



Human Trafficking and Exploitation (Scotland) Act 2015

2015 asp 12

PART 4

TRAFFICKING AND EXPLOITATION PREVENTION AND RISK ORDERS

Trafficking and exploitation prevention orders

23 Orders on application: variation, renewal and discharge

- (1) This section applies to a trafficking and exploitation prevention order—
 - (a) made under section 18, 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 sheriff 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 chief constable.
- (4) The “appropriate sheriff” means—
 - (a) the sheriff who made the order,
 - (b) a sheriff in the sheriffdom of that sheriff, or
 - (c) a sheriff in the sheriffdom in which—
 - (i) the adult in respect of whom the order was made is resident at the time of the application,
 - (ii) the chief constable believes that adult to be, or
 - (iii) the chief constable believes that adult intends to come to.

Status: This is the original version (as it was originally enacted).

- (5) 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 was made, and
 - (b) the chief constable.
- (6) After taking into account any such representations, the sheriff may make such order as the sheriff thinks appropriate.
- (7) The sheriff may—
 - (a) vary, renew or add a prohibition or requirement under subsection (2)(a) or renew an order under subsection (2)(b) only if the sheriff is satisfied that—
 - (i) since the adult in respect of whom the order was made first became a relevant offender, that adult has acted in a way which means that there is a risk that the adult 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 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 particular persons, from the physical or psychological harm which would be likely to occur if the adult committed such an offence.
- (8) The actions which the sheriff may consider for the purposes of subsection (7)(a)(i) include those which took place before this section comes into force.
- (9) 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.