

2016 No. 128 (C. 12)

CRIMINAL LAW

**The Human Trafficking and Exploitation (Scotland) Act 2015
(Commencement No. 1 and Transitory Provisions) Regulations
2016**

<i>Made</i>	- - - -	<i>23rd February 2016</i>
<i>Laid before the Scottish Parliament</i>		<i>25th February 2016</i>
<i>Coming into force</i>	- -	<i>31st May 2016</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 45(2) and (4) of the Human Trafficking and Exploitation (Scotland) Act 2015(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Human Trafficking and Exploitation (Scotland) Act 2015 (Commencement No. 1 and Transitory Provisions) Regulations 2016 and come into force on 31st May 2016.

(2) In these Regulations “the Act” means the Human Trafficking and Exploitation (Scotland) Act 2015.

Appointed day

2.—(1) 31st May 2016 is the day appointed for the coming into force of the provisions of the Act specified in column 1 of the Schedule (the subject matter of which is described in column 2).

(2) If a purpose is specified in column 3 of the Schedule in relation to any provision specified in column 1, that provision comes into force for that purpose only.

Transitory provision – minor and consequential modifications

3.—(1) Paragraph (2) has effect until the end of the period of 3 months beginning on the date on which paragraphs 2, 4 and 5 of the schedule to the Act come into force.

(2) Despite the amendments made by paragraph 3 of that schedule, for the purposes of section 40A(1) of the Antisocial Behaviour etc. (Scotland) Act 2004(b) an “exploitation offence” continues to include any of the following—

- (a) an offence under section 22 of the Criminal Justice (Scotland) Act 2003 (traffic in prostitution etc.);

(a) 2015 asp 12.

(b) 2004 asp 8. Section 40A was inserted by the 2010 Act, section 99.

- (b) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation); and
- (c) an offence under section 47 of the Criminal Justice and Licensing (Scotland) Act 2010 (slavery, servitude and forced or compulsory labour).

MICHAEL MATHESON
A member of the Scottish Government

St Andrew's House,
Edinburgh
23rd February 2016

SCHEDULE

Regulation 2

Provisions of the Act coming into force on 31st May 2016

<i>Column 1</i> <i>Provisions of the Act</i>	<i>Column 2</i> <i>Subject matter</i>	<i>Column 3</i> <i>Purpose</i>
Part 1	Offences	
Section 8	Lord Advocate's instructions on prosecution of victims of offences	
Section 9	Support and assistance: victims of offence of human trafficking	For the purpose of making regulations under section 9(2)(b)(i) and (8)
Section 10	Support and assistance: victims of an offence under section 4	
Section 11	Independent child trafficking guardians	For the purpose of making regulations under section 11(7) and (8)
Section 12	Presumption of age	For the purpose of making regulations under section 12(5)
Part 3	Confiscation of property	
Section 32	Offences	
Section 33	Enforcement of other UK orders	
Section 34(1)	Interpretation of Part 4	
Section 35	Trafficking and exploitation strategy	
Section 36	Review and publication of strategy	
Section 37	Duty to co-operate on strategy	
Section 38	Duty to notify and provide information about victims	For the purpose of making regulations under section 38(3) and (4)
Section 39	Offences by bodies corporate etc.	
Section 43	Minor and consequential amendments	
Schedule, paragraphs 1, 3 and 6	Minor and consequential amendments	

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force the following provisions of the Human Trafficking and Exploitation (Scotland) Act 2015 (“the Act”) on 31st May 2016: Parts 1 and 3, section 8, section 9 (but only for the purpose of making regulations under section 9(2)(b)(i) and (8)), section 10, section 11 (but only for the purpose of making regulations under section 11(7) and (8)), section 12 (but only for the purpose of making regulations under section 12(5)), sections 32, 33, 34(1) and 35 to 37, section 38 (but only for the purpose of making regulations under section 38(3) and (4)), section 39, section 43 and paragraphs 1, 3 and 6 of the Schedule.

Regulation 3 contains transitory provision in respect of amendments being made to provisions on the closure of premises under Part 4 of the Antisocial Behaviour etc. (Scotland) Act 2004 (“the 2004 Act”). That Part allows for the issue of closure notices in respect of premises where a senior police officer has reasonable grounds to believe that an “exploitation offence” took place there in the preceding 3 months. Exploitation offences currently include existing trafficking and slavery and forced labour offences and so regulation 3 ensures that this definition continues to include those existing offences for the purposes of the 2004 Act until 3 months have elapsed from the date on which the repeal of those existing offences comes into force.

The Bill for the Act received Royal Assent on 4th November 2015. Section 45(1) of the Act brought into force sections 40, 41, 42, 44, 45 and 46 on the day after Royal Assent.

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