



Human Trafficking and Exploitation (Scotland) Act 2015

2015 asp 12

PART 1

OFFENCES

Human trafficking

1 Offence of human trafficking

- (1) A person commits an offence if the person—
 - (a) takes a relevant action, and
 - (b) does so with a view to another person being exploited.
- (2) In this Part, “relevant action” means an action which is any of the following—
 - (a) the recruitment of another person,
 - (b) the transportation or transfer of another person,
 - (c) the harbouring or receiving of another person,
 - (d) the exchange or transfer of control over another person, or
 - (e) the arrangement or facilitation of any of the actions mentioned in paragraphs (a) to (d).
- (3) It is irrelevant whether the other person consents to any part of the relevant action.
- (4) For the purposes of subsection (1), a person takes a relevant action with a view to another person being exploited only if—
 - (a) the person intends to exploit the other person (in any part of the world) during or after the relevant action, or
 - (b) the person knows or ought to know the other person is likely to be exploited (in any part of the world) during or after the relevant action.
- (5) An offence under this section is to be known as the offence of human trafficking.
- (6) A person who commits an offence of human trafficking is liable—

Changes to legislation: There are currently no known outstanding effects for the Human Trafficking and Exploitation (Scotland) Act 2015, Cross Heading: Human trafficking. (See end of Document for details)

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both),
- (b) on conviction on indictment, to imprisonment for life or a fine (or both).

Commencement Information

I1 S. 1 in force at 31.5.2016 by S.S.I. 2016/128, reg. 2, Sch.

2 Application of offence to conduct in United Kingdom and elsewhere

- (1) A person mentioned in subsection (2) commits an offence of human trafficking regardless of where the relevant action takes place.
- (2) The persons are—
 - (a) a person who is a UK national,
 - (b) a person who at the time of the offence was habitually resident in Scotland,
 - (c) a body incorporated under the law of a part of the United Kingdom.
- (3) A person not mentioned in subsection (2) commits an offence of human trafficking if—
 - (a) any part of the relevant action takes place in the United Kingdom, or
 - (b) the relevant action is taken with a view to a person arriving in or entering into, departing from, or travelling within, the United Kingdom.

Commencement Information

I2 S. 2 in force at 31.5.2016 by S.S.I. 2016/128, reg. 2, Sch.

3 Exploitation for purposes of offence of human trafficking

- (1) For the purposes of section 1, a person is exploited only if one or more of the following subsections apply in relation to that person.

Slavery, servitude and forced or compulsory labour

- (2) The person is the victim of conduct which—
 - (a) involves the commission of an offence under section 4, or
 - (b) would constitute such an offence were it done in Scotland.

Prostitution and sexual exploitation

- (3) Another person exercises control, direction or influence over prostitution by the person in a way which shows that the other person is aiding, abetting or compelling the prostitution.
- (4) Another person involves the person in the making or production of obscene or indecent material (material is to be construed in accordance with section 52(1)(a) of the Civic Government (Scotland) Act 1982 and includes images within the meaning of section 51A of that Act).
- (5) The person is the victim of conduct which—

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- (a) involves the commission of an offence under—
 - (i) sections 1, 2 or 7 to 10 of the Criminal Law (Consolidation) (Scotland) Act 1995 (sexual offences),
 - (ii) sections 9 to 12 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (sexual services of children and child pornography),
 - (iii) Part 1 of the Sexual Offences (Scotland) Act 2009 (rape etc.),
 - (iv) Part 4 of the Sexual Offences (Scotland) Act 2009 (children), or
 - (v) Part 5 of the Sexual Offences (Scotland) Act 2009 (abuse of a position of trust), or
- (b) would constitute such an offence were it done in Scotland.

Removal of organs etc.

- (6) The person is encouraged, required or expected to do anything—
 - (a) which involves the commission, by the person or another person, of an offence under Part 1 of the Human Tissue (Scotland) Act 2006 (transplantation etc.),
 - (b) in connection with the removal of any part of a human body as a result of which the person or another person would commit an offence under the law of Scotland (other than an offence mentioned in paragraph (a)), or
 - (c) which would constitute an offence mentioned in paragraph (a) or (b) were it done in Scotland.

Securing services and benefits

- (7) The person is subjected to force, threats or deception designed to induce the person—
 - (a) to provide services of any kind,
 - (b) to provide another person with benefits of any kind, or
 - (c) to enable another person to acquire benefits of any kind.
- (8) Another person uses or attempts to use the person for any purpose within subsection (7) (a), (b) or (c), where—
 - (a) the person is—
 - (i) a child, or
 - (ii) an adult whose ability to refuse to be used for a purpose within subsection (7)(a), (b) or (c) is impaired through mental or physical illness, disability, old age or any other reason (a “vulnerable adult”), and
 - (b) a person who is not a child or a vulnerable adult would be likely to refuse to be used for that purpose.

Commencement Information

I3 S. 3 in force at 31.5.2016 by S.S.I. 2016/128, reg. 2, Sch.

Changes to legislation:

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