

MODERN SLAVERY ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Offences

Section 1: Slavery, servitude and forced or compulsory labour

17. *Subsection (1)* provides for an offence of slavery, servitude and forced or compulsory labour. It replaces the existing such offence in section 71 of the Coroners and Justice Act 2009 which is accordingly repealed by Schedule 5 of the Act. The offence has been supplemented by provisions that clarify that regard may be had to all the circumstances of the case and that consent by the victim does not preclude the offence having taken place. This reflects the position in case law.
18. *Subsection (2)* requires *subsection (1)* to be interpreted in accordance with Article 4 of the ECHR. That Article states:
 - 1) No one shall be held in slavery or servitude.
 - 2) No one shall be required to perform forced or compulsory labour.
 - 3) For the purpose of this Article the term “forced or compulsory labour” shall not include:
 - a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
 - b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
 - c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
 - d) any work or service which forms part of normal civic obligations.
19. *Subsection (3)* provides that all the circumstances should be considered when determining whether someone has been held in slavery or servitude or required to perform forced or compulsory labour.
20. *Subsection (4)(a)* highlights personal circumstances, which may make the individual more vulnerable, and which may be relevant when determining whether a person has been held in slavery or servitude or required to perform forced or compulsory labour. The list of particular vulnerabilities which may be considered is non-exhaustive but explicitly includes the individual being a child, the person’s family relationships and any mental or physical illness. A child is defined in *section 56(3)* as a person under the age of 18.

*These notes refer to the Modern Slavery Act 2015
(c.30) which received Royal Assent on 26 March 2015*

21. *Subsection (4)(b)* makes clear that, in relation to the forced or compulsory labour offence, the court can consider any work or services provided by the person including any work or services provided in circumstances that amount to exploitation under section 3(3) to (6). This makes it clear that the forced and compulsory labour offence can cover a broad range of types of work and services including types, such as begging or pick-pocketing, which could amount to exploitation under section 3(5) or 3(6).
22. *Subsection (5)* clarifies that an individual's consent (whether an adult or a child) to the conduct alleged to amount to an offence under section 1 does not prevent the court from determining that person is being held in slavery or servitude or required to perform forced or compulsory labour.