

MODERN SLAVERY ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Offences

Section 8: Power to make slavery and trafficking reparation orders

48. This section enables the court, where a person is convicted of a slavery or trafficking offence, to order the defendant to provide reparation to the victim. Sections 130-134 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6 – “the 2000 Act”) already make provision for compensation orders to be made against convicted persons in favour of their victim(s). However, the number of compensation orders made in the last ten years in human trafficking and slavery cases is low. A specific reparation order for victims of slavery and trafficking will therefore enable courts to order a person convicted of a modern slavery offence to pay reparation to their victim or victims, in respect of the exploitation and degradation they have suffered. A reparation order will only be made where the court is satisfied that the defendant has the means to pay.
49. *Subsection (1)* sets out that a slavery or trafficking reparation order can be made where the defendant is convicted of a slavery offence (section 1) or trafficking offence (section 2) or offence relating to preparatory conduct in relation to trafficking (section 4), and the Court has made a confiscation order against the defendant.
50. *Subsection (2)* allows the Court to make a slavery and trafficking reparation order where a confiscation order is made against a defendant who absconds, but who is subsequently convicted of a section 1, 2 or 4 offence.
51. *Subsection (3)* provides for the Court to make a reparation order in addition to dealing with the person in any other way, for example, imposing a fine or a sentence, and *subsection (4)* allows the Court to vary a sentence already imposed to make a slavery and trafficking reparation order.
52. *Subsection (5)* requires the court to consider the defendant’s means, in determining whether to make a slavery and trafficking reparation order. This is to ensure that a reparation order is only made where the court is confident that the funds are available to pay the victim.
53. *Subsection (6)* provides that where a court considers that it would be appropriate to impose a fine and make a reparation order, but the defendant has insufficient means to pay both, priority is given to a reparation order.
54. *Subsection (7)* provides that the Court must consider making a slavery and trafficking reparation order in any case where it has power to make one, even where an application is not made. If the Court does not make an order it must give reasons for not doing so.
55. At the time of enactment confiscation orders may only be made in the Crown Court. However, section 97 of the Serious Organised Crime and Police Act 2005 makes provision for an order to extend the power to make confiscation orders to the magistrates’ court in certain circumstances.

*These notes refer to the Modern Slavery Act 2015
(c.30) which received Royal Assent on 26 March 2015*

56. *Subsection (8)(a)*, ensures that this section will give the power to make a slavery and trafficking reparation order to any magistrates' court that has the power to make a confiscation order by virtue of an order under section 97 of the Serious Organised Crime and Police Act 2005.