



## 2015 CHAPTER 2

### **PART 4**

#### **PROTECTION OF SLAVERY AND TRAFFICKING VICTIMS IN CRIMINAL INVESTIGATIONS AND PROCEEDINGS**

##### **Defence for slavery and trafficking victims in relation to certain offences**

- 22.—**(1) Subject to subsection (9), a person is not guilty of an offence if—
- (a) the person is over the age of 18 when the act which constitutes the offence was done;
  - (b) the person does that act because the person is compelled to do that act,
  - (c) the compulsion is attributable to slavery or to relevant exploitation, and
  - (d) a reasonable person in the same situation as the person and having the person's relevant characteristics would have no realistic alternative to doing that act.
- (2) “Relevant characteristics” means age, sex and any physical or mental illness or disability.
- (3) A person may be compelled to do something by another person or by the person's circumstances.
- (4) Compulsion is attributable to slavery or to relevant exploitation only if—
- (a) it is, or is part of, conduct which constitutes an offence under section 1 or conduct which constitutes relevant exploitation, or
  - (b) it is a direct consequence of a person being, or having been, a victim of an offence under section 1 or a victim of relevant exploitation.

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**Changes to legislation:** *Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, PART 4 is up to date with all changes known to be in force on or before 10 October 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*

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(5) For the purposes of subsection (4) “relevant exploitation” is exploitation (within the meaning of section 3) that is attributable to the exploited person being, or having been, a victim of an offence under section 2.

(6) Subject to subsection (9), a person is not guilty of an offence if—

- (a) the person is a child at the time the act which constitutes the offence is done; and
- (b) that act was done as a direct consequence of the person being, or having been, a victim of an offence under section 1 or of relevant exploitation.

(7) For the purposes of subsection (6) “relevant exploitation” is exploitation which falls within one or more of subsections (2) to (5) of section 3 and is attributable to the exploited person being, or having been, a victim of an offence under section 2.

(8) In this section references to an act include an omission.

(9) This section does not apply to an offence which, in the case of a person over the age of 21, is punishable on indictment with imprisonment for life or for a term of at least 5 years, other than—

- (a) an offence under—
  - (i) section 4(2) of the Misuse of Drugs Act 1971 committed in respect of a [<sup>F1</sup>Class A,] Class B or Class C drug;
  - (ii) section 5(2) of that Act committed in respect of a [<sup>F2</sup>Class A or] Class B drug;
  - (iii) section 6(2) of that Act;
- (b) an offence under section 26A(3)(a), (b), (d), (e), (f) or (g) of the Immigration Act 1971;
- (c) an offence under section 1, 2, 3 or 4 of the Forgery and Counterfeiting Act 1981;
- (d) an offence under section 106 of the Asylum and Immigration Act 1999;
- (e) an offence under section 4 of the Identity Documents Act 2010.

(10) The Department may by order amend subsection (9).

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#### Textual Amendments

- F1** Words in s. 22(9)(a)(i) inserted (28.4.2022) by [Justice \(Sexual Offences and Trafficking Victims\) Act \(Northern Ireland\) 2022 \(c. 19\)](#), **ss. 22(a)**, 30(1)(a)
- F2** Words in s. 22(9)(a)(ii) inserted (28.4.2022) by [Justice \(Sexual Offences and Trafficking Victims\) Act \(Northern Ireland\) 2022 \(c. 19\)](#), **ss. 22(b)**, 30(1)(a)

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### **Protection of slavery and trafficking victims in criminal investigations**

**23.—**(1) Without prejudice to the rights of the accused, and in accordance with an individualised assessment of the personal circumstances of the complainant, the Chief Constable shall ensure that during an investigation of an offence under section 1 or 2—

- (a) the complainant receives specific treatment aimed at preventing secondary victimisation by avoiding, as far as possible—
  - (i) unnecessary repetition of interviews;
  - (ii) visual contact between the complainant and the accused, using appropriate means including communication technologies;
  - (iii) unnecessary questioning concerning the complainant's private life;
- (b) in addition if the complainant is under the age of 18—
  - (i) interviews with the complainant take place without unjustified delay after the facts have been reported;
  - (ii) interviews with the complainant take place, where necessary, in premises designed or adapted for the purpose;
  - (iii) interviews with the complainant are carried out, where necessary, by or through persons trained for the purpose;
  - (iv) if possible and where appropriate, the same persons conduct all the interviews with the complainant;
  - (v) the number of interviews with the complainant is as limited as possible and interviews are carried out only where strictly necessary for the purposes of the investigation;
  - (vi) the complainant may be accompanied by an adult of the complainant's choice, unless the police officer in charge of the investigation decides to the contrary and records the reasons for that decision in writing.

(2) In this section—

“the accused” means a person who is alleged to have committed, or has committed, an offence under section 1 or 2;

“complainant” means a person against or in relation to whom an offence under section 1 or 2 is alleged to have been committed, or has been committed.

### **Special measures: amendments to the Criminal Evidence (Northern Ireland) Order 1999**

**24.—**(1) The Criminal Evidence (Northern Ireland) Order 1999 is amended as follows.

(2) In Article 3 after paragraph (1) insert—

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“(1A) In this Order “a slavery or human trafficking offence” means an offence under—

- (a) section 57, 58, 58A or 59 of the Sexual Offences Act 2003 (trafficking for sexual exploitation);
- (b) section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking for exploitation);
- (c) section 71 of the Coroners and Justice Act 2009 (slavery, servitude and forced or compulsory labour); or
- (d) section 1 or 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (slavery, servitude, forced or compulsory labour and human trafficking).”.

(3) In Article 5(4) (witnesses eligible for assistance on grounds of fear or distress about testifying) after “sexual offence” insert “ or a slavery or human trafficking offence ”.

(4) In Article 13(4)(a) (evidence given in private) after “sexual offence” insert “ or a slavery or human trafficking offence ”.

(5) In Article 21 (interpretation etc. of Part 2) after paragraph (4) insert—

“(5) For the purposes of this Part as it applies in relation to a witness who is the complainant in respect of a slavery or human trafficking offence, where the age of the witness is uncertain and there are reasons to believe that the witness is under the age of 18, that witness is presumed to be under the age of 18.”.

(6) In Article 22 (complainants in proceedings for sexual offences) after “sexual offence” insert “ or a slavery or human trafficking offence ”.

(7) In Article 23 (child complainants and other child witnesses) in paragraph (3) for sub-paragraph (cc) substitute—

“(cc) a slavery or human trafficking offence;”.

(8) In Article 39 (general supplementary provisions) after paragraph (2) insert—

“(3) Paragraph (2) is subject to Article 21(5).”.

**Changes to legislation:**

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[View outstanding changes](#)

**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. 18(10A) inserted by [2023 c. 37 s. 28\(5\)](#)