

HUMAN TRAFFICKING AND EXPLOITATION (SCOTLAND) ACT 2015

EXPLANATORY NOTES

THE STRUCTURE AND A SUMMARY OF THE ACT

Part One – Offences

Slavery, servitude and forced or compulsory labour

Section 4: Slavery, servitude and forced or compulsory labour

27. [Section 4](#) provides for an offence of slavery, servitude and forced or compulsory labour. Subsections (1) and (2) provide that a person is guilty of an offence if that person holds another person in slavery or servitude or requires that other person to perform forced or compulsory labour in circumstances which show that the first person knows or ought to know that the person is being so held. The offence must be interpreted in accordance with Article 4 of the European Convention on Human Rights. That Article prohibits a person from being held in slavery or servitude or being required to perform forced or compulsory labour. This is currently an offence under section 47 of the 2010 Act, which was created in response to the case of *Siliadin v France*¹ (where the European Court of Human Rights held that there had been a violation of Article 4 in relation to the holding of an individual in domestic servitude).
28. Subsection (3) provides that, in assessing whether a person has been the victim of the offence, the court is to have regard to any of the alleged victim's characteristics that make the person more vulnerable than other people. Examples of these characteristics include the person being a child, age, health or family relationships.
29. Subsection (4) provides that consent to any of the acts alleged to constitute holding the person in slavery or servitude or requiring the person to perform forced or compulsory labour does not preclude a prosecution. Consent or otherwise of a victim may still be relevant in establishing the offence however.
30. Subsection (5) sets out the maximum penalty available on conviction of the offence of slavery, servitude and forced or compulsory labour. This is an increase from the current maximum penalty for the offence under section 47 of the 2010 Act. Subsection (5)(a) provides that on summary conviction of the offence, the maximum penalty is imprisonment for a term not exceeding 12 months, a fine not exceeding the statutory maximum, or both. Subsection (5)(b) provides that on conviction of the offence on indictment, the maximum penalty is imprisonment for life, a fine, or both.

¹ Application no. 73316/01 <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-69891>