



# Human Trafficking and Exploitation (Scotland) Act 2015

2015 asp 12

## PART 2

### PROTECTION OF VICTIMS

#### *Support and assistance for adult victims*

#### **9 Support and assistance: victims of offence of human trafficking**

- (1) Where there are reasonable grounds to believe that an adult is a victim of an offence of human trafficking, the Scottish Ministers must, during the relevant period, secure for the adult the provision of such support and assistance as they consider necessary given the adult's needs.
- (2) The relevant period—
  - (a) begins on the date it is determined there are reasonable grounds to believe that the adult is a victim of an offence of human trafficking, and
  - (b) ends on the earlier of the following—
    - (i) the end of the period specified in regulations made by the Scottish Ministers, or
    - (ii) the date on which there is a conclusive determination that the adult is or is not a victim of an offence of human trafficking.
- (3) The Scottish Ministers may also secure the provision of that support and assistance for an adult—
  - (a) during the period in which a competent authority is determining whether or not there are reasonable grounds to believe that the adult is a victim of an offence of human trafficking,
  - (b) where the relevant period in relation to the adult ends by virtue of subsection (2)(b)(i), during the period until there is a conclusive determination that the adult is or is not a victim of an offence of human trafficking,
  - (c) for such period as they think appropriate after the conclusive determination.

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*Status: This is the original version (as it was originally enacted).*

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- (4) Support and assistance may be provided under this section in connection with (but is not limited to) the following—
- (a) accommodation,
  - (b) day to day living,
  - (c) medical advice and treatment (including psychological assessment and treatment),
  - (d) language translation and interpretation,
  - (e) counselling,
  - (f) legal advice,
  - (g) information about other services available to the adult,
  - (h) repatriation.
- (5) In securing the provision of support and assistance under this section to an adult, the Scottish Ministers must ensure that—
- (a) support and assistance is only provided where the adult consents, and
  - (b) the provision of support and assistance is not made conditional on the adult assisting with a criminal investigation or prosecution.
- (6) For the purposes of this section—
- (a) there are reasonable grounds to believe that the adult is a victim of an offence of human trafficking if a competent authority has determined for the purposes of Article 10 of the Trafficking Convention (identification of victims) that there are such grounds,
  - (b) there is a conclusive determination that an adult is or is not a victim of an offence of human trafficking when, on completion of the identification process required by that Article, a competent authority concludes that the adult is or is not such a victim.
- (7) In this section—
- “competent authority” means a person who is a competent authority of the United Kingdom for the purposes of the Trafficking Convention,
  - “the Trafficking Convention” means the Council of Europe Convention on Action against Trafficking in Human Beings (done at Warsaw on 16 May 2005).
- (8) The Scottish Ministers may by regulations modify subsections (6) and (7) to make provision about the circumstances in which—
- (a) there are reasonable grounds to believe that the adult is a victim of an offence of human trafficking,
  - (b) there is a conclusive determination that an adult is or is not a victim of an offence of human trafficking.
- (9) Regulations under subsection (8) may in particular make provision about—
- (a) the procedure to be followed by a person in making a determination,
  - (b) the criteria to be applied by a person in making a determination, and
  - (c) the persons who may make a determination or take any step in the procedure.

## **10 Support and assistance: victims of an offence under section 4**

- (1) The Scottish Ministers may by regulations make provision about providing support and assistance to an adult who is, or appears to be, a victim of an offence under section 4.
- (2) Regulations under subsection (1) may in particular make provision about—
  - (a) the method of determining whether an adult is, or appears to be, a victim of an offence under section 4,
  - (b) the period during which support and assistance must be provided,
  - (c) the period during which support and assistance may be provided,
  - (d) the types of support and assistance to be provided, and
  - (e) the manner in which the support and assistance is to be provided.