



FEBRUARY 2025

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BRIEFING

The Border Security, Asylum and Immigration Bill

Why it fails exploited migrant workers, and three changes that can address it

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ABOUT THIS PUBLICATION

After much anticipation, the government has finally released details of its Border Security, Asylum and Immigration Bill.

This briefing details the main aspects of the new legislation, what it will mean for exploited migrant workers in the UK and what amendments should be made to the bill to better protect those most at risk of exploitation in the labour market.

We welcome feedback at research@workrightscentre.org

ABOUT WORK RIGHTS CENTRE

Work Rights Centre is a registered charity dedicated to supporting migrant workers and disadvantaged British residents to access employment justice and improve their social mobility. We do this by providing free and confidential legal advice, and by campaigning to address the systemic causes of labour and social injustice.

Suggested citation: Sehic, A. (2025). Protecting borders, exploiting workers: How the new Border Security Bill fails exploited migrant workers . Work Rights Centre [Available online]
<https://www.workrightscentre.org/publications/2025/what-does-the-border-security-asylum-and-immigration-bill-mean-for-exploited-migrant-workers/>

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1. Introduction

In [the King's Speech](#) delivered on 17 July 2024, the Labour government signalled its intention to pass a new flagship immigration bill to “modernise the asylum and immigration system, establishing a new Border Security Command and delivering enhanced counter terror powers to tackle organised immigration crime”. On 30 January 2025 we finally got sight of this new legislation as the government introduced the [Border Security, Asylum and Immigration Bill](#) in Parliament.

In this briefing we examine some of the key features of the bill and what it will mean for exploited workers. We argue that while the bill removes some of the most draconian policies of the previous government, including the proposal to send asylum seekers to Rwanda and exclude people arriving in the UK irregularly from accessing modern slavery protections, it does nothing to mitigate the risk of exploitation under the work sponsorship system. This is an important oversight given the number of workers exploited by their visa sponsors, but also an area where other countries have successfully adopted worker safeguards. We conclude with a review of three key policies that would enable this bill to plug the gap in worker protections.

2. What does the bill contain?

Much of the focus in the legislation is on tackling “irregular migration” and serious crime, including immigration crime. To facilitate this, one of the central aspects of the bill is to codify the role and responsibilities of the new Border Security Commander into law. The Command, which [was established on 5 July 2024](#) and is led by Martin Hewitt CBE QPM, is designed to provide strategic direction across various government bodies and agencies to protect the UK's borders and to crack down on smuggling gangs which have been facilitating small boat crossings.

Similarly, the bill creates new offences. Firstly, a new set of offences have been created for those individuals supplying or handling items suspected for use in organised immigration crime. The provisions here are drafted broadly, presumably to catch individuals supplying materials required for small boat crossings such as mobile phones and rubber dinghies. However, they exclude very basic necessities such as food, drink and clothing. A new aggravated offence is also created for individuals who arrive in the UK unlawfully by water from France, Belgium or Netherlands and do something during the journey that causes or creates the risk of death or serious personal injury to another person.

Some ancillary powers have also been strengthened. For example, the ability for law enforcement officials to seize and search electronic devices carried by those arriving unlawfully for material related to immigration crime have been enhanced. HMRC now also has a greater ability to share customs information with a wider range of stakeholders like government departments and immigration officers, while trailer registration information can be supplied to the Home Secretary for immigration and law enforcement purposes.

As far as the asylum and immigration system more generally, there are some broader changes. Given Labour's opposition to the Rwanda Scheme, it is no surprise to see that the Safety of Rwanda (Asylum and Immigration) Act 2024 is repealed in its entirety. Only certain sections of the Illegal Migration Act 2023 have been repealed. [The government's explainer](#) of the bill suggests that the provisions that have been kept - including changes to the modern slavery framework (discussed below), the inadmissibility of certain asylum and human rights claims and the cap on the number of entrants using safe and legal routes - have been retained because of "operational benefits". Smaller changes regarding the term of the Immigration Services Commissioner, detention for those facing deportation and the taking of biometric information are also made.

3. How are exploited migrant workers going to be affected by the bill?

Media coverage in the run-up to the introduction of the Bill seemed to suggest that the government was going to retain provisions in the Illegal Migration Act 2023 that excluded modern slavery protections and support for victims arriving in the UK irregularly. Happily, this is not the case, and the [Home Office have confirmed](#) that "migrant victims of modern slavery who are in need of support will be able to access it, regardless of their method of arrival".

However, the bill does retain section 29 of the Illegal Migration Act 2023, which amends section 63 of the Nationality and Borders Act 2022. This makes 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.

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.

[As Dr. Marija Jovanovic of the Modern Slavery Policy & Evidence Centre \(MSPEC\) points out](#), the effect of section 29 is to potentially "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." Fundamentally, the provision undermines international law in this area, namely 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). Therefore, it should have been repealed by the new bill, along with [other offending provisions in the Nationality and Borders Act 2022](#).

4. Three measures that could improve worker safeguarding

Despite mounting evidence of migrant worker exploitation, nothing in the bill seeks to provide workers with greater protection or flexibility to leave exploitative workplaces whilst safeguarding their immigration status in the UK. This is a gaping omission - just a few weeks ago, [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).

The Work Rights Centre and other migrants' rights organisations have been campaigning for years for targeted reforms to plug this gap in worker protection. Three key measures could provide these vital safeguards.

4.1. Give exploited workers a Workplace Justice Visa

We've [previously called](#) for the government to investigate how it could pilot a similar initiative to the [Australian-style "Workplace Justice Visa"](#), a measure 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. Other countries such as Canada, Ireland, and New Zealand provide similar protections, to mitigate the risk of migrant worker exploitation by their visa sponsors.

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 orgs capable of providing workers with legal advice and support in their case).

This visa would have several benefits for workers, legitimate employers and labour market enforcement agencies:

- 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;
- Employers would be discouraged from exploiting, in the knowledge that workers could more easily report their transgressions;
- Legitimate businesses would no longer be undercut by rogue competitors who make a profit by exploiting their migrant workforce;

- Labour market enforcement authorities would have greater oversight of the true scale of migrant worker exploitation, which has previously been more opaque; and
- 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.

The call to explore the feasibility of a UK Workplace Justice Visa has also been echoed recently [by the Independent Anti-Slavery Commissioner and the Director for Labour Market Enforcement](#) in oral evidence given to the Business and Trade Select Committee. This bill should heed that call.

4.2. Prevent automatic data-sharing to safeguard migrant workers

Frustratingly, 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.

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.

Examples of how secure reporting has been operationalised in different countries has been documented [by the Labour Exploitation Advisory Group](#). For example:

- [In Sao Paulo, Brazil](#), labour inspectors found that separating their work from that of immigration enforcement authorities was “essential to preventing severe abuses”.
- A similar approach was introduced by the police force in the [Netherlands](#) in 2015.
- [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”.
- [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.

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. 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 a minimum of 2 years to feel safe enough to report exploitation and it is imperative that the government makes this change as a matter of urgency.

4.3. Reverse the criminalisation of work in the Immigration Act 2016

Between being elected and 4 January 2025, [the government has increased the number of illegal working visits by 32% and arrests have also increased by 29% compared to the same period 12 months prior](#). This is problematic because many of the workers targeted by these visits are likely to have been forced into illegal work through the actions of a 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.

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". 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.

Other states have begun to recognise that criminalising work, particularly when migrant workers have no other means of supporting themselves, 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.

What next?

The bill is scheduled to have its second reading in the House of Commons on Monday 10 February where MPs from all parties will have an opportunity to debate its contents before proceeding to the committee stage.

As the government's flagship immigration bill, this represents an important moment of change for our immigration and asylum systems. We will be using this opportunity to advocate for reforms to the migration system that better protect all migrant workers and ensure that perpetrators are properly held to account for any abuse and exploitation that they cause. If you want to join forces, please get in touch with our policy team.