



# Human Trafficking and Exploitation (Scotland) Act 2015

2015 asp 12

## PART 6

### FINAL PROVISIONS

#### **39 Offences by bodies corporate etc.**

(1) Where—

- (a) an offence under this Act has been committed by a body corporate or a Scottish partnership or other unincorporated association, and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
  - (i) a relevant individual, or
  - (ii) an individual purporting to act in the capacity of a relevant individual,the individual (as well as the body corporate, partnership or, as the case may be, other unincorporated association) commits the offence and is liable to be proceeded against and punished accordingly.

(2) In subsection (1), “relevant individual” means—

- (a) in relation to a body corporate—
  - (i) a director, manager, secretary or other similar officer of the body,
  - (ii) where the affairs of the body are managed by its members, the members,
- (b) in relation to a Scottish partnership, a partner,
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

#### **40 Interpretation**

In this Act—

“adult” means an individual aged 18 or over,

“captain” means master of a ship or commander of an aircraft,

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*Status: This is the original version (as it was originally enacted).*

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“child” means a person under 18 years of age,  
“ship” includes every description of vessel (including a hovercraft) used in navigation,  
“UK national” means—

- (a) a British citizen,
- (b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has a right of abode in the United Kingdom, or
- (c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar,

“vehicle” means any vehicle other than a ship or an aircraft.

#### **41 Regulations**

- (1) Any power of the Scottish Ministers to make regulations under this Act includes power to make—
  - (a) different provision for different purposes,
  - (b) incidental, supplementary, consequential, transitional, transitory or saving provision.
- (2) Regulations under—
  - (a) section 7(7),
  - (b) section 9(2)(b)(i),
  - (c) section 9(8),
  - (d) section 10,
  - (e) section 12(5),
  - (f) section 16(2),
  - (g) section 33(1),
  - (h) section 42(1) which contain provisions that add to, replace or omit any part of the text of an Act,

are subject to the affirmative procedure.
- (3) All other regulations under this Act are subject to the negative procedure.
- (4) This section does not apply to regulations under section 45.

#### **42 Ancillary provision**

- (1) The Scottish Ministers may by regulations make such incidental, supplementary, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes of, or in connection with, any provision made by or under this Act.
- (2) Regulations under subsection (1) may modify any enactment (including this Act).

#### **43 Minor and consequential amendments**

The schedule contains minor amendments and amendments consequential on the provisions of this Act.

#### **44 Crown application**

- (1) No contravention by the Crown of any provision made by or under this Act makes the Crown criminally liable.
- (2) But the Court of Session may, on the application of the Scottish Ministers or any public body or office-holder having responsibility for enforcing the provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Despite subsection (1), any provision made by or under the provisions of this Act applies to persons in the public service of the Crown as it applies to other persons.

#### **45 Commencement**

- (1) This section and sections 40, 41, 42, 44 and 46 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Different days may be appointed for different purposes.
- (4) Regulations under subsection (2) may contain transitional, transitory or saving provision.

#### **46 Short title**

The short title of this Act is the Human Trafficking and Exploitation (Scotland) Act 2015.