

# **MODERN SLAVERY ACT 2015**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 1: Offences**

##### ***Section 7: Confiscation of assets***

44. This section amends Schedule 2 to the Proceeds of Crime Act 2002 (Lifestyle offences: England and Wales). The amendments add the offence of slavery, servitude and forced or compulsory labour (section 1) to the list of offences set out in that Schedule, and substitutes the human trafficking offence (section 2) for predecessor offences.
45. Part 2 of the Proceeds of Crime Act 2002 (“the 2002 Act”) provides that confiscation orders are available to confiscate assets gained through criminal activity from offenders, after conviction. The purpose of confiscation proceedings is to recover the financial benefit that an offender has obtained from his criminal conduct. The court calculates the value of that benefit and orders the offender to pay an equivalent sum (or less where a lower sum is available for confiscation).
46. Section 6 of the 2002 Act makes provision for the making of confiscation orders by the Crown Court. In accordance with section 6, where the defendant is identified as having a “criminal lifestyle”, the proceeds of the defendant’s “general criminal conduct” are liable to confiscation. This means that an offender in relation to whom there are reasonable grounds to believe that he is living off crime will be required to account for his assets, and will have them confiscated to the extent that he is unable to account for their lawful origin. The criminal lifestyle tests are therefore designed to identify offenders who may be regarded as normally living off crime.
47. Under section 75 of the 2002 Act, a person has a criminal lifestyle if he satisfies one or more of the tests set out in that section. The first test is that he is convicted of an offence specified in Schedule 2 to the 2002 Act. Schedule 2 lists the offences which are so closely linked to a life of crime that a conviction for any of them will lead to the defendant being deemed to have a criminal lifestyle for the purposes of the confiscation regime in the 2002 Act. By including the slavery, servitude and forced or compulsory labour offence (section 1) and the human trafficking offence (section 2) in Schedule 2 to the 2002 Act, this section ensures that defendants convicted will be deemed to have a criminal lifestyle and will therefore be subject to the toughest regime in respect of calculating confiscation orders under the 2002 Act.