

HUMAN TRAFFICKING AND EXPLOITATION (SCOTLAND) ACT 2015

EXPLANATORY NOTES

THE STRUCTURE AND A SUMMARY OF THE ACT

Part 5 - Strategy and Reporting

Section 35: Trafficking and exploitation strategy

142. **Section 35** places a duty on the Scottish Ministers to prepare a trafficking and exploitation strategy. The strategy under this section is a strategy which sets out such actions, arrangements and outcomes as the Scottish Ministers consider appropriate in relation to the conduct which constitutes an offence under this Act.
143. Subsection (3) lists some of the matters which may be set out in the strategy, though that list is not exhaustive. Those matters include, for example, awareness raising in relation to the conduct which constitutes an offence of human trafficking or an offence under section 4 and arrangements to facilitate the detection and prevention of that conduct.

Section 36: Review and publication of strategy

144. Subsection (1) of section 36 provides that the strategy prepared under section 35 must be reviewed by the Scottish Ministers every three years. Following a review, the Scottish Ministers are required by subsection (2) to prepare a report on the review, including an assessment of the extent to which the strategy has been complied with, and may prepare a revised strategy. If a decision is taken following such a review not to prepare a revised strategy, the Scottish Ministers must set out their reasons for that decision.
145. Subsection (4) places a duty on the Scottish Ministers to consult with those likely to have an interest in the strategy before preparing or reviewing the strategy. Those likely to have an interest include, but are not limited to, businesses, support agencies, faith based groups etc..
146. Subsection (5) requires the Scottish Ministers to publish the first strategy within 1 year of Section 1 coming into force and lay before the Scottish Parliament each strategy and report prepared under this section.

Section 37: Duty to co-operate on strategy

147. **Section 37** provides that Scottish public authorities, as specified in regulations that may be made by the Scottish Ministers, must provide such information and assistance as the Scottish Ministers may reasonably require and otherwise co-operate with the Scottish Ministers in the preparation or review of the strategy. A specified public authority could include, for example, Police Scotland and local authorities.

Section 38: Duty to notify and provide information about victims

148. **Section 38** places a duty on specified Scottish public authorities to notify the chief constable of the Police Service of Scotland about a person who is, or appears to be, a victim of an offence under section 1 or section 4. This duty would not affect any other general right to report information relating to crime.
149. Subsection (2) requires that a notification relating to an adult is anonymised and does not include any information that identifies the adult or enables the adult to be identified, unless the adult consents to that data being provided.
150. Subsection (3) provides that the Scottish Ministers may by regulations specify the Scottish public authorities who are to be subject to this duty and may make provision about the information to be included in the notification. The regulations will be subject to the negative procedure.
151. Subsection (4) places a duty on Police Scotland to notify any other person specified in regulations made by Ministers about a potential victim of trafficking about whom a notification has been received under section 38(1). Subsection (5) provides that such a notification cannot contain personal data about an adult victim unless the adult consents and subsection (6) permits regulations to otherwise specify what such a notification should contain.