



Human Trafficking and Exploitation (Scotland) Act 2015

2015 asp 12

PART 4

TRAFFICKING AND EXPLOITATION PREVENTION AND RISK ORDERS

Trafficking and exploitation risk orders

26 Risk orders

- (1) The chief constable may apply to the sheriff for a trafficking and exploitation risk order against an adult.
- (2) The chief constable may make an application under this section to the sheriff in whose sheriffdom—
 - (a) the adult in respect of whom the order is sought resides,
 - (b) the chief constable believes that adult to be,
 - (c) the chief constable believes that adult intends to come to,
 - (d) lies any place where it is alleged that that adult acted in a way mentioned in subsection (3).
- (3) The sheriff may make a trafficking and exploitation risk order only if the sheriff is satisfied that the adult in respect of whom the order is sought has acted in a way which means that—
 - (a) there is a risk that the adult may commit a relevant trafficking or exploitation offence, and
 - (b) each prohibition or requirement in the order is necessary for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the adult committed such an offence.
- (4) The actions which the sheriff may consider for the purposes of subsection (3) include those which took place before this section comes into force.

27 Contents of risk orders

- (1) A trafficking and exploitation risk order may contain prohibitions or requirements (or both) in relation to the adult in respect of whom the order is to have effect.
- (2) Each of the following must have an effect for a fixed period, specified in the trafficking and exploitation risk order, of at least 2 years—
 - (a) a prohibition or requirement in the order,
 - (b) the order.
- (3) Subsection (2) does not apply to a prohibition on foreign travel or to an order that contains a prohibition on foreign travel and no other prohibitions or requirements (see section 28).
- (4) A trafficking and exploitation risk order may—
 - (a) prohibit the adult in respect of whom the order is to have effect from doing things, or require that adult to do things, in any part of Scotland and anywhere outwith Scotland,
 - (b) specify different periods for different prohibitions and requirements.
- (5) If the sheriff makes a trafficking and exploitation risk order in respect of an adult who is already subject to such an order (whether made by that sheriff or not), the earlier order ceases to have effect.

28 Prohibitions on foreign travel

- (1) A fixed period of not more than 5 years of effect must be applied to—
 - (a) a prohibition on foreign travel contained in a trafficking and exploitation risk order, and
 - (b) an order that contains such a prohibition and no other prohibitions or requirements.
- (2) A “prohibition on foreign travel” means—
 - (a) a prohibition on travelling to any country outwith the United Kingdom named or described in the order,
 - (b) a prohibition on travelling to any country outwith the United Kingdom other than a country named or described in the order, or
 - (c) a prohibition on travelling to any country outwith the United Kingdom.
- (3) A further period (of no more than 5 years each time) may be applied to—
 - (a) a prohibition mentioned in subsection (1)(a) by a variation or a renewal under section 29, and
 - (b) an order mentioned in subsection (1)(b) by a renewal under that section.
- (4) A trafficking and exploitation risk order that contains a prohibition mentioned in subsection (2)(c) must require the adult in respect of whom the order is made to surrender each passport that the adult has at a police station specified in the order—
 - (a) on or before the date when the prohibition takes effect, or
 - (b) within a period specified in the order.
- (5) Any passport surrendered must be returned as soon as reasonably practicable after the adult ceases to be subject to a prohibition mentioned in subsection (2)(c).
- (6) Subsection (5) does not apply in relation to—

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- (a) a passport issued by or on behalf of the authorities of a country outwith the United Kingdom if the passport has been returned to those authorities,
- (b) a passport issued by or on behalf of an international organisation if the passport has been returned to that organisation.

29 Variation, renewal and discharge of risk orders

- (1) On the application of a person mentioned in subsection (2), the appropriate sheriff may—
 - (a) vary, renew or discharge a prohibition or requirement in, or add a prohibition or requirement to, a trafficking and exploitation risk order,
 - (b) renew a trafficking and exploitation risk order,
 - (c) discharge a trafficking and exploitation risk order.
- (2) The persons are—
 - (a) the adult in respect of whom the order was made,
 - (b) the chief constable.
- (3) The “appropriate sheriff” means—
 - (a) the sheriff who made the trafficking and exploitation risk order,
 - (b) a sheriff in the sheriffdom of that sheriff,
 - (c) a sheriff in the sheriffdom in which—
 - (i) the adult in respect of whom the trafficking and exploitation risk order was made is resident at the time of the application,
 - (ii) the chief constable believes that adult to be,
 - (iii) the chief constable believes that adult intends to come to.
- (4) Before determining an application under this section, the sheriff must give an opportunity to make representations to—
 - (a) the adult in respect of whom the order is made, and
 - (b) the chief constable.
- (5) After taking into account any such representations, the sheriff may make such order as the sheriff thinks appropriate.
- (6) The sheriff may—
 - (a) vary, renew or add a prohibition or requirement under subsection (1)(a) or renew an order under subsection (1)(b) only if the sheriff is satisfied that—
 - (i) there is a risk that the adult in respect of whom the order is to have effect may commit a relevant trafficking or exploitation offence, and
 - (ii) each prohibition or requirement in the order (as it is to have effect following the renewal, variation or addition) is necessary for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the adult committed such an offence,
 - (b) discharge a prohibition or requirement under subsection (1)(a) or discharge an order under subsection (1)(c) only if the sheriff is satisfied that—
 - (i) there is no longer a risk that the adult in respect of whom the order was made may commit a relevant trafficking or exploitation offence, or
 - (ii) the prohibition or requirement or, as the case may be, the order is no longer necessary for the purpose of protecting persons generally, or

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particular persons, from the physical or psychological harm which would be likely to occur if the adult committed such an offence.

- (7) Sections 27 and 28 apply to a trafficking and exploitation risk order (and a prohibition or requirement in an order) as varied or renewed under this section as they apply to the making of a trafficking and exploitation risk order.

30 Interim risk orders

- (1) The sheriff may, after receiving an application under section 26, make an interim trafficking and exploitation risk order if the sheriff considers it just to do so.
- (2) An interim trafficking and exploitation risk order may contain prohibitions or requirements (or both) in relation to the adult in respect of whom the order is to have effect.
- (3) An interim trafficking and exploitation risk order may prohibit the adult in respect of whom the order is to have effect from doing things, or require that adult to do things, in any part of Scotland and anywhere outwith Scotland.
- (4) An interim trafficking and exploitation risk order—
- (a) has effect only for a fixed period, specified in the order, and
 - (b) ceases to have effect, if it has not already done so, on the determination of the application under section 26.
- (5) A person mentioned in subsection (6) may apply to a sheriff in the sheriffdom of the sheriff who made the interim trafficking and exploitation risk order to vary or discharge the order (or a requirement or prohibition in the order).
- (6) The persons are—
- (a) the adult in respect of whom the order was made,
 - (b) the chief constable.

31 Appeals: risk orders

- (1) A person mentioned in subsection (2) may appeal against—
- (a) a trafficking and exploitation risk order—
 - (i) made under section 26, or
 - (ii) varied or renewed in accordance with section 29(1)(a) or (b),
 - (b) the making, variation or discharge of an interim trafficking and exploitation risk order.
- (2) The persons are—
- (a) the adult in respect of whom the order was made,
 - (b) the chief constable.
- (3) Where such an appeal is made, the court may, in the appeal proceedings, suspend the decision appealed against pending the disposal of the appeal.