



Nationality and Borders Act 2022

2022 CHAPTER 36

PART 5

MODERN SLAVERY

58 Provision of information relating to being a victim of slavery or human trafficking

- (1) The Secretary of State may serve a slavery or trafficking information notice on a person who has made a protection claim or a human rights claim.
- (2) A “slavery or trafficking information notice” is a notice requiring the recipient to provide the Secretary of State (and any other competent authority specified in the notice), before the specified date, with any relevant status information the recipient has.
- (3) “Relevant status information” is information that may be relevant for the purpose of making a reasonable grounds decision or a conclusive grounds decision in relation to the recipient.
- (4) Subsection (5) applies if the recipient of a slavery or trafficking information notice provides the Secretary of State or competent authority with relevant status information on or after the specified date.
- (5) The recipient must also provide a statement setting out their reasons for not providing the relevant status information before the specified date (and see section 59).
- (6) In this section—
 - “protection claim” and “human rights claim” have the same meanings as in Part 2;
 - “specified date” means the date specified in the slavery or trafficking information notice.

59 Late compliance with slavery or trafficking information notice: damage to credibility

- (1) This section applies where—
 - (a) a person aged 18 or over has been served with a slavery or trafficking information notice under section 58,
 - (b) the person provided relevant status information late, and
 - (c) a competent authority is making a reasonable grounds decision or a conclusive grounds decision in relation to the person.
- (2) In determining whether to believe a statement made by or on behalf of the person, the competent authority must take account, as damaging the person’s credibility, of the late provision of the relevant status information, unless there are good reasons why the information was provided late.
- (3) For the purposes of this section, relevant status information is provided “late” by the person if it is provided on or after the date specified in the slavery or trafficking information notice.
- (4) In this section, “relevant status information” has the same meaning as in section 58 (see subsection (3) of that section).

60 Identification of potential victims of slavery or human trafficking

- (1) The Modern Slavery Act 2015 is amended as follows.
- (2) Section 49 (guidance about identifying and supporting victims) is amended in accordance with subsections (3) and (4).
- (3) In subsection (1)—
 - (a) in paragraph (b)—
 - (i) for “may be” substitute “are”;
 - (ii) at the end insert “or who are such victims”;
 - (b) in paragraph (c) for “may be” substitute “is”;
 - (c) after paragraph (c) insert—

“(d) arrangements for determining whether a person is a victim of slavery or human trafficking.”
- (4) After that subsection insert—

“(1A) Guidance issued under subsection (1) must, in particular, provide that the determination mentioned in paragraph (d) is to be made on the balance of probabilities.”
- (5) In section 50 (regulations about identifying and supporting victims)—
 - (a) in subsection (1)(a) for “may be” substitute “are”;
 - (b) in subsection (2)(a) for “may be” substitute “is”;
 - (c) after subsection (3) insert—

“(4) If regulations under subsection (2) make provision for determining whether a person is a victim of slavery or human trafficking (as mentioned in paragraph (b) of that subsection), they must provide that the determination is to be made on the balance of probabilities.”

- (6) In section 51 (presumption about age)—
 - (a) in subsection (1)(a) for “may be” substitute “is”;
 - (b) in subsection (3), in the opening words, for “may be” substitute “are”.
- (7) In section 56 (interpretation)—
 - (a) before subsection (1) insert—

“(A1) For the purposes of sections 48 to 53 (identification and protection of victims), “victim of slavery” and “victim of human trafficking” have the meanings given in regulations made by the Secretary of State under section 69 of the Nationality and Borders Act 2022.”;
 - (b) in each of subsections (1) and (2), after “purposes of” insert “any other provision of”.

61 Identified potential victims of slavery or human trafficking: recovery period

- (1) This section applies to a person (an “identified potential victim”) if—
 - (a) a decision is made by a competent authority that there are reasonable grounds to believe that the person is a victim of slavery or human trafficking (a “positive reasonable grounds decision”), and
 - (b) that decision is not a further RG decision (as to which, see section 62).
- (2) Subject to section 63(2), the identified potential victim may not be removed from, or required to leave, the United Kingdom during the recovery period.
- (3) The “recovery period”, in relation to an identified potential victim, is the period—
 - (a) beginning with the day on which the positive reasonable grounds decision is made, and
 - (b) ending with whichever of the following is the later—
 - (i) the day on which the conclusive grounds decision is made in relation to the identified potential victim;
 - (ii) the end of the period of 30 days beginning with the day mentioned in paragraph (a).

62 No entitlement to additional recovery period etc

- (1) This section applies where—
 - (a) a competent authority has previously made a positive reasonable grounds decision in relation to a person (the “first RG decision”), and
 - (b) a further positive reasonable grounds decision is made in relation to the person, in a case where the reasonable grounds for believing that the person is a victim of slavery or human trafficking arise from things done wholly before the first RG decision was made (the “further RG decision”).
- (2) If the competent authority considers it appropriate in the circumstances of a particular case, the authority may determine that the person may not be removed from, or required to leave, the United Kingdom during the period—
 - (a) beginning with the day on which the further RG decision is made, and
 - (b) ending with whichever of the following is the later—
 - (i) the day on which the conclusive grounds decision is made in relation to the further RG decision;

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- (ii) the end of the period of 30 days beginning with the day mentioned in paragraph (a).

This is subject to section 63(2).

63 Identified potential victims etc: disqualification from protection

- (1) A competent authority may determine that subsection (2) is to apply to a person in relation to whom a positive reasonable grounds decision has been made if the authority is satisfied that the person—
- (a) is a threat to public order, or
 - (b) has claimed to be a victim of slavery or human trafficking in bad faith.
- (2) Where this subsection applies to a person the following cease to apply—
- (a) any prohibition on removing the person from, or requiring them to leave, the United Kingdom arising under section 61 or 62, and
 - (b) any requirement under section 65 to grant the person limited leave to remain in the United Kingdom.
- (3) For the purposes of this section, the circumstances in which a person is a threat to public order include, in particular, where—
- (a) the person has been convicted of a terrorist offence;
 - (b) the person has been convicted of any other offence listed in Schedule 4 to the Modern Slavery Act 2015 anywhere in the United Kingdom, or of a corresponding offence;
 - (c) the person is subject to a TPIM notice (within the meaning given by section 2 of the Terrorism Prevention and Investigation Measures Act 2011);
 - (d) there are reasonable grounds to suspect that the person is or has been involved in terrorism-related activity within the meaning given by section 4 of that Act (whether or not the terrorism-related activity is attributable to the person being, or having been, a victim of slavery or human trafficking);
 - (e) the person is subject to a temporary exclusion order imposed under section 2 of the Counter-Terrorism and Security Act 2015;
 - (f) the person is a foreign criminal within the meaning given by section 32(1) of the UK Borders Act 2007 (automatic deportation for foreign criminals);
 - (g) the Secretary of State has made an order in relation to the person under section 40(2) of the British Nationality Act 1981 (order depriving person of citizenship status where to do so is conducive to the public good);
 - (h) the Refugee Convention does not apply to the person by virtue of Article 1(F) of that Convention (serious criminals etc);
 - (i) the person otherwise poses a risk to the national security of the United Kingdom.
- (4) In subsection (3)(a), “terrorist offence” means any of the following (whenever committed)—
- (a) an offence listed in—
 - (i) Schedule A1 to the Sentencing Code (terrorism offences: England and Wales), or
 - (ii) Schedule 1A to the Counter-Terrorism Act 2008 (terrorism offences: Scotland and Northern Ireland);
 - (b) an offence that was determined to have a terrorist connection under—

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- (i) section 69 of the Sentencing Code (in the case of an offender sentenced in England and Wales), or
 - (ii) section 30 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Northern Ireland, or an offender sentenced in England and Wales before the Sentencing Code applied);
 - (c) an offence that has been proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Scotland);
 - (d) an act constituting an offence under the law in force in a country outside the United Kingdom that—
 - (i) would have constituted an offence within paragraph (a) if it had been committed in any part of the United Kingdom, or
 - (ii) was, or took place in the course of, an act of terrorism or was done for the purposes of terrorism.
- (5) In subsection (3)(b) “corresponding offence” means—
 - (a) an offence under the law of Scotland or of Northern Ireland which corresponds to an offence listed in Schedule 4 to the Modern Slavery Act 2015;
 - (b) an act constituting an offence under the law in force in a country outside the United Kingdom that would have constituted an offence listed in that Schedule if it had been committed in England or Wales.
- (6) For the purposes of this section an act punishable under the law in force in a country outside the United Kingdom is regarded as constituting an offence under that law however it is described in that law.
- (7) In this section—
 - “act” includes an omission;
 - “the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and its Protocol;
 - “terrorism” has the same meaning as in the Terrorism Act 2000 (see section 1 of that Act).

64 Identified potential victims etc in England and Wales: assistance and support

After section 50 of the Modern Slavery Act 2015 insert—

“50A Identified potential victims etc: assistance and support

- (1) The Secretary of State must secure that any necessary assistance and support is available to an identified potential victim (within the meaning given by section 61 of the Nationality and Borders Act 2022 (the “2022 Act”)) during the recovery period.
- (2) For the purposes of this section, assistance and support is “necessary” if the Secretary of State considers that it is necessary for the purpose of assisting the person receiving it in their recovery from any physical, psychological or social harm arising from the conduct which resulted in the positive reasonable grounds decision in question.
- (3) Subsection (4) applies where a further RG decision, within the meaning given by section 62 of the 2022 Act, is made in relation to a person.

- (4) If the Secretary of State determines that it is appropriate to do so, the Secretary of State must secure that any necessary assistance and support is available to the person during the period—
- (a) beginning with the day on which the further RG decision is made, and
 - (b) ending with whichever of the following is the later—
 - (i) the day on which the conclusive grounds decision is made in relation to the further RG decision;
 - (ii) the end of the period of 30 days beginning with the day mentioned in paragraph (a).
- (5) Any duty under subsection (1) or (4) ceases to apply in relation to a person in respect of whom a determination is made under section 63(2) of the 2022 Act (disqualification from protection).
- (6) In this section, a reference to assistance and support is to assistance and support provided in accordance with—
- (a) arrangements referred to in section 49(1)(b), or
 - (b) regulations made under section 50.
- (7) In this section—
- “conclusive grounds decision” has the same meaning as in Part 5 of the 2022 Act (see section 69 of that Act);
- “recovery period” has the same meaning as in section 61 of that Act.”

65 Leave to remain for victims of slavery or human trafficking

- (1) This section applies if a positive conclusive grounds decision is made in respect of a person—
- (a) who is not a British citizen, and
 - (b) who does not have leave to remain in the United Kingdom.
- (2) The Secretary of State must grant the person limited leave to remain in the United Kingdom if the Secretary of State considers it is necessary for the purpose of—
- (a) assisting the person in their recovery from any physical or psychological harm arising from the relevant exploitation,
 - (b) enabling the person to seek compensation in respect of the relevant exploitation, or
 - (c) enabling the person to co-operate with a public authority in connection with an investigation or criminal proceedings in respect of the relevant exploitation.
- (3) Subsection (2) is subject to section 63(2).
- (4) Leave is not necessary for the purpose mentioned in—
- (a) subsection (2)(a) if the Secretary of State considers that the person’s need for assistance is capable of being met in a country or territory within paragraph (a) or (b) of subsection (5) (or both);
 - (b) subsection (2)(b) if the Secretary of State considers that—
 - (i) the person is capable of seeking compensation from outside the United Kingdom, and
 - (ii) it would be reasonable for the person to do so in the circumstances.

- (5) A country or territory is within this subsection if—
- (a) it is a country of which the person is a national or citizen;
 - (b) it is one to which the person may be removed in accordance with an agreement between that country or territory and the United Kingdom (which may be, but does not need to be, an agreement contemplated by Article 40(2) of the Trafficking Convention).
- (6) Subsection (7) applies if the Secretary of State is satisfied that—
- (a) the person is a threat to public order, or
 - (b) the person has claimed to be a victim of slavery or human trafficking in bad faith.
- (7) Where this subsection applies—
- (a) the Secretary of State is not required to grant the person leave under subsection (2), and
 - (b) if such leave has already been granted to the person, it may be revoked.
- (8) Leave granted to a person under subsection (2) may be revoked in such other circumstances as may be prescribed in immigration rules.
- (9) Subsections (3) to (7) of section 63 apply for the purposes of this section as they apply for the purposes of that section.
- (10) In this section—
- “positive conclusive grounds decision” means a decision made by a competent authority that a person is a victim of slavery or human trafficking;
 - “public authority” means any public authority within the meaning of section 6 of the Human Rights Act 1998;
 - “the relevant exploitation” means the conduct resulting in the positive conclusive grounds decision.
- (11) This section is to be treated for the purposes of section 3 of the Immigration Act 1971 as if it were provision made by that Act.

66 Civil legal services under section 9 of LASPO: add-on services in relation to the national referral mechanism

- (1) Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services qualifying for legal aid) is amended as follows.
- (2) In paragraph 19 (judicial review)—
- (a) after sub-paragraph (1) insert—

“Add-on services in relation to referral into the national referral mechanism

- (1A) Civil legal services provided to an individual in relation to referral into the national referral mechanism, in a case where the Director has determined the individual qualifies for any services described in sub-paragraph (1) that are of a description to which sub-paragraph (1B) applies (and has not withdrawn the determination).

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(1B) This sub-paragraph applies to services in relation to any immigration or asylum decision (or failure to make a decision) against which there is no right of appeal.”;

(b) after sub-paragraph (2) insert—

“(2A) Sub-paragraph (1A) is subject to the exclusions in Part 2 of this Schedule.”;

(c) after sub-paragraph (8) insert—

“Add-on services described in sub-paragraph (1A): specific exclusions

(8A) The add-on services described in sub-paragraph (1A) do not include—

(a) advocacy, or

(b) attendance at an interview conducted by the competent authority under the national referral mechanism for the purposes of a reasonable grounds decision or a conclusive grounds decision.”

(3) In each of paragraphs 25, 26, 27 and 27A (various immigration matters)—

(a) after sub-paragraph (1) insert—

“Add-on services in relation to referral into the national referral mechanism

(1A) Civil legal services provided to an individual in relation to referral into the national referral mechanism, in a case where the Director has determined the individual qualifies for any services described in sub-paragraph (1) (and has not withdrawn that determination).”;

(b) after sub-paragraph (2) insert—

“(3) Sub-paragraph (1A) is subject to the exclusions in Part 2 of this Schedule.

Add-on services described in sub-paragraph (1A): specific exclusions

(4) The add-on services described in sub-paragraph (1A) do not include—

(a) advocacy, or

(b) attendance at an interview conducted by the competent authority under the national referral mechanism for the purposes of a reasonable grounds decision or a conclusive grounds decision.”

(4) In paragraph 30 (immigration: rights to enter and remain)—

(a) after sub-paragraph (1) insert—

“Add-on services in relation to referral into the national referral mechanism

(1A) Civil legal services provided to an individual in relation to referral into the national referral mechanism, in a case where the Director has determined the individual qualifies for any services described in sub-paragraph (1) (and has not withdrawn the determination).”;

(b) after sub-paragraph (2) insert—

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

“(2A) Sub-paragraph (1A) is subject to the exclusions in Part 2 of this Schedule.”;

- (c) after sub-paragraph (3) insert—

“Add-on services described in sub-paragraph (1A): specific exclusions

(3A) The add-on services described in sub-paragraph (1A) do not include—

- (a) advocacy, or
- (b) attendance at an interview conducted by the competent authority under the national referral mechanism for the purposes of a reasonable grounds decision or a conclusive grounds decision.”

- (5) In paragraph 31A (immigration, citizenship and nationality: separated children)—

- (a) after sub-paragraph (2) insert—

“Add-on services in relation to referral into the national referral mechanism

(2A) Civil legal services provided to an individual in relation to referral into the national referral mechanism, in a case where the Director has determined the individual qualifies for any services described in sub-paragraph (1) (and has not withdrawn the determination).”;

- (b) after sub-paragraph (3) insert—

“(3A) Sub-paragraph (2A) is subject to the exclusions in Part 2 of this Schedule.

Add-on services described in sub-paragraph (2A): specific exclusions

(3B) The add-on services described in sub-paragraph (2A) do not include—

- (a) advocacy, or
- (b) attendance at an interview conducted by the competent authority under the national referral mechanism for the purposes of a reasonable grounds decision or a conclusive grounds decision.”

- (6) In Part 4 of Schedule 1 to that Act (interpretation) after paragraph 7 insert—

“8 In this Schedule—

“civil legal services provided to an individual in relation to referral into the national referral mechanism” means—

- (a) advice on the national referral mechanism, or
- (b) other civil legal services in connection with accessing that mechanism,

provided to an individual before a reasonable grounds decision has been made in relation to that individual;

”competent authority” (in relation to the national referral mechanism) means a person who is a competent authority of the United Kingdom for the purposes of the Council of Europe Convention on Action against Trafficking in Human Beings (done at Warsaw on 16 May 2005);

“national referral mechanism” means the national framework (known as the National Referral Mechanism) for identifying and referring potential victims of modern slavery and ensuring they receive appropriate support;

“reasonable grounds decision” and “conclusive grounds decision” have the same meaning as in Part 5 (modern slavery) of the Nationality and Borders Act 2022 (see section 69 of that Act).”

- (7) Any amendment made by this section describing add-on services that may be provided to an individual where the Director of Legal Aid Casework has made a relevant determination does not apply to a determination made before the amendment comes into force.

67 Civil legal services under section 10 of LASPO: add-on services in relation to national referral mechanism

In section 10 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services in exceptional cases), after subsection (3) insert—

“(3A) Civil legal services provided in relation to referral into the national referral mechanism are to be available to an individual in a case where subsection (2) is satisfied in relation to the individual and to services of a kind to which subsection (3B) applies.

(3B) This subsection applies to services in relation to a claim by the individual made to the Secretary of State that to remove the individual from, or to require the person to leave, the United Kingdom would be unlawful under section 6 of the Human Rights Act 1998.

(3C) The services described in subsection (3A) do not include—

- (a) the services listed in Part 2 of Schedule 1;
- (b) advocacy;
- (c) attendance at an interview conducted by the competent authority under the national referral mechanism for the purposes of a reasonable grounds decision.

(3D) In subsection (3A) “civil legal services in relation to referral into the national referral mechanism” means—

- (a) advice on the national referral mechanism, or
- (b) other civil legal services in connection with accessing that mechanism, provided before a reasonable grounds decision has been made in relation to the individual to whom the services are provided.

(3E) In subsections (3C) and (3D)—

“competent authority” and “national referral mechanism” have the same meaning as in Schedule 1 (see paragraph 8 of Part 4 of that Schedule);

“reasonable grounds decision” has the same meaning as in Part 5 of the Nationality and Borders Act 2022 (see section 69 of that Act).”

68 Disapplication of retained EU law deriving from Trafficking Directive

- (1) Section 4 of the European Union (Withdrawal) Act 2018 (saving for rights etc under section 2(1) of the European Communities Act 1972) ceases to apply to rights, powers, liabilities, obligations, restrictions, remedies and procedures derived from the Trafficking Directive so far as their continued existence would otherwise be incompatible with provision made by or under this Act.
- (2) “The Trafficking Directive” means [Council Directive 2011/36/EU](#) of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims.

69 Part 5: interpretation

- (1) In this Part—

“competent authority” means a person who is a competent authority of the United Kingdom for the purposes of the Trafficking Convention;

“conclusive grounds decision” means a decision by a competent authority as to whether a person is a victim of slavery or human trafficking;

“positive reasonable grounds decision” has the meaning given by section 61(1);

“reasonable grounds decision” means a decision by a competent authority as to whether there are reasonable grounds to believe that a person is a victim of slavery or human trafficking;

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

“victim of slavery” and “victim of human trafficking” have the meanings given in regulations made by the Secretary of State.

- (2) Regulations under subsection (1) are subject to affirmative resolution procedure.