SMUGGLING OF MIGRANTS BILL, 2025

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SMUGGLING OF MIGRANTS BILL, 2025

A BILL FOR AN ACT TO STRENGTHEN BORDER SECURITY AND INTERNATIONAL COOPERATION TO PREVENT AND COMBAT MIGRANT SMUGGLING, TO PROVIDE MEASURES FOR THE PROTECTION OF SMUGGLED MIGRANTS, TO PRESCRIBE PENALTIES FOR OFFENCES OF MIGRANT SMUGGLING, AND FOR MATTERS CONNECTED THEREWITH.

Enacted by the Parliament of The Bahamas

PART I – PRELIMINARY

1. Short title and commencement.

(1) This Act shall be cited as the Smuggling of Migrants Act, 2025.

(2) This Act shall come into operation on the date appointed by the Minister by notice published in the *Gazette*.

2. Interpretation.

(1) In this Act, unless the context otherwise requires —

"authorized officer" means a person authorized to enforce the provisions of this Act;

"authorized port" means a port designated as an authorized port under the provisions of section 4 of the Immigration Act (*Ch. 191*);

"child" means a person under the age of eighteen years;

"commercial carrier" means a person who engages in the transportation of goods or people for commercial gain;

"conveyance" means a method of transporting goods or people, by land, water or air;

"financial or other material benefit" includes financial or non-financial inducement, payment, bribe, reward, advantage, or service, including sexual service;

"harbouring" means the act of concealing, sheltering, or shielding smuggled migrants from lawful authority;

"illegal entry" means entering the territorial waters of The Bahamas from a place outside The Bahamas, without complying with the requirements for legal entry into The Bahamas;

"illegal landing" means to arrive in The Bahamas from outside The Bahamas at a place other than an authorized port and to remain in The Bahamas without the leave of an Immigration Officer;

"landing" means to arrive in The Bahamas from outside The Bahamas at an authorized port and to remain in The Bahamas with the leave of an Immigration Officer;

"legal resident" means a person who has legal status under the Immigration Act Chapter 191 of The Bahamas;

"migrant" means a person who voluntarily or involuntarily moves residence temporarily or permanently from one country to another country;

"Minister" means the Minister with responsibility for National Security;

"national" means a person who is a citizen of a State, or who has a connection with that State of a kind which entitles the person to be regarded as belonging to, or being a native or resident of the State for the purposes of the immigration laws of that State;

"non-refoulement" means the prohibition against returning a migrant to countries where —

(a) the migrant's life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion, in accordance with the 1957 Convention Relating to the Status of Refugees;

(b) the migrant would risk of torture, inhuman and degrading treatment or other forms of irreparable harm, in accordance with the 1987 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; or

(c) the migrant would risk enforced disappearance under the 2010 International Convention for the Protection of All Persons from Enforced Disappearance;

"Protocol" means the UN Doc. A/RES/55/25, Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime;

"Protocol State" means a State party to the Protocol including The Bahamas;

"refoulement" means an action having the effect of returning an individual to a State, by expulsion, deportation, extradition, rejection at a port of entry or border, extraterritorial interception or physical return;

"serious crime" means an offence punishable with imprisonment for a term of four years or more;

"smuggling of migrants" "smuggles a migrant" means to obtain directly or indirectly, a financial or other material benefit, for procuring the illegal entry or illegal landing of a person —

(a) into or through The Bahamas, where the person is not a citizen or a legal resident of The Bahamas; or

(b) into another country where, the person is a citizen or legal resident of The Bahamas, but is not a citizen or legal resident of the other country;

(c) into another country from or through The Bahamas, where the person is not a citizen or legal resident of The Bahamas, and is not a citizen or legal resident of the other country;

"smuggled migrant" means a person who is the object of smuggling prohibited under sections 5 and 6 of this Act, regardless of whether the perpetrator is identified, apprehended, charged, prosecuted or convicted;

"unaccompanied child" means a child who is separated from his parents, or other relatives, and is not being cared for by an adult who by law, is responsible for doing so; and

"vessel" means a type of watercraft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water, except a warship, naval auxiliary or other vessel owned or operated on non-commercial government service.

3. Application of the Act.

(1) This Act shall be interpreted and applied in a way that —

(a) is not discriminatory, and upholds the protections and fundamental rights and freedoms of the individual under the Constitution of The Bahamas;

(b) is consistent with the principle of non-refoulement;

(c) accounts for the special needs of smuggled migrants, in particular women and children and other migrants with special needs.

(2) This Act shall apply to all forms of smuggling of migrants, whether the smuggling of migrants relates to an organized criminal group or not.

4. Jurisdiction.

(1) This Act applies whether the conduct constituting the offence took place inside or outside The Bahamas and whatever the nationality of the offender, where —

(a) The Bahamas is the receiving country to which a person is smuggled, or the transit country through which a person is smuggled; or

(b) a foreign country is the receiving country or transit country but the smuggling of migrants commences in The Bahamas or transits through The Bahamas.

(2) This Act shall also apply to any offence established under this Act when —

(a) the smuggled migrant is a national or legal resident of The Bahamas;

(b) the offence is committed by a national or legal resident of The Bahamas;

(c) the offence is committed outside the territory of The Bahamas for the purpose of committing a serious crime within the territory of The Bahamas.

PART II – OFFENCES

5. Smuggling of Migrants.

(1) A person who engages in the smuggling of migrants commits the offence of smuggling.

(2) For the purposes of subsection (1), a person procures or attempts to procure the illegal entry or illegal landing of a migrant if the person —

(a) procures, provides, possesses, or attempts to procure, provide, or possess, a fraudulent travel or identity document for a migrant;

(b) produces or attempts to produce a fraudulent travel or identity document to facilitate the travel of a migrant;

(c) arranges the illegal entry or illegal landing of a migrant into, The Bahamas from or through a Protocol State;

(d) arranges the illegal entry or illegal landing of a migrant into a Protocol State from or through The Bahamas;

(e) conceals or attempts to conceal a migrant in an aircraft, vessel, vehicle, in luggage, a compartment, or other container;

(f) creates hidden compartments in premises, aircraft, vessels, or vehicles or possesses other equipment or materials for the purpose of illegally transporting migrants into a Protocol State of which the migrant is not a national or a permanent resident; or

(g) communicates or coordinates with others to establish and execute plans for procuring the illegal entry or illegal landing of migrants.

(3) A person who commits an offence of smuggling under subsection (1) is liable —

(a) on summary conviction, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding seven years or to both; and

(b) on conviction on information, to a fine not exceeding two hundred thousand dollars or to imprisonment for a term not exceeding ten years or to both.

(4) A person who, at the time of committing an offence of smuggling under subsection (1) —

(a) endangers, or acts in a way which is likely to endanger, the life or safety of a migrant;

(b) tortures, or subjects a migrant to inhuman or degrading treatment;

(c) subjects a migrant to exploitation, including sexual exploitation;

(d) has been previously convicted of an offence under this Part;

(e) smuggles a group of ten or more migrants;

(f) is a public officer in the Government of The Bahamas acting in his official capacity at the time, and abuses that position;

(g) causes serious injury or death to a migrant or another person, including death by suicide;

(h) subjects a migrant to physical or mental abuse;

(i) is involved in an organized criminal group and the offence is a result of the activity of the organized criminal group;

(j) is under the influence of drugs, or uses weapons in the commission of smuggling migrants;

(k) was, at the relevant time, a public official and abused his position as a public official;

(l) smuggled a migrant who was a child at the relevant time;

(m) uses a child as an accomplice or participant in the offence;

(n) smuggles a migrant who is pregnant;

(o) smuggles a migrant who has an intellectual or physical disability;

(p) uses or threatens to use violence against a migrant or his family; or

(q) confiscates, destroys or attempts to destroy the travel or identity documents of a migrant,

commits the offence of smuggling with aggravation and is liable to the penalty under subsection (5).

(5) A person who commits an offence of smuggling with aggravation under subsection (4) is liable —

(a) on summary conviction, to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding seven years or to both; and

(b) on conviction on information, to a fine not exceeding three hundred thousand dollars or to imprisonment for a term not exceeding fifteen years or to both.

(6) A person who is convicted on information of an offence under this section and is the owner of the aircraft, vessel, or vehicle, used in the commission of the offence, is liable to the relevant penalty under this section and to a fine not exceeding three thousand dollars for each migrant smuggled, and the aircraft, vessel, or vehicle used in the commission of the offence is liable to be seized, forfeited and proceeded against under the Customs Management Act (*Ch.293).*

(7) For the purposes of this section, a court may consider, when sentencing for offences under this Part, whether the accused person has cooperated in the investigation or prosecution of the offence.

(8) In this section —

(a) "**fraudulent travel or identity document"** means a travel or identity document that —

(i) is falsely made or altered in a material way by a person other than a person lawfully authorized to make, issue or alter the travel or identity document;

(ii) is issued or obtained through fraud, misrepresentation, bribery or other unlawful manner without the authorization of the issuing jurisdiction;

(iii) is improperly used by a person other than the rightful holder; and

(b) **"vessel"** means a type of water-craft capable of being used for transportation on water.

6. Organizing, directing, aiding and abetting.

(1) A person who organizes or directs another person to commit an offence under section 5, commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding seven years.

(2) A person who aids and abets another person to commit an offence under section 5, commits an offence and is liable on summary conviction to a fine not exceeding one hundred and fifty thousand dollars or to imprisonment for a term not exceeding seven years.

7. Enabling illegal stay of smuggled migrant.

A person who, in order to obtain directly or indirectly a financial or other material benefit, procures, facilitates or promotes, or attempts to procure, facilitate or promote the actual or intended stay in The Bahamas or in a Protocol State of a smuggled migrant, commits an offence and is liable on summary conviction to a fine not exceeding two hundred thousand dollars or to imprisonment for a term not exceeding seven years or to both.

8. Harbouring or attempting to harbour smuggled migrants.

A person who intentionally harbours, or attempts to harbour, a smuggled migrant —

(a) to obtain, directly or indirectly, a financial or other material benefit; and

(b) to prevent the apprehension of the smuggled migrant,

commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding two years or to both.

9. Abetment and criminal conspiracy.

A person who abets or conspires to commit an offence under section 8, commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding two years or to both.

10. Ancillary penalties.

Where a person is convicted of an offence under this Act, a court may, in addition to any other penalty imposed under this Act and subject to the Proceeds of Crime Act, 2018 (*No. 4 of 2018*) order the following —

(a) confiscation of assets, proceeds and instruments of smuggling;

(b) payment of restitution or compensation to smuggled migrants; or

(c) any other penalty or action which the court deems appropriate.

11. Immunity from prosecution of smuggled migrants.

Without prejudice to the applicability of any other law establishing criminal a offence, a smuggled migrant shall not be liable to criminal prosecution under this Act, in respect of —

(a) illegal entry into the receiving country or transit country;

(b) remaining illegally in the receiving country or transit country; or

(c) possessing a fraudulent travel or identity document,

where such act is a direct consequence of the smuggling of the migrant alleged to have been committed, or found to have been committed by a court, and the migrant is a victim of that criminal conduct prohibited under this Part.

12. Duties of Master, Captain or Agent of a Conveyance.

(1) A master, captain or agent of a conveyance who fails to verify that every passenger on the conveyance possesses the relevant identity and travel documents required to enter The Bahamas, commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars.

(2) A master, captain or agent of a conveyance who fails to notify the competent authorities that a person has attempted to travel, or has travelled on that conveyance without the identity and travel documents required to enter The Bahamas, commits an offence and, in addition to any other penalty provided in any other written law, is liable on summary conviction to a fine not exceeding one hundred and fifty thousand dollars.

(3) A master, captain or agent of a conveyance is not liable to a fine under this section if —

(a) he believed on reasonable grounds that the identity and travel documents presented by the passenger were the identity and travel documents required for lawful entry into The Bahamas;

(b) the passenger presented the required identity and travel documents for lawful entry into The Bahamas when boarding the conveyance for travel to The Bahamas;

(c) the entry into The Bahamas resulted from a rescue at sea, or circumstances beyond the control of the master, captain or agent of the conveyance; or

(d) the passenger transported is provided protection against refoulement, or is provided access to asylum.

13. Facilitating entry or stay for justice processes.

The Minister may grant a temporary residence permit to a smuggled migrant in order to facilitate the investigation or prosecution of an offence under this Act, or to facilitate the migrant's recovery or rehabilitation.

14. Proof of illegal entry, landing or stay.

A person charged with an offence under section 5, is presumed to know that the entry, or landing of a migrant in The Bahamas or in another Protocol State, of which he is not a citizen or legal resident, is illegal unless the person charged proves to the court on a balance of probabilities that he did not know and was not reckless to the fact that the entry, or landing of the migrant was illegal.

PART III – PROTECTION AND ASSISTANCE FOR VICTIMS

15. Right to urgent medical care.

(1) Smuggled migrants shall have the right in The Bahamas, to receive urgent medical care required for preservation of life or avoidance of harm to health.

(2) The medical care under subsection (1) shall not be refused by reason of an irregularity in the migrants' entry or stay in The Bahamas.

16. Protection of smuggled migrants against violence.

(1) The Minister shall take appropriate measures to afford smuggled migrants adequate protection against violence, whether by individuals or groups, by reason of their status as smuggled migrants.

(2) The measures referred to in subsection (1) shall include the special needs of women and children who are smuggled migrants.

17. Assistance to smuggled migrants whose lives are in danger.

(1) The Minister shall afford appropriate assistance to smuggled migrants whose lives are endangered because of being the victims of smuggling.

(2) The Minister shall consider the special needs of women and children who are smuggled migrants when granting the assistance referred to in subsection (1).

18. Civil Proceedings.

(1) A smuggled migrant subjected to violence, torture or other cruel, inhuman, or degrading treatment or punishment, or to threats to his life or safety as a result of being the victim of an offence under this Act, shall

have the right to institute civil proceedings to claim damages for harm suffered as a result of smuggling, against the person who smuggled the migrant.

(2) The right to pursue civil proceedings for damages shall not be affected by on-going criminal proceedings in connection with the same acts from which the civil claim derives.

(3) The immigration status of a smuggled migrant, or the absence from the jurisdiction of the smuggled migrant due to the return of the smuggled migrant to his home country, or due to any other reason, shall not prevent the court from ordering payment of compensation under this section.

19. Other rights of smuggled migrants.

The Minister shall afford smuggled migrants the right to privacy and confidentiality, and to amenities, including, the provision of food, clothing, shelter, documentation, and interpretation and translation services.

20. Smuggled migrants who are children.

(1) In addition to other protections provided for in this Act, in all actions by government officials, agencies and the courts concerning smuggled migrants who are children, the primary consideration shall be the best interests of the child.

(2) Where the age of a smuggled migrant is uncertain and there are reasons to believe that the smuggled migrant may be a child, the smuggled migrant shall be presumed to be a child pending verification of his age.

(3) An interview or examination of a smuggled migrant who is a child shall be conducted by a specially trained professional, in a suitable environment, in a language that the child uses and understands and in the presence of the child's parent, or legal guardian or an appropriate support person assigned or approved by the Minister responsible for Social Services.

(4) Smuggled migrants who are children shall have the right to access education, which shall not be refused or limited by reason of their irregular status, entry or situation in The Bahamas, or their situation or that of their parents in The Bahamas in accordance with the Immigration (Detention Centres) Regulations 2023.

(5) Smuggled migrants who are children shall be placed under the care of the Department of Immigration with the assistance of the Department of Social Services in accordance with the Immigration (Detention Centres) Regulations 2023.

(6) If a smuggled migrant is an unaccompanied child, the Minister shall —

(a) make application to a court for the appointment of a legal guardian to represent the interests of the child;

(b) take all necessary steps to establish his identity and nationality; and

(c) make every effort to locate the child's family for the purpose of facilitating family reunification where this is in the best interests of the child.

21. Access to consular officials for smuggled migrants.

(1) Where a smuggled migrant is arrested or detained, the arresting or detaining authority shall, without delay, inform the smuggled migrant of his right to communicate with consular officers, and all reasonable steps shall be taken by the arresting or detaining authority to facilitate communication between the smuggled migrant and consular officers.

(2) Where the smuggled migrant expresses interest in communicating with consular officers, the arresting or detaining authority shall notify the relevant consular officers that a national of their State is arrested or detained, provide to the consular officers, the location where the smuggled migrant is being held, and facilitate communication between the relevant consular officers and the smuggled migrant.

(3) If a smuggled migrant indicates that he does not want to have communication with the relevant consular officers, his choice is to be respected.

(4) A smuggled migrant arrested or detained under subsection (1) may —

(a) be given an option of an alternative to detention until his case is resolved;

(b) receive visits from consular officers of his State;

(c) converse and correspond with consular officers of his State;

(d) receive communications sent by his consular officers without delay;

(e) consult a counsel and attorney of his choosing;

(f) receive free legal assistance;

(g) be given interpretation and translation services; and

(h) be provided with other services as may be appropriate to the particular circumstances of the smuggled migrant.

(5) The consent of a smuggled migrant to receive or not to receive visits from a consular officer, pursuant to subsection (4), shall be communicated by the smuggled migrant in writing and kept on record.

PART IV – COORDINATION AND COOPERATION

22. Responsibilities of the Minister.

The Minister shall —

(a) oversee and coordinate the implementation of this Act with the assistance of the Minister responsible for Immigration;

(b) take necessary steps to issue appropriate orders required to give effect to the provisions of this Act;

(c) develop policy, set guidelines, establish procedures and other measures to facilitate the implementation of this Act;

(d) make regulations for carrying out the aims and objectives of this Act;

(e) develop a national plan of action to ensure comprehensive and effective implementation of this Act;

(f) establish a process of periodic review of the achievement of aims and objectives of this Act;

(g) facilitate inter-agency and multi-disciplinary cooperation between government agencies including the Ministry of Social Services, international organizations and non-governmental organizations;

(h) facilitate cooperation with relevant States of origin, transit and destination, in particular border control agencies of relevant States;

(i) disseminate information and materials, and provide training to professionals, including immigration officers, defence force officers, police officers, officers of the Coast Guard of other States, and other law enforcement officers, on the smuggling of migrants to assist them in preventing and combating the smuggling of migrants, and in protecting and preserving the rights of smuggled migrants;

(j) develop programmes and disseminate public information to increase public awareness of the incidence of the criminal activity of smuggling of migrants and of the serious threat to the safety of smuggled migrants, as perpetrated by organized criminal groups for profit; or

(k) promote and strengthen development programmes and cooperation at the national level, to combat the root socio-economic causes of the smuggling of migrants.

PART V - COOPERATION REGARDING THE SMUGGLING OF MIGRANTS AT SEA

23. Extended Jurisdiction.

In addition to the jurisdiction provided under Part I, this Act shall apply to an offence established under this Act and is committed outside The Bahamas on a vessel reasonably suspected of being engaged, directly or indirectly, in the smuggling of migrants by sea if —

(a) the vessel is without nationality or may be assimilated to a vessel without nationality;

(b) the vessel, although flying a foreign flag or refusing to show a flag, is in reality a vessel without nationality; or

(c) the vessel is flying the flag or displaying the marks of registry of a Protocol State other than The Bahamas.

24. Designation of competent national authority.

(1) For the purpose of facilitating cooperation between The Bahamas and other Protocol States to prevent and suppress the smuggling of migrants, the Minister shall designate in writing, an authority or authorities —

(a) to receive and respond to requests for assistance from Protocol States;

(b) to transmit requests for assistance to Protocol States; and

(c) to receive and transmit requests for confirmation of registry or of the right of a vessel to fly a flag other than the flag of The Bahamas, if the vessel is flying the flag or displaying the marks of registry of a Protocol State other than The Bahamas.

(2) The Minister shall afford requests under subsection (1), the widest measure of mutual legal assistance by The Bahamas.

25. Conditions and limitations on the exercise of special enforcement powers by authorized officers.

(1) Powers conferred on authorized officers under this Act shall be exercisable in relation to a vessel described in section 26 or section 28 for the purposes of detecting and taking appropriate action regarding the smuggling of migrants.

(2) The powers under section 26 and 28 shall not be exercised in relation to a vessel beyond the limits of the territorial sea of The Bahamas and flying the flag or displaying the marks of registry of another Protocol State except where —

(a) The Bahamas is exercising its right of control in its contiguous zone or the right of hot pursuit; or

(b) the Minister has given authority to exercise those powers.

(3) The Minister shall not give the authority under subsection (2)(b) unless he is satisfied that —

(a) the Protocol State has requested the assistance of The Bahamas for the purposes of detecting or preventing the smuggling of migrants and taking appropriate action; or

(b) the Protocol State has authorized The Bahamas to act for that purpose.

(4) The powers conferred on authorized officers under this section shall not be exercised in the territorial sea of another State without the authority of the Minister, who shall not give such authority unless that other State has consented to the exercise of those powers.

26. Operational framework for measures at sea.

(1) A measure taken at sea under this Part shall be carried out only by ships or aircraft operated by The Bahamas Customs, Defence Force, Police Force, or by a coastguard of a Protocol State, that are clearly marked and identifiable.

(2) When taking measures against a vessel under this provision, an authorized officer is required to take all necessary steps to —

(a) afford migrants protection against violence that may be inflicted upon them, whether by individuals or groups;

(b) assist migrants whose lives or safety are endangered;

(c) ensure the special needs of migrant women and children are taken into account;

(d) ensure the safety and humane treatment of all people on board a vessel;

(e) ensure that the measures taken are compliant with human rights of migrants, the humanitarian obligations towards migrants, including the right of migrants to leave a country, the right to seek asylum, to seek international protection, and the right to pursue the protection of non-refoulement;

(f) ensure not to endanger the security of the vessel or its cargo;

(g) ensure that the commercial or legal interests of the flag State or any other interested State are not prejudiced; and

(h) ensure, within available means, that a measure taken regarding the vessel is environmentally sound.

27. Safeguards in relation to danger to lives at sea.

Nothing in this Act affects the obligation of The Bahamas and of a person to conduct search and rescue operations and render assistance to those lost or in distress at sea without discrimination, and to promptly disembark migrants rescued at the nearest place of safety.

28. Compensation for loss or damage.

The owner of a vessel in respect of which measures are taken at sea under section 26 is entitled to reasonable compensation for loss or damage sustained because of measures taken, where the measures are unauthorized under this Act.

29. Indemnity of Government officials.

No suit, prosecution or other proceedings shall lie against the Government or an officer of the Government for anything done in good faith under this Act, or regulations made thereunder.

PART VI - PROCESSES RELATED TO THE RETURN OF SMUGGLED MIGRANTS

30. Referral of migrants with specific protection needs.

(1) In performing functions under this Part, the Minister shall ensure that smuggled migrants seeking asylum for international protection under the Convention relating to the Status of Refugees or international law, are quickly referred to the appropriate authorities.

(2) The Minister shall ensure that the Office of the United Nations High Commissioner for Refugees is given the necessary access to smuggled migrants who are asylum-seekers.

31. Legitimacy and validity of documents.

The Minister shall, at the request of the appropriate authority or representative of another Protocol State, verify within a reasonable time, the legitimacy and validity of travel or identity documents issued or purported to have been issued in the name of The Bahamas.

32. Facilitating the return of smuggled migrants.

The Minister shall —

(a) at the request of the appropriate authority or representative of another Protocol State, verify without undue or unreasonable delay

whether a smuggled migrant is a national or has the right of residence in that other State;

(b) at the request of the appropriate authority or representative of another Protocol State, facilitate the issue of documents or other authorisation as necessary to enable a smuggled migrant who is either a national of that other State or who has a right of residence in that State, to travel to, transit or re-enter that State; and/or

(c) at the request of the appropriate authority or representative of another Protocol State, of the smuggled migrant or of his own initiative, facilitate without undue or unreasonable delay, the return to that other State of a smuggled migrant who is a national of, or who has the right of residence in, that other State at the time of entry into The Bahamas.

33. Protection of smuggled migrants in the return process.

(1) The Minister shall ensure that a planned or actual return of a smuggled migrant is consistent with International Human Rights Law, Refugee Law and Humanitarian Law, as well as the rights and freedoms under the Constitution.

(2) In facilitating the return of smuggled migrants, the Minister shall take appropriate measures to ensure that a planned or actual return of smuggled migrants occurs in an orderly manner and with due regard for the safety and dignity of the migrants.

(3) Efforts shall be made to limit the use of force in the return process and the only acceptable forms of restraint are those which are reasonable and proportional to the resistance of the migrant.

34. Protection of existing legal arrangements for smuggled migrants.

Nothing in this Part prejudices a right or remedy afforded or available to a person who is the victim of an offence related to the smuggling of migrants under —

(a) another law; or

(b) obligations under a bilateral or multilateral treaty, or under a bilateral or multilateral operational agreement which provide for the return of people who are victims of smuggling.

PART VII – MISCELLANEOUS

35. Prevailing law.

(1) The provisions of this Act shall be in addition to, and not in derogation of, the provisions of other written law relating to smuggling of migrants.

(2) In the event of a conflict or inconsistency between the provisions of this Act and those of other written laws, the provisions of this Act shall prevail and the conflicting or inconsistent provisions of the other written laws shall, to the extent of the conflict or inconsistency, be deemed to be superseded.

36. Offence by body corporate.

Where a body corporate is charged with an offence against a provision of this Act, and it is proved that the offence was committed with the consent, connivance, or neglect of —

(a) a director, manager, secretary or other officer of the body corporate;

(b) a person purporting to act in the capacity of a director, manager, secretary or other officer of the body corporate; or

(c) a person assisting in the management of the body corporate,

that person, as well as the body corporate, commits the offence against the relevant provision of this Act and is liable to the punishment specified for the commission of the offence.

37. Regulations.

The Minister may make regulations for carrying out the provisions of this Act.

OBJECTS AND REASONS

The Smuggling of Migrants Bill, 2025, makes provision, inter alia —

(a) to criminalize and punish the smuggling of migrants;
(b) to protect the rights of smuggled migrants;
(c) to promote border security;
(d) to strengthen inter-agency and international Cooperation; and
(e) to fulfill international obligations.

Clause 1 of the Bill makes provision for the short title and commencement of the Bill.

Clause 2 of the Bill makes provision for the clarification and interpretation of the meaning of key terms and expressions used in the Bill.

Clause 3 of the Bill provides for its application to all forms of smuggling of migrants.

Clause 4 of the Bill makes provision for The Bahamas to exercise jurisdiction over smuggling offences whether committed inside or outside The Bahamas, where The Bahamas is the receiving country to which a person is smuggled, or the transit country through which a person is smuggled or where the smuggling of migrants commences in The Bahamas and transits through The Bahamas.

Clauses 5, 6, 7, 8, and 9 make provision for migrant smuggling offences.

Clause 10 establishes circumstances which are aggravating and are taken into account when determining the appropriate sentences for the offences of smuggling migrants under clauses 5, 6, 7, 8, and 9.

Clause 11 makes provision for ancillary penalties that may be imposed by a court, upon conviction of the offences of smuggling migrants including confiscation of assets, payment of restitution or compensation or other penalties the court deems appropriate.

Clause 12 provides for immunity from prosecution of smuggled migrants.

Clause 13 provides for the duties of master, captain or agent of a conveyance who carries passengers to The Bahamas.

Clause 14 facilitates the entry or stay of smuggled migrants for the purpose of justice processes through the issuance of a temporary residence permit at the discretion of the Minister.

Clause 15 provides for urgent medical care to smuggled migrants.

Clause 16 protects smuggled migrants against violence.

Clause 17 makes provision for assistance to smuggled migrants whose lives are in danger.

Clause 18 makes provision for the institution of civil proceedings by the smuggled migrant subjected to violence, torture or other cruel, inhuman, or degrading treatment or punishment, or threats to his life or safety, against the person responsible for smuggling the migrant.

Clause 19 provides for other rights of smuggled migrants.

Clause 20 provides for smuggled migrants who are children.

Clause 21 makes provision for access to consular officials for smuggled migrants.

Clause 22 sets out the responsibilities of the Minister under this Bill.

Clause 23 extends the jurisdiction of the Act to offences established under the Act, and committed outside The Bahamas on vessels suspected of being involved in the smuggling of migrants by sea. The jurisdiction is also extended to offences committed outside The Bahamas on a vessel which is stateless, or registered under the flag of a Protocol State other than The Bahamas.

Clause 24 designates a competent national authority for carrying out the provisions of the Bill.

Clause 25 sets the conditions and limitations on the exercise of special enforcement powers by authorized officers.

Clause 26 establishes the operational framework for measures at sea regarding the smuggling of migrants.

Clause 27 provides safeguards from danger to lives at sea including the lives of smuggled migrants.

Clause 28 provides for compensation for loss or damage to the owner of a vessel where measures taken at sea are unauthorised.

Clause 29 indemnifies government officials by the provisions of this Bill or under regulations.

Clause 30 makes provision for referral of migrants with specific protection needs.

Clause 31 makes provision for verification of the legitimacy and validity of documents of smuggled migrants.

Clause 32 provides for facilitation of the return of smuggled migrants.

Clause 33 makes provision for the protection of smuggled migrants in the return process.

Clause 34 makes provision for the protection of the existing legal rights of smuggled migrants.

Clause 35 makes provision for the non-derogation from existing written law on the smuggling of migrants.

Clause 36 makes provision for the offences in this Bill to be punishable if committed by a body corporate.

Clause 37 of the Bill empowers the Minister to make regulations for carrying the Act into effect.