
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 211

SHERIFF COURT

**Act of Sederunt (Summary Application Rules 1999
Amendment) (Trafficking and Exploitation Orders) 2017**

Made - - - - 16th June 2017
Laid before the Scottish
Parliament - - - - 20th June 2017
Coming into force in accordance with paragraph 1(2)
and (3)

In accordance with section 4 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013⁽¹⁾, the Court of Session has approved draft rules submitted to it by the Scottish Civil Justice Council, with such modifications as it thinks appropriate.

The Court of Session therefore makes this Act of Sederunt under the powers conferred by section 104(1) of the Courts Reform (Scotland) Act 2014⁽²⁾ and all other powers enabling it to do so.

Citation and commencement, etc.

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Summary Application Rules 1999 Amendment) (Trafficking and Exploitation Orders) 2017.

(2) Subject to subparagraph (3), it comes into force on 30th June 2017.

(3) Paragraph 2(2)(a)(iii) and (v), (2)(b)(ii), (4) and (5)(b) come into force on 31st October 2017.

(4) A certified copy is to be inserted in the Books of Sederunt.

Amendment of the Summary Application Rules 1999

2.—(1) The Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999⁽³⁾ is amended in accordance with this paragraph.

(2) In Part XLV (mutual recognition of protection measures in civil matters)⁽⁴⁾ of Chapter 3—

(a) in rule 3.45.1 (interpretation)—

(i) before the definition of “Article 5 certificate” insert—

(1) 2013 asp 3. Section 4 was amended by the Courts Reform (Scotland) Act 2014 (asp 18), schedule 5, paragraph 31(3) and by the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2), schedule 1, paragraph 1(4)(a).

(2) 2014 asp 18.

(3) S.I. 1999/929, last amended by S.S.I. 2016/319.

(4) Part XLV was inserted by S.S.I. 2014/371.

- “the 2015 Act” means the Human Trafficking and Exploitation (Scotland) Act 2015⁽⁵⁾”;
- (ii) after the definition of “interim sexual offences prevention order” insert—
- ““interim trafficking and exploitation prevention order” means an order made under section 24 of the 2015 Act”;
- (iii) after the definition of “interim trafficking and exploitation prevention order” insert—
- ““interim trafficking and exploitation risk order” means an order made under section 30 of the 2015 Act”;
- (iv) after the definition of “the Regulation” insert—
- ““trafficking and exploitation prevention order” means an order made under section 18 of the 2015 Act” and
- (v) after the definition of “trafficking and exploitation prevention order” insert—
- ““trafficking and exploitation risk order” means an order made under section 26 of the 2015 Act.”.
- (b) in rule 3.45.2 (application of rules 3.45.3 to 3.45.9)—
- (i) at the end of paragraph (a)(ii) insert—
- “or
- (iii) a trafficking and exploitation prevention order”;
- (ii) in paragraph (a)(iii) after “order” insert “or a trafficking and exploitation risk order”.
- (3) After Part XLVII (serious crime prevention orders)⁽⁶⁾ of Chapter 3 (rules on applications under specific statutes) insert—

“PART XLVIII TRAFFICKING AND EXPLOITATION ORDERS

Interpretation

3.48.1. In this Part—

- “the 2015 Act” means the Human Trafficking and Exploitation (Scotland) Act 2015⁽⁷⁾;
- “trafficking and exploitation prevention order” means an order made under section 18 of the 2015 Act.

Variation, renewal or discharge of trafficking and exploitation prevention orders

3.48.2.—(1) An application under section 23 of the 2015 Act to vary, renew or discharge a trafficking and exploitation prevention order is made by minute in the process relating to the application for the order.

(2) A minute under paragraph (1) is made in accordance with and regulated by Chapter 14 of the Ordinary Cause Rules.

⁽⁵⁾ 2015 asp 12.

⁽⁶⁾ Part XLVII was added by S.S.I. 2016/319.

⁽⁷⁾ 2015 asp 12.

(3) Where an application under section 23 of the 2015 Act to vary, renew or discharge an order is made in a sheriff court other than the sheriff court in which the process relating to the application for the order is held—

- (a) it must be made by summary application;
- (b) the initial writ containing the application must contain averments as to the sheriff court in which the process relating to the trafficking and exploitation prevention order is held;
- (c) the sheriff clerk with whom the application is lodged must notify the sheriff clerk of the sheriff court in which the process relating to the trafficking and exploitation prevention order is held; and
- (d) that sheriff clerk must, not later than 4 days after receipt of such notification, transfer the process relating to the trafficking and exploitation prevention order to the sheriff clerk of the sheriff court in which the application is made.

(4) For the purposes of paragraph (3), the sheriff court in which the process relating to the order is held is the sheriff court in which the trafficking and exploitation prevention order was granted or, where the process has been transferred under that paragraph, the last sheriff court to which the process has been transferred.

(5) A failure of the sheriff clerk to comply with paragraph (3) shall not invalidate the application.”.

(4) In Part XLVIII (trafficking and exploitation orders)—

- (a) in rule 3.48.1 (interpretation), at the end of the definition of “trafficking and exploitation prevention order” insert—

“and

“trafficking and exploitation risk order” means an order made under section 26 of the 2015 Act.”; and

- (b) after rule 3.48.2 (variation, renewal or discharge of trafficking and exploitation prevention orders) insert—

“Variation, renewal or discharge of a trafficking and exploitation risk order

3.48.3.—(1) An application under section 29 of the 2015 Act to vary, renew or discharge a trafficking an exploitation risk order is made by minute in the process relating to the application for the order.

(2) A minute under paragraph (1) is made in accordance with and regulated by Chapter 14 of the Ordinary Cause Rules.

(3) Where an application under section 29 of the 2015 Act to vary, renew or discharge an order is made in a sheriff court other than the sheriff court in which the process relating to the application for the order is held—

- (a) it must be made by summary application;
- (b) the initial writ containing the application must contain averments as to the sheriff court in which the process relating to the trafficking and exploitation risk order is held;
- (c) the sheriff clerk with whom the application is lodged must notify the sheriff clerk of the sheriff court in which the process relating to the trafficking and exploitation risk order is held; and

(d) that sheriff clerk must, not later than 4 days after receipt of such notification transfer the process relating to the trafficking and exploitation risk order to the sheriff clerk of the sheriff court in which the application is made.

(4) For the purposes of paragraph (3), the sheriff court in which the process relating to the order is held is the sheriff court in which the trafficking and exploitation risk order was granted, or where the process has been transferred under that paragraph, the last sheriff court to which the process has been transferred.

(5) A failure of the sheriff clerk to comply with paragraph (3) shall not invalidate the application.”

(5) In schedule 1, in Form 61 (application for certificate under article 5 of Regulation (EU) No. 606/2013 of the European Parliament and of the Council of 12th June 2013 on mutual recognition of protection measures in civil matters)—

- (a) after “*or* interim risk of sexual harm order” insert “*or* trafficking and exploitation prevention order *or* interim trafficking and exploitation prevention order”; and
- (b) after “interim trafficking and exploitation prevention order” insert “*or* trafficking and exploitation risk order *or* interim trafficking and exploitation risk order”.

Edinburgh
16th June 2017

CJM SUTHERLAND
Lord President
I.P.D.

EXPLANATORY NOTE

(This note is not part of the Act of Sederunt)

This Act of Sederunt amends the Summary Applications, Statutory Applications and Appeals etc. Rules 1999 (“the 1999 Rules”) in consequence of the Human Trafficking and Exploitation (Scotland) Act 2015.

Paragraph 2(2) amends Chapter 3, Part XLV (Mutual Recognition of Protection Measures in Civil Matters) of the 1999 Rules to make provision for trafficking and exploitation prevention orders and trafficking and exploitation risk orders. Paragraph 2(5) makes associated amendments to Form 61 of schedule 1 of the 1999 Rules.

Paragraph 2(3) and (4) inserts a new Part XLVIII into Chapter 3 of the 1999 Rules to set out the procedure for applying to vary, renew or discharge a trafficking and exploitation prevention order or a trafficking and exploitation risk order.