



Illegal Migration Act 2023

2023 CHAPTER 37

Modern slavery

24 Provisions relating to support: Scotland

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

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

- (2) Where this subsection applies in relation to a person, the following do not apply in relation to the person—
- any duty of the Scottish Ministers under section 9(1) of the [Human Trafficking and Exploitation \(Scotland\) Act 2015 \(asp 12\)](#) (human trafficking: support and assistance) to secure the provision of support and assistance for the person;
 - any power of the Scottish Ministers under section 9(3) of that Act to secure the provision of support and assistance for the person;
 - any duty or power of the Scottish Ministers under regulations under section 10(1) of that Act (slavery etc: support and assistance) relating to the provision of support or assistance to the person.
- (3) Subsection (2) does not apply in relation to a person if—
- the Secretary of State is satisfied that the person is cooperating with a public authority in connection with an investigation or criminal proceedings in respect of the relevant exploitation,
 - the Secretary of State considers that it is necessary for the person to be present in the United Kingdom to provide that cooperation, and
 - the Secretary of State does not consider that the public interest in the person providing that cooperation is outweighed by any significant risk of serious harm to members of the public which is posed by the person.

- (4) In subsection (3)—
- (a) the reference to a person cooperating with a public authority in connection with an investigation or criminal proceedings is to the person doing so to the extent that is reasonable having regard to the person’s circumstances, and
 - (b) “the relevant exploitation” means—
 - (i) the conduct or alleged conduct on the basis of which a competent authority has made or is making the determination mentioned in subsection (1)(b), and
 - (ii) where a conclusive determination has been made that the person is a victim of slavery or human trafficking, any other conduct resulting in that decision.
- (5) The Secretary of State must assume for the purposes of subsection (3)(b) that it is not necessary for the person to be present in the United Kingdom to provide the cooperation in question unless the Secretary of State considers that there are compelling circumstances which require the person to be present in the United Kingdom for that purpose.
- (6) In determining whether there are compelling circumstances as mentioned in subsection (5), the Secretary of State must have regard to guidance issued by the Secretary of State.
- (7) For the purposes of this section—
- (a) a person is a victim of slavery if they are a victim of an offence under section 4 of the Human Trafficking and Exploitation (Scotland) Act 2015;
 - (b) there is a conclusive determination that a person is a victim of slavery when a competent authority concludes that the person is such a victim;
 - (c) a person is a victim of human trafficking if they are a victim of an offence under section 1 of the Human Trafficking and Exploitation (Scotland) Act 2015;
 - (d) there is a conclusive determination that a person is a victim of human trafficking when, on completion of the identification process required by Article 10 of the Trafficking Convention, a competent authority concludes that the person is such a victim.
- (8) In this section the following expressions have the same meaning as in section 22—
- “competent authority”;
 - “public authority”;
 - “the Trafficking Convention”.
- (9) The Secretary of State may by regulations amend this section in consequence of regulations made by the Scottish Ministers under—
- (a) section 9(8) of the Human Trafficking and Exploitation (Scotland) Act 2015 (power to modify section 9), or
 - (b) section 10(1) of that Act (slavery etc: support and assistance).