



# Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

## PART 5

### CRIMINAL JUSTICE

#### *Closure of premises associated with human exploitation etc.*

#### **99 Closure of premises associated with human exploitation etc.**

(1) In section 26 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) (authorisation of closure notice)—

- (a) in subsection (1), for “and (3)” substitute “ to (3B) ”,
- (b) in subsection (3), after “may” insert “ , in a case involving antisocial behaviour, ”, and
- (c) after subsection (3) insert—

“(3A) A senior police officer may, in a case involving an exploitation offence, authorise the service of a closure notice only where the senior police officer—

- (a) has reasonable grounds for believing that—
  - (i) such an offence is being (or, at any time in the immediately preceding 3 months, was) committed in the premises, or
  - (ii) the premises are being (or, at any time in the immediately preceding 3 months, have been) used for or in connection with the commission of such an offence, and
- (b) is satisfied that—
  - (i) the local authority for the area in which the premises are situated has been consulted, and
  - (ii) reasonable steps have been taken to establish the identity of any person who lives on, has control

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of, has responsibility for or has an interest in the premises.

(3B) Subsection (3A) is without prejudice to subsection (3) (including in so far as subsection (3) is applicable in relation to a brothel or other place where prostitution may occur).”.

- (2) In section 27 of that Act (service etc.), in subsection (2)—
- (a) in paragraph (b)(i), after “section 26(3)(b)(ii)” insert “ or (as the case may be) (3A)(b)(ii) ”, and
  - (b) in paragraph (b)(ii), for “in that subsection” substitute “ there ”.

- (3) In section 30 of that Act (application: determination)—
- (a) in subsection (1), after “subsection (2)” insert “ or (2A) ”,
  - (b) in subsection (2), for “Those” substitute “ Where the application is in a case involving antisocial behaviour, the ”,
  - (c) after subsection (2) insert—

“(2A) Where the application is in a case involving an exploitation offence, the conditions are—

- (a) that it appears that—
  - (i) such an offence is being (or was recently) committed in the premises, or
  - (ii) the premises continue to be (or recently have been) used for or in connection with the commission of such an offence, and
- (b) that the making of the order is necessary to prevent the commission of such an offence for the period specified in the order.”,
- (d) in subsection (3)(b), for the words from “engaged” to the end substitute “(as the case may be)—
  - (i) engaged in antisocial behaviour which has occurred in the premises, or
  - (ii) involved in the commission of an exploitation offence in or connected with the premises.”, and
- (e) after subsection (3) insert—

“(3A) For the purpose of paragraph (b)(ii) of subsection (3), a person such as is mentioned in paragraph (a) of that subsection is not involved in the commission of an exploitation offence where that person is the victim of the offence.”.

- (4) In section 32 of that Act (extension)—
- (a) after subsection (1) insert—
 

“(1A) The sheriff may, on the application of a senior police officer and if satisfied that it is necessary to do so to prevent the commission of an exploitation offence, make an order extending the period for which a closure order has effect for a period not exceeding the maximum period.”,
  - (b) in subsection (2), for “subsection (1)” substitute “ subsections (1) and (1A) ”,
  - (c) in subsection (3)—

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- (i) after “may” insert “, in a case involving antisocial behaviour,”, and
  - (ii) for “this section” substitute “ subsection (1) ”, and
- (d) after subsection (3) insert—
- “(3A) A senior police officer may, in a case involving an exploitation offence, make an application under subsection (1A) only if—
- (a) it is made while the closure order has effect, and
  - (b) the senior police officer—
    - (i) has reasonable grounds for believing that it is necessary to extend the period for which the closure order has effect for the purpose of preventing the commission of an exploitation offence, and
    - (ii) is satisfied that the appropriate local authority has been consulted about the intention to make the application.”.
- (5) In section 33 of that Act (revocation), in subsection (1), for the words from “the occurrence” to the end substitute “(as the case may be)—
- (a) the occurrence of relevant harm, or
  - (b) the commission of an exploitation offence,
- revoke the order.”.
- (6) In section 36 of that Act (appeals), in subsection (5), after “section 32(1)” insert “ or (1A) ”.
- (7) After section 40 of that Act insert—

#### **“40A Exploitation offences**

- (1) In this Part, an “exploitation offence” is any of the following offences—
- (a) so far as concerning travel or identity documentation for enabling the trafficking of people (including passports, visas and work permits)—
    - (i) fraud, or
    - (ii) uttering a forged document,
  - (b) so far as concerning the trafficking of people, an offence under section 26(1)(d) of the Immigration Act 1971 (c.77) (falsification of documentation),
  - (c) an offence under section 52 or 52A of the Civic Government (Scotland) Act 1982 (c.45) (possession, taking or distribution of indecent images of children),
  - (d) an offence under sections 7 to 12 or 13(9) of the Criminal Law (Consolidation) (Scotland) Act 1995 (c.39) (offences relating to prostitution and brothels),
  - (e) an offence under section 22 of the Criminal Justice (Scotland) Act 2003 (asp 7) (traffic in prostitution etc.),
  - (f) an offence under section 1 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9) (meeting a child following certain preliminary contact),
  - (g) an offence under sections 9 to 12 of that Act (offences relating to provision by child of sexual services or child pornography),

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- (h) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c.19) (trafficking people for exploitation),
  - (i) an offence under Part 1 of the Sexual Offences (Scotland) Act 2009 (asp 9) (rape etc.),
  - (j) an offence under Part 4 of that Act (sexual offences involving children) other than an offence under section 37 (older children engaging in sexual conduct with each other),
  - (k) an offence under section 42 of that Act (sexual abuse of trust),
  - (l) an offence under section 46 of that Act (sexual abuse of trust of a mentally disordered person),
  - (m) an offence under section 47 (slavery, servitude and forced or compulsory labour) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13).
- (2) For the purposes of subsection (1)(a) and (b), a reference to trafficking of people is a reference to a person intentionally doing something in respect of at least one other person which involves the commission of an offence mentioned in subsection (1)(e) or (h).
- (3) For the purposes of subsection (1), a reference to an offence includes a reference to—
- (a) an attempt to commit an offence,
  - (b) incitement to commit an offence,
  - (c) counselling or procuring the commission of an offence,
  - (d) involvement in and part in an offence, and
  - (e) an offence as modified by section 54 of the Sexual Offences (Scotland) Act 2009 (asp 9) (incitement to commit certain sexual acts outside the United Kingdom).
- (4) The Scottish Ministers may by order add to or otherwise modify the specification of offences listed in subsection (1).”.

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**Commencement Information**

**II** S. 99 in force at 13.12.2010 by S.S.I. 2010/413, art. 2, Sch. (with art. 6)

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