

LEGAL NOTICE NO. 56 OF 2013.

INTERPRETATION AND GENERAL CLAUSES ACT

**CRIMINAL PROCEDURE AND EVIDENCE ACT 2011
(AMENDMENT) REGULATIONS 2013**

In exercise of the powers conferred upon it under section 23(g)(ii) of the Interpretation and General Clauses Act, and for the purpose of transposing, in part, Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, the Government have made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Criminal Procedure and Evidence Act 2011 (Amendment) Regulations 2013 and come into operation on the day of publication.

Amendments to the Criminal Procedure and Evidence Act 2011.

2.(1) The Criminal Procedure and Evidence Act 2011 (“the Act”) is amended in accordance with the provisions of this regulation.

(2) In section 2(1) of the Act insert the following definition after the definition of “guardian”—

““human trafficking offence” means an offence committed under section 191A of the Crimes Act 2011;”.

(3) After section 257 insert the following heading and sections—

“Human Trafficking Offences: Investigation and Prosecution.

Requirements for investigation or prosecution.

258.(1) The investigation or prosecution of a human trafficking offence shall not be dependent on reporting or accusation by a victim wherever the offence takes place.

(2) Any criminal proceedings may continue even if the victim has withdrawn his or her statement.

- (3) Where the victim (“V”) has committed a criminal act as a direct consequence of V being subjected to human trafficking, no prosecution or imposition of penalties shall occur if “V” has been compelled to commit the criminal act as a direct consequence of being subjected to—
- (a) threats or use of force;
 - (b) coercion;
 - (c) abduction;
 - (c) fraud or deception;
 - (e) the abuse of power or of a position of vulnerability; or
 - (f) the giving or receiving of payments or benefits to achieve the consent of a person having control over V.
- (4) For the purposes of subsection (3)(e) a position of vulnerability means a situation in which V has no real or acceptable alternative but to submit to the abuse involved.
- (5) Subsection (3) shall not abrogate or limit the scope of any common law defences such as duress and necessity.

Resources for investigation or prosecution.

259. The Government shall take the necessary measures to ensure that—
- (a) persons, units or services responsible for investigating or prosecuting trafficking in human beings are trained accordingly; and
 - (b) effective investigative tools, such as those which are used in organised crime or other serious crime cases, are available to persons, units or services responsible for investigating trafficking in human beings.”.

Dated 4th April, 2013.

G H LICUDI QC,
For the Government.

EXPLANATORY MEMORANDUM

These Regulations partly transpose Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.