



Human Trafficking and Exploitation (Scotland) Act 2015

2015 asp 12

PART 4

TRAFFICKING AND EXPLOITATION PREVENTION AND RISK ORDERS

Trafficking and exploitation prevention orders

19 Meaning of relevant offender

- (1) An adult is a “relevant offender” if subsection (2) or (3) applies to that adult.
- (2) This subsection applies to an adult if—
 - (a) the adult has been convicted of a relevant trafficking or exploitation offence,
 - (b) the adult has been acquitted of a relevant trafficking or exploitation offence by reason of the special defence set out in section 51A of the 1995 Act (criminal responsibility of persons with mental disorder),
 - (c) the adult has been acquitted of a trafficking or exploitation offence by reason of insanity,
 - (d) a court has made a finding that the adult is under a disability and has done the act constituting a relevant trafficking or exploitation offence, or
 - (e) the adult has, in England and Wales or Northern Ireland, been cautioned after admitting a relevant trafficking or exploitation offence.
- (3) This subsection applies to an adult if, under the law of a country outwith the United Kingdom—
 - (a) the adult has been convicted of an equivalent offence,
 - (b) a court has made, in relation to an equivalent offence, a finding equivalent to the special defence set out in section 51A of the 1995 Act,
 - (c) a court has made, in relation to an equivalent offence, a finding equivalent to a finding that the adult is under a disability and has done the act constituting a relevant trafficking or exploitation offence, or

Changes to legislation: Human Trafficking and Exploitation (Scotland) Act 2015, Section 19 is up to date with all changes known to be in force on or before 09 December 2023. 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

- (d) the adult has admitted an equivalent offence and received a caution or other type of warning equivalent to a caution in England and Wales or Northern Ireland.
- (4) An “equivalent offence” means an act which—
- (a) constituted an offence under the law of the country concerned, and
 - (b) would have constituted a relevant trafficking or exploitation offence under the law of Scotland if it had been done—
 - (i) in the United Kingdom,
 - (ii) by a UK national or a person habitually resident in Scotland, or
 - (iii) as regards the United Kingdom.
- (5) For the purposes of subsection (4), an act punishable under the law of a country outwith the United Kingdom constitutes an offence under that law, however it is described in that law.
- (6) In relation to an application under section 18 where subsection (3) is alleged to apply to an adult, the condition in subsection (4)(b) is to be taken as met unless—
- (a) not later than 3 working days before the hearing date for the application for the trafficking and exploitation prevention order, the adult in respect of whom the order is sought serves on the chief constable a notice which—
 - (i) states that in the adult's opinion the condition is not met,
 - (ii) shows the grounds for that opinion, and
 - (iii) requires the chief constable to prove that the condition is met, or
 - (b) the sheriff, if the sheriff thinks fit, permits the adult in respect of whom the order is sought to require the chief constable to prove that the condition is met without service of such notice.
- (7) In subsection (6)(a) “working day” means any day other than a Saturday, a Sunday or a day which, under the Banking and Financial Dealings Act 1971, is a bank holiday in Scotland.
- (8) References in this section to convictions, acquittals, findings and cautions include those taking place before this section comes into force.

Commencement Information

II S. 19 in force at 30.6.2017 by [S.S.I. 2017/140](#), reg. 2, [sch.](#)

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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\(4\)](#)