



# Modern Slavery Act 2015

## 2015 CHAPTER 30

### PART 4

#### THE INDEPENDENT ANTI-SLAVERY COMMISSIONER

#### **40 The Independent Anti-slavery Commissioner**

- (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—
  - (a) must before the beginning of each financial year specify a maximum sum which the Commissioner may spend that year,
  - (b) may permit that to be exceeded for a specified purpose, and
  - (c) subject to paragraphs (a) and (b), must defray the Commissioner’s expenditure for each financial year.
- (5) In this Part, “financial year” means—
  - (a) the period beginning with the day on which the first Commissioner takes office and ending with the following 31 March, and
  - (b) each successive period of 12 months.
- (6) The Commissioner may appoint staff.
- (7) 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”.

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- (8) 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”.
- (9) 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”.

#### **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.
- (2) For the purposes of this section a slavery and human trafficking offence is an offence under—
- (a) section 1, 2 or 4 of this Act,
  - (b) section 1, 2 or 4 of the [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015 \(c. 2 \(N.I.\)\)](#) (equivalent offences in Northern Ireland),
  - (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 47 of the Criminal Justice and Licensing (Scotland) Act 2010 ([asp 13](#)) (slavery, servitude and forced or compulsory labour).
- (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 public authorities (including the Commissioner for Victims and Witnesses), voluntary organisations and other persons;
  - (f) co-operating with or working jointly with public authorities (including the Commissioner for Victims and Witnesses), voluntary organisations and other persons, in the United Kingdom or internationally.
- (4) The matters to which the Commissioner may have regard in pursuance of subsection (1) include the provision of assistance and support to victims of slavery and human trafficking offences.
- (5) 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

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- (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.
- (6) The Commissioner must (after ascertaining whether the Secretary of State, the Scottish Ministers, the Lord Advocate or the Department of Justice in Northern Ireland wish to exercise the powers conferred by subsections (7) to (10)) publish each report made under subsection (3)(a).
- (7) 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.
- (8) 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 of an offence under the law of Scotland.
- (9) The Lord Advocate may direct the Commissioner to omit from any report before publication any material whose publication the Lord Advocate thinks might prejudice the prosecution of an offence under the law of Scotland.
- (10) 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.
- (11) 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 (6).

## **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.
- (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.
- (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.
- (5) A strategic plan must in particular—

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- (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.
- (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.
- (8) As soon as reasonably practicable after the end of each financial 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 (17).
- (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,

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- (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 of an offence under the law of Scotland.
- (16) The Lord Advocate may remove from an annual report any material whose publication the Lord Advocate thinks might prejudice the prosecution of an offence under the law of Scotland.
- (17) 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.

#### **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.
- (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 in relation to that information; but this does not apply in relation to patient information.
- (4) “Patient information” means information (however recorded) which—
- (a) relates to the physical or mental health or condition of an individual, to the diagnosis of an individual’s condition or to an individual’s care or treatment, or is to any extent derived directly or indirectly from such information, and
  - (b) identifies the individual or enables the individual to be identified (either by itself or in combination with other information).
- (5) Except as provided by subsection (3), subsection (2) does not require or authorise any disclosure of information which contravenes a restriction on the disclosure of information (however imposed).
- (6) In this section “specified public authority” means a public authority listed in Schedule 3.
- (7) The Scottish Ministers may by regulations amend that Schedule so as to—
- (a) add or remove a public authority having only functions which are exercisable in or as regards Scotland (a “Scottish public authority”);
  - (b) amend an entry relating to a Scottish public authority.
- (8) The Department of Justice in Northern Ireland may by regulations amend that Schedule so as to—

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- (a) add or remove a public authority having only functions which are exercisable in or as regards Northern Ireland (a “Northern Irish public authority”);
  - (b) amend an entry relating to a Northern Irish public authority.
- (9) The Secretary of State may by regulations amend that Schedule so as to—
- (a) add or remove a public authority which is not a Scottish public authority or a Northern Irish public authority;
  - (b) amend an entry relating to a public authority which is not a Scottish public authority or a Northern Irish public authority.
- (10) Regulations under subsection (7), (8) or (9) which add a public authority to Schedule 3 may contain provision modifying the application of this section in relation to that authority.

#### **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.