

**EXPLANATORY MEMORANDUM TO**  
**THE MODERN SLAVERY ACT 2015 (CONSEQUENTIAL AMENDMENTS)**  
**REGULATIONS 2015**

**2015 No. 1472**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 These regulations make amendments to secondary legislation in consequence of the commencement of sections 1 (slavery, servitude and forced or compulsory labour), 2 (human trafficking) and 4 (committing an offence with intent to commit a trafficking offence) of the Modern Slavery Act 2015 (the “2015 Act”).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative Context**
  - 4.1 Sections 1 to 4 of the 2015 Act make provision for the criminal offences related to slavery and human trafficking. The offences consolidate and replace the existing criminal offences of slavery, servitude and forced or compulsory labour (section 71 of the Coroners and Justice Act 2009), trafficking for the purpose of sexual exploitation (section 59A of the Sexual Offences Act 2003) and trafficking for other forms of exploitation (section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004). These regulations make consequential changes to secondary legislation which refers to the existing offences so as to include the new offences in the 2015 Act.
5. **Territorial Extent and Application**
  - 5.1 This instrument applies to England and Wales.
6. **European Convention on Human Rights**
  - 6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

## 7. Policy background

- What is being done and why

7.1 The amendments made by this instrument are necessary to ensure that secondary legislation which contains references to the existing offences is updated to reflect the new offences under the 2015 Act. The regulations ensure that various provisions in secondary legislation, which apply to the existing offences, will apply to the relevant provisions of the 2015 Act.

7.2 The purpose of the specific consequential amendments are:

7.2.1 Regulations 2-3 amend the Criminal Justice Act 1988 (Reviews of Sentencing) Order 2006 to ensure sentences for the new slavery and trafficking offences, which are believed to be unduly lenient, will be capable of review by the Attorney General and, if appropriate, reference to the Court of Appeal. Regulations 7 – 8 amend the Armed Forces (Review of Court Martial Sentence) Order 2009 so that unduly lenient sentences for the new offences imposed by a Court Martial or Service Civilian Court are also capable of review.

7.2.2 Regulations 4-6 amend the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 to include the new human trafficking offence under the 2015 Act. This will ensure that those convicted of such an offence will continue to be subject to automatic inclusion in the childrens' and adults barred lists. Inclusion on these lists prevents a person convicted of this offence from working in regulated activities relating to children or vulnerable adults.

7.2.3 Regulations 9-10 amend the Armed Forces (Service Civilian Court) Rules 2009 and the Armed Forces (Court Martial) Rules 2009 to ensure that in cases before a Service Civilian Court or Court Martial, where the defendant is accused of an offence under section 1 or section 2 of the 2015 Act, complainants are eligible for special measures. This mirrors the approach in the civilian courts under section 17 Youth Justice and Criminal Evidence Act as amended by section 46 of the 2015 Act.

7.2.4 Regulations 11-12 amend the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 to include the offence of human trafficking under section 2 of the 2015 Act (where for the purpose of sexual exploitation)) in the list of relevant offences to be considered when determining suitability to be on the pharmaceutical list (the pharmaceutical list system is a system under which retail pharmacies and contractors are given permission to provide NHS pharmaceutical services from particular premises),

- 7.2.5 Regulations 13-14 amend the Trafficking People for Exploitation Regulations 2013 to include the offence under section 2 of the 2015 Act (human trafficking). This ensures that the protections for complainants in those regulations continue to be in place for complainants in relation to the new consolidated human trafficking offence.
- 7.2.6 Regulations 15-17 amend the Electronic Commerce Directive (Trafficking People for Exploitation) Regulations 2013. The amendment ensures that (as with the existing human trafficking offences) internet service providers established in the UK but who are not UK nationals, commit an offence of human trafficking under the 2015 Act when the arranging or facilitating takes place outside the UK and any part of it occurs in an EEA state; or an EEA state (other than the UK) is the country of arrival, departure, entry or travel.
- 7.2.7 Regulations 18-19 amend the Public Contracts Regulations 2015 to include the 2015 Act offences of slavery and human trafficking. This means that those convicted of a slavery or trafficking offence under the 2015 Act will be excluded from participation in public procurement procedures.
- 7.2.8 Regulations 20-21 amend the Criminal Justice and Courts Act 2015 (Simple Cautions) (Specification of Either-Way Offences) Order 2015. The amendments in these regulations add the slavery and trafficking offences under the 2015 Act to the list of the most serious either-way offences (offences which can be tried in the Crown or Magistrates Courts) for which a caution should not be given, save in exceptional circumstances.

- Consolidation

7.3 As this instrument simply makes minor consequential amendments no question of consolidation arises.

## **8. Consultation outcome**

8.1 As this instrument makes minor amendments to secondary legislation consequential on the commencement of the offences in the 2015 Act, no consultation has been carried out.

## **9. Guidance**

9.1 No guidance has been prepared in relation to this instrument.

## **10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies as these regulations add the offences under the 2015 Act to existing secondary legislation which deals with slavery and trafficking.
- 10.2 These regulations have no impact on the public sector for the same reason.
- 10.3 A full impact assessment was carried out on the Modern Slavery Bill ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/371057/MSB\\_IA.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/371057/MSB_IA.pdf)). A separate assessment has not been prepared for this instrument.

## **11. Regulating small business**

- 11.1 The regulations do not apply directly to small business. While the Public Procurement Regulations 2015 may have an indirect effect on small business, there is no change to the position of small businesses as the relevant consequential amendments simply provide that those convicted of slavery or trafficking offence will continue to be excluded from participation in public procurement.

## **12. Monitoring & review**

- 12.1 The provisions of the 2015 Act and, by extension, the provisions of these regulations, will be subject to the normal post-legislative review three to five years after Royal Assent.

## **13. Contact**

Tez Ilyas at the Home Office Tel: 0207 035 6975 or email: [tez.ilyas@homeoffice.gsi.gov.uk](mailto:tez.ilyas@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.