

MODERN SLAVERY ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Offences

Section 2: Human trafficking

23. This section provides for a single offence of human trafficking covering sexual and non-sexual exploitation. It replaces the two existing offences in sections 59A of the Sexual Offences Act 2003 (which relates to human trafficking for the purposes of sexual exploitation), as inserted by section 109 of the Protection of Freedoms Act 2012 (which replaced the previous offences in sections 57 to 59 of the Sexual Offences Act 2003), and section 4 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (which relates to human trafficking for the purposes of labour or other exploitation); both these existing offences are repealed by Schedule 5. Introducing one offence for all types of trafficking will make it administratively simpler for investigators and prosecutors to bring forward human trafficking prosecutions.
24. *Subsection (1)* makes it a criminal offence to arrange or facilitate the travel of another person with a view to their being exploited. Travel is defined in *subsection (5)* as arriving in, entering, departing, or travelling within any country.
25. *Subsection (2)* provides that for the purpose of a human trafficking offence the victim's consent to their travel, whether they are an adult or a child, is irrelevant.
26. *Subsection (3)* gives examples of what may amount to arranging or facilitating another person's travel. This includes recruiting, transporting, transferring, harbouring, receiving or exchanging control of that person. The language reflects the definitions of trafficking set out in the Convention on Action against Trafficking and the associated Palermo Protocol.
27. *Subsection (4)* provides that the arranging or facilitating is done with a view to the exploitation of the victim (V) if the perpetrator either intends to exploit V, or knows or ought to know that any other person is likely to exploit V. It is irrelevant where in the world that exploitation might take place.
28. *Subsection (6)* makes the offence extra-territorial in its reach in relation to UK nationals. It provides that a UK national commits an offence regardless of where in the world the arranging or facilitating takes place or regardless of which country is the country of arrival, entry, travel or departure. For example, a UK national who trafficks a person from Spain to France could be prosecuted in England and Wales for this offence.
29. *Subsection (7)* provides for a more limited territorial reach in relation to a non-UK national. Such a person commits the offence if any part of the arranging or facilitating takes place in the UK or if the UK is the country of arrival, entry, travel or departure.