

Draft Regulations laid before the Scottish Parliament under section 41(2) of the Human Trafficking and Exploitation (Scotland) Act 2015, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2018 No.

CRIMINAL LAW

**The Human Trafficking and Exploitation (Scotland)
Act 2015 (Support for Victims) Regulations 2018**

Made - - - - 2018
Coming into force - - 1st April 2018

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 9(2)(b)(i) and 10(1) of the Human Trafficking and Exploitation (Scotland) Act 2015⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 41(2) of that Act, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Human Trafficking and Exploitation (Scotland) Act 2015 (Support for Victims) Regulations 2018 and come into force on 1st April 2018.

(2) In these Regulations “the Act” means the Human Trafficking and Exploitation (Scotland) Act 2015.

Relevant period

2. The period specified for the purposes of section 9(2)(b)(i) (support and assistance: victims of human trafficking) of the Act is 90 days.

Support and assistance: victims of an offence under section 4 of the Act

3.—(1) This regulation applies where there are reasonable grounds to believe that an adult is a victim of an offence under section 4 (slavery, servitude and forced or compulsory labour) of the Act.

(2) Where this regulation applies, the Scottish Ministers must, during the relevant period, secure for the adult the provision of such support and assistance as they consider necessary given the adult’s needs.

(1) 2015 asp 12.

- (3) For the purposes of this regulation the relevant period—
- (a) begins on the date it is determined that there are reasonable grounds to believe that the adult is a victim of an offence under section 4; and
 - (b) ends on the earlier of the following—
 - (i) the end of the period of 90 days from that date; or
 - (ii) the date on which there is a conclusive determination that the adult is or is not a victim of an offence under section 4.
- (4) The Scottish Ministers may also secure the provision of such support and assistance as they consider necessary given the adult’s needs—
- (a) during the period in which a competent authority is determining whether or not there are reasonable grounds to believe that the adult is a victim of an offence under section 4;
 - (b) where the relevant period in relation to the adult ends by virtue of sub-paragraph (3)(b)(i), during the period until there is a conclusive determination that the adult is or is not a victim of an offence under section 4;
 - (c) for such period as they think appropriate after there is a conclusive determination.
- (5) Support and assistance may be provided under this regulation in connection with (but is not limited to) the following—
- (a) accommodation;
 - (b) day to day living;
 - (c) medical advice and treatment (including psychological assessment and treatment);
 - (d) language translation and interpretation;
 - (e) counselling;
 - (f) legal advice;
 - (g) information about other services available to the adult;
 - (h) repatriation.
- (6) In securing the provision of support and assistance under this regulation to an adult, the Scottish Ministers must ensure that—
- (a) support and assistance is only provided where the adult consents; and
 - (b) the provision of support and assistance is not made conditional on the adult assisting with a criminal investigation or prosecution.
- (7) For the purposes of this regulation—
- (a) there are reasonable grounds to believe that the adult is a victim of an offence under section 4 if a competent authority has determined that there are such grounds;
 - (b) there is a conclusive determination that an adult is or is not a victim of an offence under section 4 when a competent authority concludes that the adult is or is not such a victim.
- (8) In this regulation “competent authority” means a person who is a competent authority of the United Kingdom for the purposes of the Council of Europe Convention on Action against Trafficking in Human Beings (done at Warsaw on 16th May 2005).

St Andrew's House,
Edinburgh
Date

Name
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in terms of sections 9(2)(b)(i) and 10(1) of the Human Trafficking and Exploitation (Scotland) Act 2015 (“the Act”).

Section 9(2)(b)(i) empowers the Scottish Ministers to specify the period during which the Scottish Ministers must secure for the adult the provision of such support and assistance as they consider necessary given the adult’s needs, where there are reasonable grounds to believe that that adult is a victim of an offence of human trafficking. Regulation 2 specifies the period as 90 days.

Section 10(1) empowers the Scottish Ministers to make provision about providing support and assistance to an adult who is, or appears to be, a victim of an offence under section 4 of the Act (slavery, servitude and forced or compulsory labour). In terms of section 10(2), these Regulations may contain provision about the method of determining whether an adult is, or appears to be, a victim of an offence under section 4, the period during which support and assistance must be provided, the period during which support and assistance may be provided, the types of support and assistance to be provided, and the manner in which the support and assistance is to be provided.

Regulation 3 provides that where the Scottish Ministers are satisfied that there are reasonable grounds to believe that an adult is a victim of an offence under section 4, then a suite of support and assistance must be provided for up to 90 days. The Scottish Ministers may provide further support and assistance for such a period as they think appropriate.