injuring persons by furious driving)	30
	section 37 (assaulting officer preserving wreck)	
	section 38 (assault with intent to resist arrest).	

Explosive Substances Act 1883 (c. 3)

8	An offence under any of the following provisions of the Explosive Substances Act 1883 –	
	section 2 (causing explosion likely to endanger life or property)	
	section 3 (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property)	
	section 4 (making or possession of explosives under suspicious circumstances).	40

Infant Life (Preservation) Act 1929 (c. 34)

- 9 An offence under section 1 of the Infant Life (Preservation) Act 1929 (child destruction).

Children and Young Persons Act 1933 (c. 12)

- 10 An offence under section 1 of the Children and Young Persons Act 1933 (cruelty to children). 5

Public Order Act 1936 (1 Edw. 8 & 1 Geo. 6 c. 6)

- 11 An offence under section 2 of the Public Order Act 1936 (control etc of quasi-military organisation).

Infanticide Act 1938 (c. 36) 10

- 12 An offence under section 1 of the Infanticide Act 1938 (infanticide).

Firearms Act 1968 (c. 27)

- 13 An offence under any of the following provisions of the Firearms Act 1968 –
section 5 (possession of prohibited firearms)
section 16 (possession of firearm with intent to endanger life)
section 16A (possession of firearm with intent to cause fear of violence)
section 17(1) (use of firearm to resist arrest)
section 17(2) (possession of firearm at time of committing or being arrested for specified offence)
section 18 (carrying firearm with criminal intent). 15
20

Theft Act 1968 (c. 60)

- 14 An offence under any of the following provisions of the Theft Act 1968 –
section 8 (robbery or assault with intent to rob)
section 9 (burglary), where the offence is committed with intent to inflict grievous bodily harm on a person, or to do unlawful damage to a building or anything in it
section 10 (aggravated burglary)
section 12A (aggravated vehicle-taking), where the offence involves an accident which causes the death of any person
section 21 (blackmail). 25
30

Criminal Damage Act 1971 (c. 48)

- 15 The following offences under the Criminal Damage Act 1971 –
an offence of arson under section 1
an offence under section 1(2) (destroying or damaging property) other than an offence of arson. 35

Immigration Act 1971 (c. 77)

- 16 An offence under section 25 of the Immigration Act 1971 (assisting unlawful immigration to member state).

Customs and Excise Management Act 1979 (c. 2)

- 17 An offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (indecent or obscene articles). 5

Taking of Hostages Act 1982 (c. 28)

- 18 An offence under section 1 of the Taking of Hostages Act 1982 (hostage-taking).

Aviation Security Act 1982 (c. 36)

- 19 An offence under any of the following provisions of the Aviation Security Act 1982— 10
- section 1 (hijacking)
 - section 2 (destroying, damaging or endangering safety of aircraft)
 - section 3 (other acts endangering or likely to endanger safety of aircraft)
 - section 4 (offences in relation to certain dangerous articles). 15

Mental Health Act 1983 (c. 20)

- 20 An offence under section 127 of the Mental Health Act 1983 (ill-treatment of patients).

Child Abduction Act 1984 (c. 37)

- 21 An offence under any of the following provisions of the Child Abduction Act 1984— 20
- section 1 (abduction of child by parent etc)
 - section 2 (abduction of child by other persons).

Public Order Act 1986 (c. 64)

- 22 An offence under any of the following provisions of the Public Order Act 1986— 25
- section 1 (riot)
 - section 2 (violent disorder).

Criminal Justice Act 1988 (c. 33)

- 23 An offence under section 134 of the Criminal Justice Act 1988 (torture). 30

Road Traffic Act 1988 (c. 52)

- 24 An offence under any of the following provisions of the Road Traffic Act 1988— 35
- section 1 (causing death by dangerous driving)
 - section 3A (causing death by careless driving when under the influence of drink or drugs).

Aviation and Maritime Security Act 1990 (c. 31)

- 25 An offence under any of the following provisions of the Aviation and Maritime Security Act 1990 –
- section 1 (endangering safety at aerodromes)
 - section 9 (hijacking of ships)
 - section 10 (seizing or exercising control of fixed platforms)
 - section 11 (destroying fixed platforms or endangering their safety)
 - section 12 (other acts endangering or likely to endanger safe navigation)
 - section 13 (offences involving threats).
- 5
10

Channel Tunnel (Security) Order 1994 (S.I. 1994/570)

- 26 An offence under Part 2 of the Channel Tunnel (Security) Order 1994 (SI 1994/570) (offences relating to Channel Tunnel trains and the tunnel system).

Protection from Harassment Act 1997 (c. 40)

- 27 An offence under any of the following provisions of the Protection from Harassment Act 1997 –
- section 4 (putting people in fear of violence)
 - section 4A (stalking involving fear of violence or serious alarm or distress).
- 15
20

Crime and Disorder Act 1998 (c. 37)

- 28 An offence under any of the following provisions of the Crime and Disorder Act 1998 –
- section 29 (racially or religiously aggravated assaults)
 - section 31(1)(a) or (b) (racially or religiously aggravated offences under section 4 or 4A of the Public Order Act 1986).
- 25

Terrorism Act 2000 (c. 11)

- 29 An offence under any of the following provisions of the Terrorism Act 2000 –
- section 54 (weapons training)
 - section 56 (directing terrorist organisation)
 - section 57 (possession of article for terrorist purposes)
 - section 59 (inciting terrorism overseas).
- 30

International Criminal Court Act 2001 (c. 17)

- 30 An offence under any of the following provisions of the International Criminal Court Act 2001 –
- section 51 (genocide, crimes against humanity and war crimes)
 - section 52 (ancillary conduct).
- 35

Anti-terrorism, Crime and Security Act 2001 (c. 24)

31	An offence under any of the following provisions of the Anti-terrorism, Crime and Security Act 2001 –	
	section 47 (use of nuclear weapons)	
	section 50 (assisting or inducing certain weapons-related acts overseas)	5
	section 113 (use of noxious substance or thing to cause harm or intimidate).	

Female Genital Mutilation Act 2003 (c. 31)

32	An offence under any of the following provisions of the Female Genital Mutilation Act 2003 –	10
	section 1 (female genital mutilation)	
	section 2 (assisting a girl to mutilate her own genitalia)	
	section 3 (assisting a non-UK person to mutilate overseas a girl's genitalia).	

Sexual Offences Act 2003 (c. 42) 15

33	An offence under any of the following provisions of the Sexual Offences Act 2003 –	
	section 1 (rape)	
	section 2 (assault by penetration)	
	section 3 (sexual assault)	20
	section 4 (causing person to engage in sexual activity without consent)	
	section 5 (rape of child under 13)	
	section 6 (assault of child under 13 by penetration)	
	section 7 (sexual assault of child under 13)	
	section 8 (causing or inciting child under 13 to engage in sexual activity)	25
	section 9 (sexual activity with a child)	
	section 10 (causing or inciting a child to engage in sexual activity)	
	section 13 (child sex offences committed by children or young persons)	
	section 14 (arranging or facilitating commission of child sex offence)	
	section 15 (meeting a child following sexual grooming)	30
	section 16 (abuse of position of trust: sexual activity with a child)	
	section 17 (abuse of position of trust: causing or inciting a child to engage in sexual activity)	
	section 18 (abuse of position of trust: sexual activity in presence of child)	35
	section 19 (abuse of position of trust: causing a child to watch a sexual act)	
	section 25 (sexual activity with a child family member)	
	section 26 (inciting a child family member to engage in sexual activity)	
	section 30 (sexual activity with a person with a mental disorder impeding choice)	40
	section 31 (causing or inciting a person with a mental disorder impeding choice to engage in sexual activity)	
	section 32 (engaging in sexual activity in the presence of a person with a mental disorder impeding choice)	45

section 33 (causing a person with a mental disorder impeding choice to watch a sexual act)	
section 34 (inducement, threat or deception to procure sexual activity with a person with a mental disorder)	
section 35 (causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception)	5
section 36 (engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder)	
section 37 (causing a person with a mental disorder to watch a sexual act by inducement, threat or deception)	10
section 38 (care workers: sexual activity with a person with a mental disorder)	
section 39 (care workers: causing or inciting sexual activity)	
section 40 (care workers: sexual activity in the presence of a person with a mental disorder)	15
section 41 (care workers: causing a person with a mental disorder to watch a sexual act)	
section 47 (paying for sexual services of a child)	
section 48 (causing or inciting child prostitution or pornography)	20
section 49 (controlling a child prostitute or a child involved in pornography)	
section 50 (arranging or facilitating child prostitution or pornography)	
section 61 (administering a substance with intent)	
section 62 (committing offence with intent to commit sexual offence)	25
section 63 (trespass with intent to commit sexual offence)	
section 64 (sex with an adult relative: penetration)	
section 65 (sex with an adult relative: consenting to penetration)	
section 66 (exposure)	
section 67 (voyeurism)	30
section 70 (sexual penetration of a corpse).	

Domestic Violence, Crime and Victims Act 2004 (c. 28)

34	An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing a child or vulnerable adult to die or suffer serious physical harm).	35
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Terrorism Act 2006 (c. 11)

35	An offence under any of the following provisions of the Terrorism Act 2006—	
	section 5 (preparation of terrorist acts)	
	section 6 (training for terrorism)	40
	section 9 (making or possession of radioactive device or material)	
	section 10 (use of radioactive device or material for terrorist purposes)	
	section 11 (terrorist threats relating to radioactive devices etc).	

Modern Slavery Act 2014

- | | | |
|----|---|---|
| 36 | An offence under any of the following provisions of the Modern Slavery Act 2014 – | 5 |
| | section 1 (slavery, servitude and forced or compulsory labour) | |
| | section 2 (human trafficking). | |

Ancillary offences

- | | | |
|----|--|----|
| 37 | (1) An offence of attempting or conspiring to commit an offence listed in this Schedule. | |
| | (2) An offence committed by aiding, abetting, counselling or procuring an offence listed in this Schedule. | 10 |
| | (3) An offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting) where the offence (or one of the offences) which the person in question intends or believes would be committed is an offence listed in this Schedule. | |

SCHEDULE 4

Section 53

15

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS RELATING TO OFFENCES

Children and Young Persons Act 1933 (c. 12)

- | | | |
|---|---|----|
| 1 | (1) Schedule 1 to the Children and Young Persons Act 1933 (offences against children and young persons to which special provisions of the Act apply) is amended as follows. | 20 |
| | (2) In the first entry relating to the Sexual Offences Act 2003 omit “59A to”. | |
| | (3) Omit the entry relating to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. | 25 |
| | (4) After that entry insert – | |
| | “An offence against a child or young person under section 2 of the Modern Slavery Act 2014 (human trafficking), or any attempt to commit such an offence.” | |

Immigration Act 1971 (c. 77)

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- | | | |
|---|--|----|
| 2 | In section 25C of the Immigration Act 1971 (forfeiture of vehicle, ship or aircraft) in subsections (9)(b), (10)(b) and (11) for the words from “a passenger” to the end substitute “the victim of conduct which constitutes an offence under section 2 of the Modern Slavery Act 2014 (human trafficking).” | 35 |
|---|--|----|

Police and Criminal Evidence Act 1984 (c. 60)

- 3 In section 65A(2) of the Police and Criminal Evidence Act 1984 (questioning and treatment of persons by police: meaning of “qualifying offence”) after paragraph (r) insert – 5
 “(s) an offence under section 2 of the Modern Slavery Act 2014 (human trafficking).”

Sexual Offences (Amendment) Act 1992 (c. 34)

- 4 In section 2(1) of the Sexual Offences (Amendment) Act 1992 (offences under law of England and Wales to which the Act applies) – 10
 (a) after paragraph (da) insert –
 “(db) any offence under section 2 of the Modern Slavery Act 2014 (human trafficking);”;
 (b) in paragraph (e) for “(da)” substitute “(db)”.

Sexual Offences Act 2003 (c. 42)

- 5 (1) The Sexual Offences Act 2003 is amended as follows. 15
 (2) Omit sections 59A to 60C (trafficking for sexual exploitation; forfeiture and detention).
 (3) In Schedule 5 (relevant offences for purposes of notification and orders) after paragraph 63A insert –
 “63B An offence under section 2 of the Modern Slavery Act 2014 (human trafficking).” 20
 (4) In Schedule 6, omit paragraphs 31(2)(b) and 46(2).

Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19)

- 6 (1) The Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 is amended as follows. 25
 (2) Omit section 4 (trafficking people for exploitation).
 (3) In section 5 (section 4 - supplementary provision) omit subsections (3) to (7) and (11).
 (4) In section 14(2) (immigration officers’ power of arrest) –
 (a) omit paragraphs (n) and (p);
 (b) after paragraph (q) insert –
 “(r) an offence under section 2 of the Modern Slavery Act 2014.” 30

Serious Crime Act 2007 (c. 27)

- 7 (1) Part 1 of Schedule 1 to the Serious Crime Act 2007 (serious offences: England and Wales) is amended as follows. 35

(2) After paragraph 1 insert –

“*Slavery etc*

1A An offence under section 1 of the Modern Slavery Act 2014 (slavery, servitude and forced or compulsory labour).”

(3) In paragraph 2 –

- (a) omit sub-paragraphs (2) and (3);
- (b) at the end insert –

“(4) An offence under section 2 of the Modern Slavery Act 2014.”

Coroners and Justice Act 2009 (c. 25)

10

8 Omit section 71 of the Coroners and Justice Act 2009 (slavery, servitude and forced or compulsory labour).

Protection of Freedoms Act 2012 (c. 9)

9 (1) The Protection of Freedoms Act 2012 is amended as follows.

(2) Omit sections 109 and 110.

15

(3) In Schedule 9, omit paragraphs 136, 138, 140(2) and (3) and 141.

PART 2

AMENDMENTS RELATING TO SLAVERY AND TRAFFICKING REPARATION ORDERS

Administration of Justice Act 1970 (c. 31)

10 (1) The Administration of Justice Act 1970 is amended as follows.

20

(2) In section 41(8) (enforcement of orders for compensation etc) for “or 13A” substitute “, 13A or 13B”.

(3) In Part 1 of Schedule 9 (enforcement of orders for compensation etc) after paragraph 13A insert –

“13B Where under section 8 of the Modern Slavery Act 2014 a court makes a slavery and trafficking reparation order.”

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Criminal Justice Act 1991 (c. 53)

11 (1) Section 24 of the Criminal Justice Act 1991 (recovery of fines by deduction from certain benefits) is amended as follows.

30

(2) In subsection (1), for “or unlawful profit order” substitute “, an unlawful profit order or a slavery and trafficking reparation order”.

(3) In subsection (3)(b), for “or unlawful profit order” substitute “, an unlawful profit order or a slavery and trafficking reparation order”.

(4) In subsection (4), after the definition of “prescribed” insert –

““slavery and trafficking reparation order” means an order under section 8 of the Modern Slavery Act 2014;”.

35

Social Security (Recovery of Benefits) Act 1997 (c. 27)

- 12 In paragraph 2 of Schedule 1 to the Social Security (Recovery of Benefits) Act 1997 (exempted payments), for “2000 or” substitute “2000, section 8 of the Modern Slavery Act 2014.”

Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)

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- 13 In section 133(3)(c) of the Powers of Criminal Courts (Sentencing) Act 2000 (review of compensation orders), for the words from “a confiscation order” to the end substitute “any or all of the following made against him in the same proceedings –

- (i) a confiscation order under Part 6 of the Criminal Justice Act 1988 or Part 2 of the Proceeds of Crime Act 2002;
(ii) an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013;
(iii) a slavery and trafficking reparation order under section 8 of the Modern Slavery Act 2014; or”.

10

15

Proceeds of Crime Act 2002 (c. 29)

- 14 (1) Section 13 of the Proceeds of Crime Act 2002 (effect of confiscation order on court’s other powers) is amended as follows.

20

- (2) In subsection (3)(a) –

- (a) for “or an” substitute “, an”;
(b) after “(unlawful profit orders)” insert “or an order under section 8 of the Modern Slavery Act 2014 (slavery and trafficking reparation orders)”.

- (3) In subsection (5) –

- (a) in paragraph (a) after “makes” insert “a confiscation order and one or more of”;
(b) in paragraph (a)(i) omit “both a confiscation order and”;
(c) in paragraph (a)(ii) omit “both a confiscation order and”;
(d) after paragraph (a)(ii) insert –

“(iia) a slavery and trafficking reparation order under section 8 of the Modern Slavery Act 2014,”;

- (e) omit paragraph (a)(iii);
(f) in paragraph (b) omit “both the orders or”.

25

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- (4) In subsection (6) (priorities of confiscation orders and other orders) for the words from “of the compensation” to “as it specifies” substitute “as it specifies of the amount (or amounts) payable under the order (or orders) listed in subsection (5)(a)(i) to (iia)”.

- 15 In section 32(7)(b) of the Proceeds of Crime Act 2002 (court’s powers on appeal) at the end insert “so far as they relate to such orders”.

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- 16 In section 33(9)(b) of the Proceeds of Crime Act 2002 (appeal to Supreme Court) at the end insert “so far as they relate to such orders”.

- | | | |
|----|--|----|
| 17 | In section 55(5) of the Proceeds of Crime Act 2002 (application of sums received under confiscation order to pay compensation), for the words from “of compensation” to “profit order” substitute “payable under an order listed in section 13(5)(a)(i) to (iia)”. | 5 |
| 18 | In section 308 of the Proceeds of Crime Act 2002 (general exceptions to concept of recoverable property) after subsection (4) insert – | 5 |
| | “(4A) If – | |
| | (a) a payment is made to a person in pursuance of a slavery and trafficking reparation order under section 8 of the Modern Slavery Act 2014, and | 10 |
| | (b) apart from this subsection, the sum received would be recoverable property,
the property ceases to be recoverable.” | |
| 19 | In Schedule 11 to the Proceeds of Crime Act 2002 (amendments), omit paragraph 37(3). | 15 |

Courts Act 2003 (c. 39)

- | | | |
|----|--|----|
| 20 | (1) Schedule 5 to the Courts Act 2003 (collection of fines and other sums imposed on conviction) is amended as follows. | 20 |
| | (2) In paragraph 2(2) – | |
| | (a) omit the “and” at the end of the definition of “a sum required to be paid by a compensation order”; | 20 |
| | (b) after the definition of “a sum required to be paid by an unlawful profit order” insert –
““a sum required to be paid by a slavery and trafficking reparation order” means any sum required to be paid by an order made under section 8 of the Modern Slavery Act 2014.” | 25 |
| | (3) In paragraph 7A(1) for “or an unlawful profit order” substitute “, an unlawful profit order or a slavery and trafficking reparation order”. | |
| | (4) In paragraph 13(1)(aa) – | 30 |
| | (a) for “or a sum” substitute “, a sum”; | |
| | (b) after “unlawful profit order” insert “or a sum required to be paid by a slavery and trafficking reparation order”; | |
| | (c) in sub-paragraph (i) for “or the” substitute “, the”; | |
| | (d) in that sub-paragraph after “unlawful profit order” insert “or the amount required to be paid by the slavery and trafficking reparation order”. | 35 |

Criminal Justice Act 2003 (c. 44)

- | | | |
|----|---|----|
| 21 | In section 151(5) of the Criminal Justice Act 2003 (orders for persistent offenders previously fined) after “2013” insert “or a slavery and trafficking reparation order under section 8 of the Modern Slavery Act 2014”. | 40 |
| 22 | (1) Section 161A of the Criminal Justice Act 2003 (court’s duty to order payment of surcharge) is amended as follows. | |
| | (2) In subsection (3) – | |

(a) in paragraph (a) for the words from “a” to “both”) substitute “one or more of a compensation order, an unlawful profit order and a slavery and trafficking reparation order”;

(b) in paragraph (b) for the words from “and appropriate compensation” to the end substitute “and appropriate amounts under such of those orders as it would be appropriate to make”. 5

(3) In subsection (5) for “this section” substitute “this section –
“slavery and trafficking reparation order” means an order under section 8 of the Modern Slavery Act 2014, and”.

Health and Social Care (Community Health and Standards) Act 2003 (c. 43)

10

23 In paragraph 1 of Schedule 10 to the Health and Social Care (Community Health and Standards) Act 2003 (recovery of NHS charges: exempted payments) –

(a) omit “or” at the end of sub-paragraph (b); 15

(b) at the end of sub-paragraph (c) insert “or

(d) section 8 of the Modern Slavery Act 2014 (slavery and trafficking reparation orders).”

Prevention of Social Housing Fraud Act 2013 (c. 3)

24 (1) The Prevention of Social Housing Fraud Act 2013 is amended as follows.

(2) In section 4(12)(d) (application of Powers of Criminal Courts (Sentencing) Act 2000 to unlawful profit orders) –

(a) for the words from “133(3)(c)” to “confiscation order or” substitute “133(3)(c)(ii) to an unlawful profit order under section 4 were to”; 20

(b) omit the second “(or both)”.

(3) In the Schedule (amendments), omit paragraphs 2, 5(2)(a) and (3), 9, 26 and 30(2). 25

Modern Slavery Bill

A

B I L L

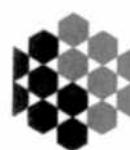
To make provision about slavery, servitude and forced or compulsory labour; to make provision about human trafficking; to make provision for an Independent Anti-slavery Commissioner; and for connected purposes.

*Brought from the Commons on 5th November
2014*

*Ordered to be Printed, 5th November
2014*

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Our ref: SUB/1302/2014

From: Tim Logan
Date: 28 October 2014
To: Christine Darrah

PROPOSED LEGISLATIVE CONSENT MEMORANDUM ON NORTHERN IRELAND PROVISIONS IN THE MODERN SLAVERY BILL

Summary

Business Area: Protection and Organised Crime Division.

Issue: To provide detailed briefing on the proposed Legislative Consent Memorandum to extend provisions in the Modern Slavery Bill relating to maritime enforcement powers, a United Kingdom Independent Anti-slavery Commissioner and transparency in supply chains to Northern Ireland.

Restrictions: None.

Action Required: Committee to note the contents of this briefing and the detailed effect of the proposed Legislative Consent Memorandum (set out at Appendix 1) in advance of oral briefing by officials on 5 November.

Officials

Attending: Simon Rogers – Deputy Director, Protection and Organised Crime Division, DOJ
Julie Wilson – Head of Human Trafficking Team, DOJ

The Department has already advised the Committee on its intention to seek the Assembly's consent to extend a number of provisions under the Bill to Northern Ireland. In advance of the oral briefing by officials on 5 November, this paper is intended to provide the Committee with a written briefing on the proposed Legislative Consent Memorandum (LCM) to extend provisions in the Modern Slavery Bill to

Northern Ireland. To assist the Committee's consideration a detailed commentary on the effect of the proposed measures is included at Appendix 1.

Background

2. The proposed LCM will cover three main areas within the Modern Slavery Bill:
 - provisions introducing new enforcement powers in relation to ships in order to tackle human trafficking and slavery where they occur at sea;
 - provisions under Part 3 of the Bill to establish the office of Independent Anti-slavery Commissioner; and
 - provisions to enhance transparency in supply chains.
3. The Home Secretary published the draft Modern Slavery Bill in December 2013. In January 2014 the Minister of Justice launched a public consultation on new measures to strengthen Northern Ireland's response to human trafficking and slavery. That consultation included a proposal to extend the powers and jurisdiction of the Anti-Slavery Commissioner under the Modern Slavery Bill to Northern Ireland as an alternative to the provision for a Northern Ireland Rapporteur currently contained in the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Bill. Responses to the consultation demonstrated overwhelming support for this proposal, with 30 out of 40 responses in favour of a United Kingdom wide Commissioner, subject to ensuring that Northern Ireland interests would be appropriately covered.
4. The Modern Slavery Bill was subsequently introduced at Westminster on 10 June and, on Introduction, also included provisions to create new enforcement powers to tackle human trafficking and slavery offences at sea. The Minister of Justice consulted the Chief Constable and the Northern Ireland Policing Board on these proposed powers and they agreed that these powers would be beneficial and would enhance Northern Ireland's capacity to respond to these crimes and bring perpetrators to justice.
5. Most recently Karen Bradley MP, Minister for Organised Crime and Modern Slavery wrote to the Minister of Justice earlier this month with new proposals aimed

at eradicating “modern slavery” from the supply chains of the largest commercial organisations operating in the United Kingdom. The Minister is again of the view that this provision would help to reinforce Northern Ireland’s stance against human trafficking and slavery and he intends to seek the consent of the Assembly to the provision being extended to Northern Ireland. The Department of Justice has had initial engagement at official level with the Department of Enterprise, Trade and Industry (DETI) and the Department of Agriculture and Rural Development (DARD) in respect of those provisions dealing with transparency in supply chains. DETI has indicated that it is, in principle, content with the proposal to extend these provisions to Northern Ireland. DARD has indicated that it is satisfied that the provisions would not raise any Departmental issues.

6. The Minister has been engaging with the Home Secretary and the Minister for Organised Crime and Modern Slavery and has agreed draft amendments to be tabled at the Bill’s Report Stage, which make appropriate provision for Northern Ireland. We understand that Report Stage has now been scheduled for 4 November. After Report Stage, and subject to these amendments being agreed at Westminster, the Minister will then lay an LCM in the Assembly.

7. The Scottish Government has also indicated that it wishes equivalent provision under the Modern Slavery Bill to extend to Scotland, subject to the legislative consent of the Scottish Parliament.

Reasons for making the Provisions

8. The provisions to be included within this LCM aim to strengthen the capacity of law enforcement; protect individuals from trafficking, slavery and forced or compulsory labour; and promote a coordinated and consistent strategic response to these crimes across the United Kingdom.

Maritime enforcement powers

9. The practical limitations of current police powers to tackle “modern slavery” offences at sea were highlighted in a police-led human trafficking operation involving

a United Kingdom-flagged vessel which was anchored outside United Kingdom territorial waters (which effectively extend 12 miles from the United Kingdom coastline), but which police were unable to board until it sailed into territorial waters. The Home Office has advised of a number of similar cases over the last two years where they were not able to intervene in cases of suspected exploitation.

10. The provisions dealing with enforcement powers in relation to ships in Northern Ireland territorial waters are intended to sit within a wider package of enforcement powers under the Modern Slavery Bill that, together, aim to close this loophole and clarify law enforcement's powers to act, at sea, where there is suspicion that an offence of human trafficking or slavery, servitude and forced or compulsory labour has occurred.

11. As noted, the proposed new enforcement powers are intended to sit within a comprehensive package of powers which relate to both devolved and reserved matters. Whilst the Northern Ireland Assembly has legislative competence in respect of some of these powers, it is considered that separating the provisions would be excessively complicated and would carry potential drafting and choreography risks. Additionally it would be potentially confusing for the end-user, as the provisions would be split across two pieces of legislation. The Minister believes that the most appropriate and straightforward approach is for the Modern Slavery Bill to include the necessary amendments relating to the entire package of enforcement powers at sea. Commentary on the detailed effect of the proposed measures is included at Appendix 1.

Independent Anti-slavery Commissioner

12. Provisions dealing with the establishment of an Independent Anti-slavery Commissioner are needed in order to challenge, scrutinise and strengthen Government and law enforcement action across the United Kingdom as a whole in order to address human trafficking and slavery, including encouraging best practice in relation to the identification of victims. These provisions would ensure that there is a comprehensive, coordinated response and consistent, joined-up oversight.

13. Given the nature of human trafficking and slavery and the way in which these offences may cross jurisdictional boundaries, the Minister believes that a single Commissioner with functions extending across the whole of the United Kingdom provides the best model.

14. In addition, there is a wide range of bodies operating within Northern Ireland to tackle these issues; in many cases responsibility for these organisations has been devolved, others, such as the Home Office, United Kingdom Human Trafficking Centre, United Kingdom Border Force and the Gangmasters Licensing Authority operate in the reserved field. The functions of the United Kingdom-wide Anti-Slavery Commissioner provided for under the Modern Slavery Bill would extend to all of these bodies. An Act of the Northern Ireland Assembly would not be able to legislate in respect of the bodies that operate within the reserved field and any office or rapporteur function established under such an Act would therefore be limited in scope. That is why the Minister believes the Independent Anti-Slavery Commissioner under the Modern Slavery Bill to be a more effective alternative to the Northern Ireland Rapporteur provided for under the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Bill.

15. The Minister has been engaging with the Home Secretary to ensure that Northern Ireland interests will be adequately covered. Again, the detailed effect of the proposed legislation is included at Appendix 1. As we have previously briefed the Committee, Lord Morrow is in principle supportive of this proposal to extend the Commissioner's remit to Northern Ireland, subject to the Legislative Consent Motion being laid.

Transparency in supply chains

16. Provisions relating to transparency in supply chains are needed in order to encourage the elimination of slavery, trafficking and human exploitation in the supply chains of the largest companies doing business in the United Kingdom. They are

intended to apply to the largest commercial organisations operating in the United Kingdom, according to their gross annual turnover.

17. The detail of the level of the threshold is to be established in regulations, after consultation with the devolved administrations and with business, but the current expectation is that the measure would capture approximately 1,000 of the largest companies operating in the United Kingdom. Given the size and the small number of the companies which would be affected, if equivalent legislation were to be introduced in Northern Ireland under an Act of the Assembly it would be likely to merely duplicate the effect of the Westminster legislation, since the same companies would be affected. As such legislation within this jurisdiction would be unlikely to add any value to the Westminster provision and would simply place an identical, but separate duty on companies.

Human Rights and Equality

18. The Department believes that the proposed provisions would be beneficial from a human rights and equality perspective. They would assist law enforcement in the fight against slavery and human trafficking; offer greater protections to the public and to potential victims against perpetrators. In addition, they would deliver robust oversight arrangements focused on improving our effectiveness and sharing of best practice.

Financial Implications

19. If enacted, we anticipate that the Department's contribution to the cost of the Anti Slavery Commissioner would be around £20-£30,000 per annum. Alternatively, we estimate that the proposal for a Northern Ireland Rapporteur under Clause 26 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Bill would require annual running costs of around £50,000.

Regulatory Impact

20. We do not anticipate that there will be any significant impact on the business or voluntary sectors. The provisions relating to transparency in supply chains would place a statutory duty on a small number of large businesses to disclose what

FROM THE OFFICE OF THE JUSTICE MINISTER



measures they have taken to prevent human trafficking and slavery within their business and their supply chains. It would not of itself require them to take any preventative measures, simply to disclose where measures had been taken.

Recommendation

21. Committee members are invited to note the proposed measures to be included in an LCM and their detailed effect, as set out in Appendix 1.

A handwritten signature in black ink, appearing to read "Tim Logan".

PP. **TIM LOGAN**
DALO

Enc.



Committee for Justice

OFFICIAL REPORT (Hansard)

Modern Slavery Bill - Legislative Consent
Motion: Department of Justice Officials

5 November 2014

NORTHERN IRELAND ASSEMBLY

Committee for Justice

Modern Slavery Bill - Legislative Consent Motion: Department of Justice Officials

5 November 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Stewart Dickson
Mr Sammy Douglas
Mr Tom Elliott
Mr Paul Frew
Mr Chris Hazzard
Mr Seán Lynch
Mr Alban Maginness
Mr Edwin Poots

Witnesses:

Mr Simon Rogers	Department of Justice
Ms Julie Wilson	Department of Justice

The Chairperson (Mr Givan): I welcome Simon Rogers, deputy director of the protection and organised crime unit, and Julie Wilson, head of the human trafficking team. You are both very welcome, as usual, to the Committee. Hansard will record the session, and we will publish the report in due course. At this point, I think, I am handing over to you, Simon.

Mr Simon Rogers (Department of Justice): Thanks very much. As always, we are grateful for the opportunity to brief members on the content of the Minister's proposed legislative consent memorandum, which seeks to extend to Northern Ireland certain provisions in the Modern Slavery Bill.

You will be aware that progress has been made on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. We await Further Consideration Stage on that, with a date yet to be set. Modern Slavery Bill measures that we wish to see extended to Northern Ireland under this LCM are intended to complement that Bill and to ensure that we have in legislation the most comprehensive and effective package of measures possible.

As the Chair mentioned, there are three elements. You have previously been briefed on two of those, which are the anti-slavery commissioner and the maritime powers. The paper we have sent you sets out an additional area, which is to tackle trafficking and forced labour by enhancing transparency in commercial supply chains. We had hoped and, indeed, expected that the Modern Slavery Bill's Report Stage would take place in October. That would have enabled us to be here today talking about an LCM in front of you. Unfortunately, that stage did not take place in the Commons until yesterday, and the Bill has only, therefore, been settled on those points. We are finalising our draft legislative

consent motion, and we hope to lay it in the Assembly early next week. It will, however, reflect what is in the paper you received on 28 October, and I will touch on a couple of points in a moment.

In looking at the proposals in the legislative consent motion, the Minister has engaged with the Home Secretary but has also made sure that those provisions reflect Northern Ireland's circumstances and needs. The written paper sets out the three areas, and I should draw the Committee's attention to a few aspects. I will, first, deal with maritime enforcement powers. The Modern Slavery Bill included provisions to create new enforcement powers to tackle human trafficking and slavery offences — it is only those offences — at sea. At that point, they were limited in extent to England and Wales. Given the particular challenges posed by jurisdictional boundaries at sea, the Minister has been engaging with the Home Secretary and the Scottish Cabinet Secretary for Justice to develop a comprehensive package of enforcement powers to cover the whole of the United Kingdom. Amendments to create those powers were agreed yesterday in the Commons Report Stage.

In developing our NI-specific proposals, we have been mindful to preserve PSNI primacy within Northern Ireland waters in all but hot-pursuit situations. The Police Service must consent to operations into our waters. We have also ensured that appropriate accountability arrangements are in place where operations take place in our waters. As we previously informed the Committee, the Minister consulted the Chief Constable and the Policing Board on the proposals. They agreed that extension would be beneficial and would enhance our capacity to respond to those crimes. Taken in their entirety, the powers cover devolved and non-devolved matters. In due course, we will clearly be coming to the Assembly for powers in respect of devolved matters.

I turn now to the independent anti-slavery commissioner. We have briefed you on that and have made clear that the Minister's proposal is to extend the commissioner to Northern Ireland as an alternative to the Northern Ireland rapporteur, which is currently provided for under Lord Morrow's Bill. That approach received overwhelming support in our public consultation. The Minister believes that a commissioner operating across the United Kingdom would provide a much better model than a local rapporteur, with the ability to oversee all relevant bodies operating here, regardless of whether they were devolved. Cost should not necessarily be the driving consideration, but, in the current economic climate, it is obviously relevant, and a commissioner operating across the whole of the UK would offer economies of scale and greater value for money.

The paper sets out the detail. In short, the key issues are that there will be consultation with us on appointment and on the strategic plan and annual report. There will be new powers to allow each Administration to request ad hoc reports from the commissioner, and powers for the Minister to specify the public bodies in Northern Ireland that would have a duty to comply with a request for cooperation from the commissioner. We have been engaging closely with Lord Morrow and his team on that proposal, and Lord Morrow naturally wants to see the content of the LCM before agreeing that he will drop his Northern Ireland rapporteur from his Bill. We will, hopefully, give him the content of that LCM very shortly. We hope that that will be enough to reassure him that what is now his clause 26 could be dropped from his Bill at Further Consideration Stage.

The final area relates to the new provisions on enhancing transparency in supply chains. Given the large size of companies that will be affected by this clause, there will be very few in Northern Ireland. However, the Minister believes that a UK-wide response would be the most effective and appropriate way of legislating on the issue, and he is keen to see the provision extended here to ensure consistency of approach. It would place a requirement on commercial organisations operating in the UK and supplying goods or services to prepare a slavery and human trafficking statement each financial year and to publish it on their website. The expectation is that the measure would capture approximately 1,000 of the largest organisations operating in the UK, but the detail of that would be established in regulations. There would be consultation with devolved Administrations and, importantly, with business. Business representatives were consulted by the Home Office on the statement, and there was broad support from them.

We believe that all three elements would further assist in strengthening the response to modern slavery and human trafficking here, and we will shortly seek the Committee's support for the proposed LCM. I am happy to take questions.

The Chairperson (Mr Givan): Thank you very much, Simon. You have indicated that you have been liaising with Lord Morrow on it. Have I picked you up right that Lord Morrow is content that the commissioner will do what we would want them to do?

Mr Simon Rogers: He wants to see the provisions in black and white from us. As we had to wait for the Report Stage, which was only yesterday, we have not been able to provide that, but we certainly will be able to provide it in the next couple of days. From the contact we have had to date, we are hopeful that he will be sympathetic to what we are doing.

The Chairperson (Mr Givan): I am content with the LCM. Do members want to raise any points? Once it is laid, it will be referred to the Committee. Obviously, we will turn it around in a short period.

Mr McCartney: Sorry, I missed a part. Is a date set for when it is coming?

Mr Simon Rogers: Next week.

The Chairperson (Mr Givan): At that point, it will be referred to the Committee. Members are aware of the issues from previous discussions. We have to produce a short report.

No other points of clarity are needed, so, thank you very much, Simon and Julie.

Clause 16

104. Clause 16 obliges the Department of Justice to establish an independent body to report to the Assembly on the performance of this Act and on other related matters to human trafficking and slavery. This will meet the demands of Article 19 (National Rapporteurs or equivalent mechanisms).

105. The Law Centre (NI) was supportive of the concept of an oversight mechanism and felt that it was necessary given that there are no appeal rights within the trafficking process and as a result there is very limited judicial scrutiny of decisions. It felt that whatever forms the oversight mechanism would take, the terms of reference should encompass forced labour in its widest sense including human trafficking. It recommended that the person/body must have an entirely independent function, a wide remit, and strong investigative powers and should be able to hold the Executive and agencies to account. It also felt that it was essential that the remit of the person/body would go beyond transferred matters in order to have traction with the Home Office. It highlighted that the Home Office plays a crucial role in the trafficking process: it regularly acts as a First Responder; it is the decision maker for victims who are subject to immigration control; and it is responsible for taking enforcement action against those who are not eligible to remain in the UK. While it recognised that immigration was a reserved matter, it felt it was of vital importance that the rapporteur/commissioner would be able to scrutinise the Home Office's functions in respect of victims identified in Northern Ireland.

106. CARE highlighted that the Inter-departmental Ministerial Group (IDMG) on Human Trafficking had been acting as the UK's National Rapporteur. It noted that whilst this might technically meet the demands of the EU Directive on Trafficking in Human Beings it was generally recognised that Rapporteurs should be independent of the body they are overseeing. It noted that there was now independent NGO representation on the IDMG but this was still not enough to meet the spirit of the requirements for a National Rapporteur.

107. CARE felt that Clause 16 would ensure that an independent body in Northern Ireland would be able to hold the relevant Departments to account. It recognised that the Rapporteur was required at a national level, not a regional level, but it highlighted that the Northern Ireland Assembly could not legislate for the whole of the UK.

108. CARE was cognisant of the Home Secretary's announcement in August 2013 that there should be a Modern Slavery Commissioner for the United Kingdom and that this would be introduced through a Modern Slavery Bill for England and Wales. In CARE's view it was important that a rapporteur was providing independent scrutiny of the work of the PSNI and relevant departments in Northern Ireland. It stated that if it could be shown that it would be better if this was provided for the whole of the UK, it would be supportive of that. It was of the view that Clause 16 should be retained until more detail is confirmed of how this Commissioner would work in the Northern Ireland context.

109. Deirdre O'Reilly also felt it would be helpful if a body was appointed to oversee the work of Government agencies and report to the Northern Ireland Assembly on the trafficking/slavery situation. She noted that while the UK Government had indicated that it planned to introduce a Modern Slavery Commissioner, the responsibilities of such a post had not yet been clarified and there was no definite time-scale given for the implementation of this plan. In light of this she felt that, at least in the meantime, there should be a body such as a Northern Ireland Rapporteur, independent of Government, to report to the Assembly on the situation.

110. Parosha Chandon, Barrister at Law, highlighted that the US State Department's Trafficking in Persons Report monitors each country for compliance with trafficking standards under prosecution, prevention and protection of victims. She suggested that, if there were to be a separate monitoring body such as a commissioner or other, that type of tripartite focus would be relevant and enable quite deliberate attention to the balance or imbalance between the three. She noted

that the Palermo protocol made it clear that all three elements are critical to effectively combating human trafficking and highlighted that it would not be done by legislation, assistance to victims or prevention strategies alone.

111. The Presbyterian Church In Ireland stated that, given the international nature of trafficking, it would be much more supportive of a UK-wide rapporteur on human trafficking rather than one limited to this work in Northern Ireland only.

112. The PSNI stated that it did not support the appointment of an independent body as the existing oversight arrangements in Northern Ireland for the PSNI and other parties in the justice sector was sufficient.

113. The Police Superintendents' Association of Northern Ireland agreed stating that the establishment of a Northern Ireland Rapporteur would not represent an efficient use of public funds and the existence of the Northern Ireland Policing Board, Criminal Justice Inspection Northern Ireland and various Assembly Departmental Committees ensured there were sufficient oversight bodies and accountability mechanisms already in place.

114. In written and oral evidence, the Minister for Health, Social Services and Public Safety indicated that he viewed Clause 16 as unnecessary. His opposition was solely based on the fact that the current system had a range of checks and balances, as well as scrutiny and challenge mechanisms, including regulation and inspection bodies, of which there are many in the Health and Social Care Sector, and he felt that an independent rapporteur would add a further unnecessary layer of bureaucracy. He stated that there were already sufficient mechanisms in place to account for how the needs of both current and future victims of human trafficking are responded to.

115. In its written submission dated 29 October 2013, the Department of Justice highlighted that Clause 16 would place a requirement on it to establish an independent body to act as a Northern Ireland Rapporteur and to report to the Assembly on the performance of the Act and related matters. The Minister of Justice

agreed that effective monitoring and accountability arrangements should be in place in respect of his Department's response to human trafficking and had indicated that he wanted to identify the best solution for Northern Ireland. However, he was concerned that the model proposed may not be the most effective way to deliver this. The Minister was particularly concerned that sight is not lost of the international obligations under the EU Directive in respect of a National Rapporteur for the whole Member State.

116. The Department advised that the Inter-Departmental Ministerial Group on Human Trafficking had been discussing a proposal to establish a UK-wide Anti-Slavery Commissioner to perform the functions of the national rapporteur for the UK Member State and was of the view that the arguments for a Commissioner needed further consideration and consultation. It stated that the Minister's assessment was that a broader-based, UK-wide Commissioner would bring a wider perspective, which should add more value than a regional rapporteur, particularly given the global nature of trafficking. In addition, a UK-wide Commissioner would be able to look comprehensively at the actions of all of the organisations and agencies operating in Northern Ireland, including those for whom responsibility has not been devolved such as the Home Office, National Crime Agency, UK Human Trafficking Centre, and Gangmasters Licensing Authority. The Department highlighted that a Northern Ireland rapporteur could not have statutory power to consider these organisations, which it believed would limit its value, particularly given the joined-up, multi-agency response to human trafficking that is provided under the Organised Crime Task Force. The Department also indicated that there were local accountability arrangements to monitor the justice system's anti-trafficking efforts and arrangements through the Criminal Justice Inspection Northern Ireland (CJINI).

117. The Department outlined developments in neighbouring jurisdictions in relation to human trafficking which may have a bearing on this Bill, most notably, the Home Secretary's plans for a Modern Slavery Bill and, in Scotland, the introduction of the Criminal Justice (Scotland) Bill. In particular, it highlighted that the proposal for an Anti-Slavery Commissioner in the draft Modern Slavery Bill should have a

direct read across to consideration of the proposal for a Northern Ireland Rapporteur. The Minister's view was that a broader UK-wide Commissioner would be preferable both in terms of the establishment of effective accountability arrangements and value for money and he intended to consult on the issue when the details were available.

118. In its more recent correspondence the Department reiterated the Minister's view that a more effective approach would be to extend the remit of a United Kingdom-wide Anti-Trafficking Commissioner (which the Modern Slavery Bill would establish) to cover Northern Ireland and he therefore intend to oppose the inclusion of Clause 16 in the Bill. He believes that on balance the breadth of the issue is global rather than local and points to a UK-wide Commissioner.

119. During oral evidence officials indicated that the Minister had made it clear to the Home Office that he expected to have a role in the appointment of such a Commissioner and in setting their terms of reference. Any reports would also have to be made to the Assembly and the Minister of Justice.

120. Lord Morrow, the Bill Sponsor, in his written evidence dated 18 March 2014 highlighted that since he introduced his Bill the draft Modern Slavery Bill had proposed an Anti-Slavery Commissioner which the Department of Justice proposed to extend to Northern Ireland. He acknowledged that there was a good argument for a national rapporteur to operate on a UK wide level. However, he stated that he was unwilling to commit to removing Clause 16 until more detail was available on how the Anti-Slavery Commissioner would operate in Northern Ireland. He was particularly concerned by the fact that, as currently drafted, the proposed Commissioner would only consider law enforcement and not areas such as victim support which his proposed Rapporteur would have the power to do. He highlighted the importance of a Rapporteur who would consider effectively the needs of Northern Ireland and its particular challenges including the land border with the Republic of Ireland.

121. The Committee met with the Swedish National Rapporteur when it visited Stockholm and took the opportunity to discuss the role, remit and benefits of having such an individual in post. Members were supportive of the principle of having an independent body to monitor and report on the response to human trafficking in Northern Ireland. While recognising there may be an opportunity to extend the remit of the Anti-Slavery Commissioner to cover Northern Ireland the Committee wanted to examine in more detail how this would operate and the extent to which it would meet the particular needs and requirements of this jurisdiction.
122. The Committee agreed that it was content with Clause 16. Noting that the remit of the Anti-Slavery Commissioner, which would be created by the draft Modern Slavery Bill, could be extended to Northern Ireland, the Committee indicated that it would consider the matter further when there is clarity on the position regarding such a Commissioner and the likely remit and responsibilities.