STATUTORY INSTRUMENTS

2016 No. 1031

CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND
CRIMINAL LAW

The Human Trafficking and Exploitation (Scotland) Act 2015 (Consequential Provisions and Modifications) Order 2016

Made - - - -	*27th October 2016*
Coming into force - -	*17th December 2016*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104, 112(1) and 113(4) and (5) of the Scotland Act 1998(**1**).

In accordance with paragraphs 1, 2 and 3 of Schedule 7 to that Act, a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Human Trafficking and Exploitation (Scotland) Act 2015 (Consequential Provisions and Modifications) Order 2016 and comes into force on 17th December 2016.

(2) Except as provided in paragraphs (3) and (4) below, this Order extends to England and Wales, Scotland and Northern Ireland.

(3) The following provisions extend to Scotland only—

(a) article 2;

(b) article 4(1), (2) and (4); and

(c) paragraphs 1 and 2(a), (c) and (d) of the Schedule.

(4) The modifications in paragraph 3 of the Schedule have the same extent as the provisions modified.

Detention of vehicle, ship or aircraft

2.—(1) A senior immigration officer may detain a vehicle, ship or aircraft if—

(**1**) 1998 c.46.

(a) a person has been arrested for an offence of human trafficking (see section 1 of the 2015 Act); and

(b) the senior immigration officer has reasonable grounds to believe that an order for its forfeiture could be made under section 14 of the 2015 Act if the person arrested were convicted of the offence.

(2) The vehicle, ship or aircraft may be detained—

(a) until a decision is taken as to whether or not to begin solemn proceedings against the person arrested for the offence; or

(b) if solemn proceedings are begun against the person arrested for the offence, until—

(i) the person is acquitted;

(ii) the person is convicted and the High Court or, as the case may be, the sheriff decides whether or not to order forfeiture of the vehicle, ship or aircraft under section 14 of the 2015 Act; or

(iii) the proceedings are otherwise concluded.

(3) For the purposes of paragraph (2)—

(a) solemn proceedings begin against a person at the earlier of—

(i) the person's first appearance before the sheriff on petition; or

(ii) the service on that person of an indictment; and

(b) proceedings are taken to be otherwise concluded if—

(i) the proceedings are deserted simpliciter;

(ii) the proceedings are deserted pro loco et tempore for any reason and no further trial diet is appointed; or

(iii) paragraph (4) applies.

(4) This paragraph applies if—

(a) the indictment falls or is for any other reason not brought to trial;

(b) the diet is not continued, adjourned or postponed; and

(c) no further proceedings are in contemplation.

(5) A person may apply to the sheriff for the release of the vehicle, ship or aircraft if that person—

(a) owns the vehicle, ship or aircraft;

(b) was, immediately before the detention of the vehicle, ship or aircraft, in possession of it under a hire-purchase agreement; or

(c) is a charterer of the ship or aircraft.

(6) The sheriff may, if satisfactory security is tendered, release the vehicle, ship or aircraft on condition that it is made available if—

(a) the person arrested for the offence is convicted; and

(b) an order for forfeiture is made under section 14 of the 2015 Act.

(7) The sheriff may impose such other conditions as to the release as the sheriff thinks fit.

(8) In this article—

"the 2015 Act" means the Human Trafficking and Exploitation (Scotland) Act 2015(**2**);

(**2**) 2015 asp 12.