

MODERN SLAVERY ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: the Independent Anti-Slavery Commissioner

Section 43 and Schedule 3: Duty to co-operate with Commissioner

211. *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.
212. *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.
213. *Subsection (3)* and *subsection (5)* 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 (apart from disclosures of patient information), but must not be in contravention of any other restrictions on the disclosure of information. This maintains existing safeguards protecting the disclosure of "patient information" (as defined in *subsection (4)*) and ensures that health professionals would not be under conflicting professional obligations as a result of health bodies being subject to the duty to co-operate with the Commissioner.
214. *Subsection (6)* defines "specified public authority" as a public authority which is specified in Schedule 3.
215. *Subsection (7)* gives Scottish Ministers the power to add or remove a public authority from Schedule 3 which has functions that are only exercisable in or as regards Scotland or to amend an entry on in Schedule 3 relating to such an authority. *Subsection (8)* provides the Department of Justice in Northern Ireland with the same power to add, remove or amend Schedule 3 but only relating to a public authority which has functions that are only exercisable in or as regards Northern Ireland. *Subsection (9)* provides the Secretary of State with the equivalent power for any other public authority – this includes those authorities only having functions in England and Wales together with those having a UK-wide remit.
216. *Subsection (10)* enables regulations made under subsection (7), (8) or (9) to tailor the duty to co-operate to reflect the specific circumstances of authorities which may be added to Schedule 3 and subjected to the duty in future. This is to ensure that placing a public authority under the duty to co-operate will not result in any conflict with a pre-existing duty or give rise to other unintended consequences as a result of that authority's particular functions or legislative framework. Such regulations will be subject to the affirmative resolution procedure or equivalent in Scotland and Northern Ireland.