



Human Trafficking and Exploitation (Scotland) Act 2015

2015 asp 12

PART 4

TRAFFICKING AND EXPLOITATION PREVENTION AND RISK ORDERS

Offences and supplementary provision

32 Offences

- (1) A person commits an offence if, without reasonable excuse, the person—
 - (a) does anything which the person is prohibited from doing by an order mentioned in subsection (2),
 - (b) fails to do anything which the person is required to do by such an order.
- (2) The orders are—
 - (a) a trafficking and exploitation prevention order,
 - (b) an interim trafficking and exploitation prevention order,
 - (c) a trafficking and exploitation risk order,
 - (d) an interim trafficking and exploitation risk order.
- (3) A person who commits an offence under section (1) is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).

33 Enforcement of other UK orders

- (1) The Scottish Ministers may by regulations amend section 32(2) so as to—
 - (a) add to the list of orders in that section a relevant UK order, or
 - (b) remove from that list an order so added.

- (2) A relevant UK order is an order under the law of England and Wales or Northern Ireland which appears to the Scottish Ministers to be equivalent or similar to—
- (a) a trafficking and exploitation prevention order,
 - (b) an interim trafficking and exploitation prevention order,
 - (c) a trafficking and exploitation risk order, or
 - (d) an interim trafficking and exploitation risk order.

34 Interpretation of Part 4

- (1) In this Part—
- “the 1995 Act” means the Criminal Procedure (Scotland) Act 1995,
- “chief constable” means chief constable of the Police Service of Scotland,
- “interim trafficking and exploitation prevention order” means an order made under section 24,
- “interim trafficking and exploitation risk order” means an order made under section 30,
- “passport” means—
- (a) a United Kingdom passport within the meaning of the Immigration Act 1971,
 - (b) a passport issued by or on behalf of the authorities of a country outwith the United Kingdom, or by or on behalf of an international organisation,
 - (c) a document that can be used (in some or all circumstances) instead of a passport,
- “relevant offender” has the meaning given by section 19,
- “relevant trafficking or exploitation offence” means an offence listed in section 16(1),
- “trafficking and exploitation prevention order” means an order made under section 17 or 18 or varied or renewed under section 22 or 23,
- “trafficking and exploitation risk order” means an order made under section 26 or varied or renewed under section 29.
- (2) In this Part, a reference to a conviction includes a conviction for an offence in respect of which an order for—
- (a) absolute discharge is made under section 246(2) of the 1995 Act, despite section 247(1) of the 1995 Act,
 - (b) conditional discharge is made, despite—
 - (i) section 14(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (conviction with conditional discharge deemed not to be a conviction),
 - (ii) article 6(1) of the [Criminal Justice \(Northern Ireland\) Order 1996 \(S.I. 1996/3160\)](#) (effect of discharge).
- (3) Subsection (2) applies only to convictions after this Part comes into force.
- (4) In this Part, a reference to a conviction includes a finding of a court in summary proceedings that the accused did the act charged, where the court makes an order under—
- (a) section 37(3) of the Mental Health Act 1983 (hospital or guardianship),
 - (b) section 58(3) of the 1995 Act (hospital or guardianship), or

Status: This is the original version (as it was originally enacted).

- (c) article 44(4) of the [Mental Health \(Northern Ireland\) Order 1986 \(S.I. 1986/595\)](#) (hospital admission or guardianship).
- (5) In relation to an offence under the law of England and Wales or Northern Ireland, a reference in this Part to a person being acquitted by reason of the special defence in section 51A of the 1995 Act is to be treated as a reference to a person being found not guilty by reason of insanity.
- (6) In this Part, a reference to a finding that a person is under a disability and has done the act charged against the person in respect of an offence includes a finding (under section 53F of the 1995 Act or otherwise) that a person is insane or unfit to be tried and has done the act charged against the person in respect of an offence.