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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 385**

**The Human Trafficking and Exploitation  
(Scotland) Act 2015 (Commencement No. 2  
and Transitional Provisions) Regulations 2016**

**Transitional provision**

- 3.—(1) This regulation applies where, in any trial—
- (a) the accused is charged in respect of the same conduct with an offence under section 1 or (as the case may be) section 4 of the Act and an offence specified in paragraph (2) (“the repealed offence”);
  - (b) it is not established beyond reasonable doubt that the time when the conduct occurred was—
    - (i) on or after 31st May 2016; and
    - (ii) before 17th December 2016; and
  - (c) the court or, in the case of a trial on indictment, the jury is satisfied in every other respect that the accused committed the repealed offence.
- (2) The offences referred to in paragraph (1)(a) are—
- (a) an offence under section 22 of the Criminal Justice (Scotland) Act 2003 (traffic in prostitution etc.)(1);
  - (b) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation)(2); and
  - (c) an offence under section 47 of the Criminal Justice and Licensing (Scotland) Act 2010 (slavery, servitude and forced or compulsory labour)(3).
- (3) Where this regulation applies, the accused may be found guilty of the repealed offence.
- (4) A reference in this regulation to an offence includes a reference to—
- (a) an attempt to commit an offence;
  - (b) incitement to commit an offence;
  - (c) counselling or procuring the commission of an offence; and
  - (d) involvement art and part in an offence.

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(1) 2003 asp 7. Section 22 was amended by the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (“the 2010 Act”), section 46.

(2) 2004 c.19. Section 4 has been relevantly amended by the Human Tissue Act 2004 (c.30), Schedule 6, paragraph 7; the 2010 Act, section 46; and S.S.I. 2008/259.

(3) 2010 asp 13.