

**WRITTEN EVIDENCE SUBMITTED BY THE WORK RIGHTS CENTRE
(BSAIB01)**

**Border Security, Asylum and Immigration Bill – evidence to House of
Commons Public Bill Committee**

February 2025

ABOUT WORK RIGHTS CENTRE

Work Rights Centre is a registered charity dedicated to supporting migrants and disadvantaged Britons to access employment justice and improve their social mobility. We do this by providing free and confidential advice in the areas of employment, immigration, and social security, and by mobilising frontline intelligence to address the systemic causes of migrants' inequality. The charity was founded in 2016. Ever since, we have advised over 6,000 people, helped recover over £500,000 in unpaid wages and fees, and supported hundreds more to make job applications and secure their immigration status.

OUR INTEREST IN THE BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

The Border Security, Asylum and Immigration Bill was published on 30 January 2025 and includes a number of reforms that interact with modern slavery, immigration offences, data sharing and more. As an organisation that provides both immigration and employment legal advice to predominantly migrant workers in precarious work situations, the purpose of this submission is to highlight (1) where the Bill could go further to reinstate an adequate framework and protections for potential and confirmed victims of modern slavery; and (2) what the Bill is missing in terms of substantive protections for workers experiencing, or at risk of, abuse across the entire continuum of exploitation.

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Executive Summary

- The Border Security, Asylum and Immigration Bill (herein referred to as the “Bill”) fails to restore an adequate framework and protections for potential and confirmed victims of modern slavery. It also currently fails to make any changes that would protect migrant workers experiencing exploitation as a result of the work-sponsorship system, a crucial oversight given the extent of workers affected by abuses in recent times.
- This evidence submission makes a number of recommendations to strengthen the Bill so that it addresses these points. This includes:
 1. **Ensuring the Bill repeals Section 29 of the Illegal Migration Act 2023;**
 2. **Ensuring the Bill also repeals Sections 58, 59 and 63 of the Nationality and Borders Act 2022, though a full repeal of the Act (excluding s.1-9, 66-67) should also be strongly considered;**
 3. **Introducing a new Workplace Justice Visa that allows exploited migrant workers to lawfully stay and work in the UK while they enforce their employment rights;**
 4. **Instituting firewalls between immigration enforcement authorities and labour market enforcement & other agencies that may report an individual’s immigration status in the regular course of their work; and**
 5. **Repealing the illegal working offence.**

Section 1 – the Bill’s impact on modern slavery victims

1. Though much of the Illegal Migration Act 2023 (“IMA”) is repealed by the Bill, Section 29 of the IMA remains in place. Section 29 amends Section 63 of the Nationality and Borders Act 2022 (“NABA”), making it mandatory for potential victims of modern slavery to be disqualified from support where the competent authority is satisfied that the individual is either a threat to public order or has claimed to be a victim of modern slavery in “bad faith” (unless the competent authority deems that compelling circumstances apply). Section 29 also amends what it means to be considered a threat to public order. Non-British citizens who (1) are convicted and sentenced to a period of imprisonment for an offence; or (2) are liable to deportation from the UK, are disqualified from protection as a result of this provision.
2. Firstly, it is worth noting that very few public order and bad faith exclusions have been confirmed since disqualification requests could be made by the Home Office. Between the start of 2023 and end of Q3 in 2024, a total of 8,332 positive reasonable grounds decisions were made in respect of adults, of which only 502 (6%) were disqualified on public order (494) or bad faith (8) grounds.¹
3. In any case, Section 29 is problematic because it has the potential to “exclude from protection victims compelled to commit criminal offences by their traffickers/exploiters but who have not benefited from the statutory defence contained in Section 45 of the Modern Slavery Act 2015”.² Previous analysis conducted in June 2024 suggested that “70% of all disqualified individuals were acknowledged as having an element of criminal exploitation in their case (73% of adult cases and 65% of child cases), compared to an average of 44% of NRM referrals with an element of criminal exploitation from 2020 and 2023.”³
4. As a result, Section 29 undermines international law in this area. This includes Article 4 of the European Convention on Human Rights (prohibition of slavery and forced labour) and Articles 10 (identification of victims), 12 (assistance to victims) and 13 (recovery and reflection period) of the Council of Europe Convention on Action Against Trafficking in Human Beings (ECAT). **In light of the above, there is a clear need to repeal Section 29 of the IMA as part of the Bill.**
5. We also note that the Bill does not repeal or amend problematic parts of NABA itself. This includes Section 63, which facilitates a presumption that a public

order disqualification applies when a person falls into the categories listed in Section 63(3) of NABA.⁴ The Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) gave evidence to the Joint Committee on Human Rights during the passage of NABA on this point, stating that "the grounds of public order should always be interpreted on a case-by-case basis" and "are intended to apply in very exceptional circumstances and cannot be used by State Parties to circumvent their obligation to provide access to the recovery and reflection period".⁵

6. It also includes Sections 58 and 59, the combined effect of which is to mandate the damaging of a potential victim's credibility in circumstances where they have not been able to disclose the full details of their exploitation before a date specified by the Secretary of State and any other competent authority in a slavery or trafficking information notice. In its scrutiny of NABA, the Joint Committee on Human Rights previously remarked that victims "may take time to be able to disclose what happened to them" and that the effect of these provisions was "unreasonable, unfair and contrary to the UK's protective and investigative obligations in relation to preventing and combatting modern slavery".⁶ It is worth noting that the Modern Slavery Statutory Guidance already deals with this point adequately, by ensuring that the late disclosure of information in relation to an instance of modern slavery is taken into account with all other evidence and *may*, rather than *must*, damage a person's credibility.⁷
7. Therefore, **we would argue that there is also a need to repeal Sections 58, 59 and 63 of NABA as part of the Bill.** Though not the specific focus of this evidence submission, it is worth noting that the Immigration Law Practitioners' Association (which represents over 4,000 practitioners) suggests that NABA has no provisions that improve the UK's immigration, asylum and nationality law system, save for a few provisions relating to nationality law and the scope of legal aid in relation to referrals as a potential victim of modern slavery (s.1-9, 66-67).⁸ Therefore, a broader repeal of NABA excluding these provisions should also strongly be considered.

Recommendation

Our recommendation is to amend the Bill to:

- **Repeal Section 29 of the Illegal Migration Act 2023; and**
- **At the very least repeal Sections 58, 59 and 63 of the Nationality and Borders Act 2022, though a full repeal of the Act (excluding s.1-9, 66-67) should also be strongly considered.**

Section 2 – missing protections for migrant workers experiencing or at risk of abuse

8. A crucial omission from the Bill are any measures that would provide migrant workers with greater protection or flexibility to leave exploitative workplaces whilst safeguarding their immigration status in the UK. This is particularly true of migrant workers arriving to the UK under the work-sponsorship system, where individuals are generally tied to an employer licenced by the Home Office to hire workers from overseas (a “sponsor”).
9. If an employer withdraws a worker’s sponsorship or if a sponsor loses their licence, workers officially only have a maximum of 60 days from the point of visa curtailment in which to find another job with another registered sponsor. They have to make, pay for and obtain a new visa to continue their lawful stay in the UK, otherwise they are forced to leave the country to avoid becoming undocumented. Some employers are using this power imbalance to exploit workers and to coerce them into remaining in exploitative work situations. This is because rogue businesses know that they can threaten to withdraw workers’ sponsorship, and place their immigration status in jeopardy, if they dare to complain.
10. Evidence of migrant worker exploitation under the work-sponsorship system has been mounting in recent years. For example:
 - a. **Health and Care Worker visa.** In February 2025, a Unison survey of over 3,300 migrant care staff on the Health and Care Worker visa revealed that migrants in the care were sector were widely being exposed to poor pay and working conditions, racism, financial exploitation and coercion.⁹ This chimes with our own, earlier research in November 2024 which revealed widescale abuse and exploitation of migrant care staff across England.¹⁰
 - b. **The Seasonal Worker visa.** Both government and independent reviews of the Seasonal Worker visa have revealed that migrant seasonal workers on the visa are placed at risk of serious exploitation and abuse under the scheme, including the potential for trafficking, debt bondage and forced labour.¹¹

c. The Gangmasters and Labour Abuse Authority suggest that sponsorship is currently the most common vulnerability factor among potential victims of forced labour in the UK.¹²

11. Even the government has now admitted that there is a problem – in January 2025, the Minister for Migration and Citizenship Seema Malhotra admitted that “the requirement to be sponsored and the worker’s reliance on their sponsor can, in some circumstances, make it more difficult for sponsored workers to change their employer” (thus it being harder to leave an exploitative sponsor).¹³
12. If the government is committed to retaining the system of sponsorship, we think there are three vital measures which could be introduced as part of this Bill to plug this current gap in safeguarding against migrant worker exploitation: **(1) a UK “Workplace Justice” Visa; (2) preventing automatic data sharing practices with immigration authorities; and (3) repealing the illegal working offence.** These are discussed in more detail below.

A UK Workplace Justice Visa

13. The government should look to introduce a Workplace Justice visa, something that has been recently piloted in Australia,¹⁴ and, in other iterations in countries such as Canada, New Zealand, and the Republic of Ireland. This is a route that would allow exploited migrant workers to stay and work in the country lawfully whilst they enforce their employment rights – for example, through litigation in the Employment Tribunal.
14. To apply for the visa, migrants would have to obtain a certification confirming that there is evidence of their exploitation, either by a relevant government agency or by an “accredited third party” (e.g. trade unions, law centres and other organisations capable of providing workers with legal advice and support in their case).
15. The visa would have several benefits for workers, legitimate employers and labour market enforcement agencies:
- a. Sponsored migrant workers would no longer be coerced into having to choose between reporting their exploitation and maintaining a lawful immigration status in the UK;
 - b. Employers would be discouraged from exploiting, in the knowledge that workers could more easily report their transgressions;

- c. Legitimate businesses would no longer be undercut by rogue competitors who make a profit by exploiting their migrant workforce;
 - d. Labour market enforcement authorities would have greater oversight of the true scale of migrant worker exploitation, which has previously been more opaque; and
 - e. By leveraging the involvement of unions and other civil society organisations, the enforcement of labour standards would be significantly expanded as more people come forward to individually enforce their rights. Importantly, this would involve no new regulatory burdens for legitimate employers, and it would not require additional resourcing of state labour market inspectors.
16. Both the Independent Anti-Slavery Commissioner and the Director of Labour Market Enforcement in the UK have welcomed the government exploring the feasibility of a UK Workplace Justice visa and the Bill should be amended to that effect.¹⁵
17. Currently, the only protection regarding immigration status afforded to victims of labour exploitation comes via the National Referral Mechanism (NRM) for modern slavery. Individuals referred into the NRM who obtain a positive conclusive grounds decision can in theory be granted “VTS” leave or temporary permission to stay for victims of human trafficking. However, this is insufficient and inappropriate to provide protection in cases of exploitation under the work-sponsorship system:
- a. The criteria for granting VTS leave has been tightened since January 2023, meaning it will only be granted if necessary to assist in the victim’s recovery from physical or psychological harm; enable them to seek compensation; or enable them to assist with criminal proceedings. In 2023, 3,139 adults were confirmed as victims of trafficking but only 113 received a grant of VTS leave to aid recover and fewer than 10 received a grant to assist the authorities;¹⁶
 - b. The workplace issues that workers experience under the work-sponsorship system are serious (fraud and employment rights breaches) but arguably insufficient for protection through the NRM, a point which has been reflected in the views espoused by statutory first responders when we have raised concerns about this; and

- c. VTS leave can only be granted if the individual does not already have valid status in the UK – even if a victim’s circumstances meet the threshold for modern slavery (unlikely, as explained above), this will not be suitable for the majority of workers who are in the UK but have not yet become undocumented.

18. Taken together, there is a protection gap for exploited workers under the work-sponsorship system who have become or are at risk of becoming undocumented. A Workplace Justice Visa would help prevent exploited workers from falling into undocumented status through no fault of their own and would incentivise a greater number of exploited migrant workers to come forward and report their abuse/pursue an exploiter.

Prevent automatic data-sharing to safeguard migrant workers

19. Although the Bill does address the issue of data sharing in the context of immigration, there are no measures related to secure or safe reporting. These are measures that would prevent the automatic exchange of information pertaining to an exploited individual’s immigration status with enforcement authorities, allowing them to safely report exploitation.

20. This is particularly important in the current context facing care workers, many of whom have been forced into irregular migration status as a consequence of the exploitation they have suffered at the hands of employer sponsors. Secure reporting is needed to protect these workers from being punished because of the actions of an exploitative employer.

21. Examples of how secure reporting has been operationalised in different countries have been documented by the Labour Exploitation Advisory Group.¹⁷ For example:

- a. In Sao Paulo, Brazil, labour inspectors found that separating their work from that of immigration enforcement authorities was “essential to preventing severe abuses”;¹⁸
- b. A similar approach was introduced by the police force in the Netherlands in 2015;¹⁹
- c. In the U.S., the Department of Labour and Homeland Security previously entered into a Memorandum of Understanding to ensure that their worksite based enforcement activities did not conflict - namely, that

immigration enforcement “will not interfere with employment and labour rights enforcement in the workplace”; and²⁰

- d. In Australia, the government has committed to consult with business, unions and civil society on strengthening the firewall between the Fair Work Ombudsman and the Department of Home Affairs.²¹

22. Importantly, the government already recognises the importance of secure reporting as a concept. The government’s recent response to the House of Lords Modern Slavery Act 2015 review suggests that secure reporting is being considered as part of the new Fair Work Agency envisaged by the Employment Rights Bill.²² However, the new Fair Work Agency is unlikely to be up and running before late 2026, and there will undoubtedly be teething issues as the UK moves towards having a single enforcement body for employment rights. Exploited migrant workers cannot wait 2 or more years to feel safe enough to report exploitation and it is imperative that the government makes this change as a matter of urgency in this Bill.

Repealing the illegal working offence

23. Another area for reform the Bill should address is the illegal working offence. The government’s focus on clamping down on those individuals who may be committing the illegal working offence risks shutting out an understanding of how people move into undocumented status in the first place. For example, many workers targeted by illegal working visits are likely to have been forced into illegal work through coercion by an exploitative sponsor or because of compliance action taken against sponsors by the Home Office (which negatively impacts workers’ immigration status in the UK). For example, in July 2024, information from the Association of Directors of Adult Social Services’ National Data Hub indicated that over 11,000 international recruits in the care sector had been affected by the revocation of their employer’s sponsor licence, while over 7,000 recruits had been affected by suspension.²³

24. In these circumstances, the offence of illegal working is problematic because it stifles the ability of exploited workers to report labour exploitation without risking reprisal by the state. It also places immigration enforcement at a higher level of priority than tackling exploitation. For example, a previous report by the Independent Chief Inspector of Borders and Immigration found that a sample of case records of illegal working enforcement contained indicators of exploitation, but none “contained any evidence for further interviews or investigations to explore this”.²⁴ Nor does the system of civil penalties that accompanies the illegal working regime act as an efficient deterrent for

employers looking to abuse workers - a recent investigation found that 12 car wash companies who were fined more than £650,000 for hiring workers with irregular migration status had only paid £33,750 of fines owed.²⁵

25. Other states have begun to recognise that criminalising work when exploited migrant workers have no other means of supporting themselves and few paths to regularise their immigration status is a futile exercise and does little but to hide exploitation from the view of state enforcement bodies. Australia, for example, recently passed a law repealing the criminal offence of working in breach of visa conditions or working after the expiry of a visa, confirming that workplace protections apply to all workers.²⁶ The UK should follow suit and abandon this measure which targets the victims instead of the perpetrators of abuse.

Recommendations

Our recommendations are to amend the Bill to:

- **Introduce a new Workplace Justice Visa that allows exploited migrant workers to lawfully stay and work in the UK while they enforce their employment rights;**
- **Institute firewalls between immigration enforcement authorities and labour market enforcement & other agencies that may report an individual's immigration status in the regular course of their work; and**
- **Repeal the illegal working offence.**

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³ Dr Noemi Magugliani, John Trajer and Dr Jean-Pierre Gauci, "Assessing the Modern Slavery Impacts of the Nationality and Borders Act: One Year On", June 2024, 37, https://www.antislavery.org/wp-content/uploads/2024/06/NABA_report_ATMG_FINAL.pdf

⁴ Jovanovic, 30.

⁵ Joint Committee on Human Rights, Legislative Scrutiny: Illegal Migration Bill, "Written Evidence by the GRETA (IMB0024) to the JCHR enquiry", §15-16, <https://committees.parliament.uk/writtenevidence/119915/pdf/>.

⁶ Joint Committee on Human Rights “Legislative Scrutiny: Nationality and Borders Bill (Part 5) - Modern Slavery”, 15 December 2021, 3,
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¹⁵ Business and Trade Committee, Make Work Pay: Employment Rights Bill, HC 370, “Oral evidence by Eleanor Lyons, UK Independent Anti-Slavery Commissioner; and Margaret Beels OBE, Director of Labour Market Enforcement at the Department for Business and Trade”, 7,
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