

Modern Slavery Bill

Factsheet: Offences (Clauses 1, 2 and 3)

Minister for Modern Slavery and Organised Crime, Karen Bradley:

“It is absolutely vital that law enforcement agencies have the right legislative framework to effectively prosecute and convict perpetrators of modern slavery. The offences set out in the Modern Slavery Bill are some of the most serious crimes on our statute books, so I am particularly pleased that they will now carry a maximum life sentence.

We are absolutely committed to increasing the number of successful prosecutions and convictions. We want to do that by building on existing offences which are already understood by law enforcement agencies, prosecutors and juries.”

Background

The Government is committed to prosecuting and bring to justice the perpetrators of modern slavery modern slavery offences. Historically, rates of prosecution have not been high enough.

The Government has looked closely at how best to draft the offences in the Modern Slavery Bill to ensure that police and prosecutors have effective tools to prosecute these very serious crimes, including in the very serious cases which involve abuse of children. We have also looked carefully at our international obligations, to ensure we remain fully compliant with these and take on board best practice internationally.

The Government wants the Modern Slavery Bill to be as effective as possible so we have carefully considered alternative models for the offences, including the pre-legislative scrutiny Committee recommendations for a suite of six cascading new offences, including a general exploitation offence and specific child offences.

What we are going to do

The Government concluded that the most effective approach, and the one favoured by law enforcement and prosecutors, is to consolidate, clarify and improve the existing modern slavery related offences, using concepts which are well understood by law enforcement agencies and prosecutors, rather than starting again from scratch.

The Director of Public Prosecutions, Alison Saunders, highlighted in oral evidence to the Modern Slavery Bill Public Bill Committee on 21 July that:

“Our concern about the pre-legislative scrutiny Committee’s suggestion of six offences that overlap in a hierarchy is that that would make it extremely complicated.....We much prefer the clarity of the offences in the Bill as drafted by the Government.”

The Modern Slavery Bill consolidates and simplifies three existing offences which are currently set out in section 59a of the Sexual Offences Act 2003, section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004, and section 71 of the Coroners and Justice Act 2009. In doing so, we have made a number of amendments to the offences to clarify and simplify them.

Clause 1 sets out the offence of slavery, servitude and forced and compulsory labour. This offence ensures that it is illegal to hold a modern slave, regardless of whether you have moved the victim. The offence in the Modern Slavery Bill has been changed (compared to the predecessor offence) to make absolutely clear that when prosecutors and the courts look at whether a vulnerable person, such as a child, has been subject to an offence, they can consider the vulnerability of that child or vulnerable person.

Clauses 2 sets out a single offence of human trafficking., This covers all aspects of the movement of a person, with a view to exploiting them. The offence brings together a number of previous offences relating to trafficking to help police and prosecutors understand the law, and takes on board important recommendations from the pre-legislative scrutiny Committee.

- Firstly, we have amended the mental element (*mens rea*) of the trafficking offence to provide consistency between the offences. Clause 2 has been amended so that where a perpetrator has arranged or facilitated exploitation, it is where they *know or ought to know* that another person is likely to exploit the individual, rather than *believes*. This ensures that where a human trafficker tries to argue that they did not even consider that the victim might be exploited later, the court can convict on the basis that the perpetrator should have known that exploitation was likely to take place.
- Secondly, we have also included additional clarity on the term facilitation, used in the clause 2 offence, building on the definitions set out in the Palermo Protocol. The offence now stipulates that arranging or facilitating travel may, in particular, include recruiting, transporting, transferring, harbouring, receiving or exchanging control over another person. This makes it even clearer that the trafficking offence meets international standards.
- Thirdly, we have clarified that the definition of groups who can be exploited without force, threats or deception because they were selected due to a

particular vulnerability specifically includes children (rather than the less clear term “young” person).

Both offences will now carry a maximum life sentence, increased from the current maximum of 14 years.

Benefits

- All modern slavery offences will be contained in one Act of Parliament making it easier for the police and prosecutors to understand.
- Maintaining and improving existing offences which are already in use will ensure that the offences are already known and understood.
- Providing general offences, rather than child specific ones, will ensure that practical issues relating to establishing the age of a victim will not detract from bringing successful prosecutions.
- Increasing the maximum sentence to life imprisonment will enable the courts to give appropriately severe penalties for very serious offences.

Q&A

Why doesn't the Bill replace the existing offences with simpler ones focusing on exploitation, as the pre-legislative scrutiny Committee recommended?

- We share the pre-legislative scrutiny Committee's desire for clear offences which can be used effectively by law enforcement and the courts.
- We believe that building on well-established offences that practitioners have been using for some time will help law enforcement focus on very serious modern slavery offences.
- This Bill is focused on tackling the highest harm. Creating new and broadly defined exploitation offences would risk confusion for law enforcement, and could capture innocent conduct.
- Focusing on human trafficking and slavery offences will also ensure that the scope of the Bill is manageable and allow us to pass legislation this Parliament.

Will you introduce a specific child offence?

- We believe the best way to protect children is to have a general offence, which does not require prosecutors to prove the age of the child, which could lead to real practical problems for prosecutions.

- A separate child offence would not result in harsher sentences for perpetrators as the offences in the Modern Slavery Bill now carry the maximum available sentence of life imprisonment.
- Targeting a child will be an aggravating factor for sentencing purposes.
- We have amended the clause 1 slavery offence to spell out that when assessing if the offence has been committed, the court may have regard to the alleged victim's characteristics, including age. This clarifies the existing position that children's particular vulnerabilities are taken into account.

Home Office
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