

HUMAN TRAFFICKING AND EXPLOITATION (SCOTLAND) ACT 2015

EXPLANATORY NOTES

THE STRUCTURE AND A SUMMARY OF THE ACT

Part 3 - Confiscation of Property

Detention and forfeiture

Section 14: Forfeiture of vehicle, ship or aircraft

66. **Section 14** sets out the power of the court to order forfeiture of a vehicle, ship or aircraft used or intended to be used in connection with an offence of human trafficking.
67. Subsections (1) to (3) provides that forfeiture of a vehicle, ship or aircraft used or intended to be used in connection with the offence of human trafficking may be ordered if a person convicted on indictment of that offence, when the offence was committed—
- owned the vehicle, ship or aircraft,
 - was a director, secretary or manager of a company which owned it,
 - was in possession of it under a hire purchase agreement,
 - was a director, secretary or manager of a company which was in possession of it under a hire purchase agreement,
 - in relation to a vehicle, was driving it,
 - in relation to a ship or aircraft, was the charterer of it or was acting as captain of it.
68. Subsection (4) makes special provision about cases where a ship or aircraft is to be forfeited, but the offender does not own it and was not a director, secretary or manager of a company which owns it. It provides that, in those circumstances, forfeiture of a ship or aircraft may only be ordered if any one of the tests listed in this subsection is satisfied. Subsection (4)(a) provides that if a person who, at the time the offence was committed, owned the ship or aircraft, or was a director, secretary or manager of a company which owned it, knew, or ought to have known of the intention to use it in the course of the commission of the offence of human trafficking, then forfeiture of a ship or aircraft may be ordered. Subsection (4)(b) provides that, in the case of a ship (other than a hovercraft), if its gross tonnage is less than 500, then forfeiture of that ship may be ordered. Subsection (4)(c) provides that, in the case of an aircraft, if the maximum weight at which it may take off in accordance with its certificate of airworthiness is less than 5,700 kilogrammes, then forfeiture of that aircraft may be ordered under this section. Protection is provided for particular categories of owner who, due to the size of the ship or aircraft in question or the circumstances in which it is used for trafficking, do not know or reasonably suspect, or are unlikely to know or reasonably suspect, that the ship or aircraft is being used in that way. There is a greater likelihood that an owner of a

*These notes relate to the Human Trafficking and Exploitation (Scotland)
Act 2015 (asp 12) which received Royal Assent on 4 November 2015*

vehicle or smaller types of ships or aircraft will have actual or constructive knowledge that their property is being or intended to be used for the purposes of trafficking.

69. Subsection (5) provides that forfeiture cannot be ordered without giving any person claiming an interest in the relevant property the chance to make representations