



# Human Trafficking and Exploitation (Scotland) Act 2015

2015 asp 12

## PART 4

### TRAFFICKING AND EXPLOITATION PREVENTION AND RISK ORDERS

#### *Trafficking and exploitation prevention orders*

#### **22 Orders on sentencing: variation, renewal and discharge**

- (1) This section applies to a trafficking and exploitation prevention order—
  - (a) made under section 17, or
  - (b) varied or renewed following an application made under this section.
- (2) On the application of a person mentioned in subsection (3), the appropriate court may—
  - (a) vary, renew or discharge a prohibition or requirement in, or add a prohibition or requirement to, the order,
  - (b) renew the order,
  - (c) discharge the order.
- (3) The persons are—
  - (a) the adult in respect of whom the order was made,
  - (b) the prosecutor.
- (4) The “appropriate court” means—
  - (a) where the application relates to an order made by the High Court, that court,
  - (b) where the application relates to an order made by the sheriff—
    - (i) in a case where the adult in respect of whom the order was made is, at the time of the application, resident in a sheriffdom other than the sheriffdom of the sheriff who made the order, any sheriff exercising criminal jurisdiction in the sheriffdom in which the adult is resident,
    - or

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*Changes to legislation: Human Trafficking and Exploitation (Scotland) Act 2015, Section 22 is up to date with all changes known to be in force on or before 02 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (ii) in any other case, any sheriff exercising criminal jurisdiction in the sheriff court district of the sheriff who made the order.
- (5) Before determining an application under this section, the court must give an opportunity to make representations to—
  - (a) the adult in respect of whom the order was made,
  - (b) the prosecutor, and
  - (c) the chief constable.
- (6) After taking into account any such representations, the court may make such order as the court thinks appropriate.
- (7) The court may—
  - (a) vary, renew or add a prohibition or requirement under subsection (2)(a) or renew an order under subsection (2)(b) only if it 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 (2)(a) or discharge an order under subsection (2)(c) only if it 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 particular persons, from the physical or psychological harm which would be likely to occur if the adult committed such an offence.
- (8) Sections 20 and 21 apply to a trafficking and exploitation prevention 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 prevention order.
- (9) In this section “prosecutor” means Lord Advocate, Crown Counsel or procurator fiscal (and any person duly authorised to represent or act for them).

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**Commencement Information**

**II** S. 22 in force at 30.6.2017 by [S.S.I. 2017/140](#), reg. 2, [sch.](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 9(10) inserted by [2023 c. 37 s. 28\(3\)](#)
- s. 10(3) inserted by [2023 c. 37 s. 28\(4\)](#)