

# **HUMAN TRAFFICKING AND EXPLOITATION (SCOTLAND) ACT 2015**

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## **EXPLANATORY NOTES**

### **THE STRUCTURE AND A SUMMARY OF THE ACT**

#### **Part One – Offences**

#### **Aggravation as to human trafficking**

##### *Section 5: General aggravation of offence*

31. **Section 5** makes provision for a statutory aggravation which applies in cases where an accused commits any other offence and that offence has a connection with a human trafficking offence. Where an indictment or complaint labels or specifies that an offence is aggravated by a connection with human trafficking activity and it is subsequently proved that the offence is aggravated in that way, the court must state on conviction that the offence is so aggravated, record the conviction in a way which shows that the offence is so aggravated, take the aggravation into account when determining the appropriate sentence and state the extent of any difference in the sentence in light of the aggravation (or, if there is no difference, the reasons for that) (subsections (1) and (5)).
32. Subsection (2) sets out the circumstances in which an offence can be regarded to have been aggravated by a connection with human trafficking. This relies on proof that the accused was motivated, in whole or in part, by the objective of committing or conspiring to commit the offence of human trafficking. In terms of subsection (3), it is not material to establishing the aggravation whether or not the offence of human trafficking was actually committed by the offender or another person.
33. Subsection (4) provides clarification that corroboration is not needed to prove that an offence is aggravated by a connection with human trafficking activity – evidence from a single source is sufficient. This is consistent with the existing law in relation to both corroboration and statutory aggravations. This position is under review pending further parliamentary scrutiny of the Criminal Justice (Scotland) Bill.