

SCHEDULES

SCHEDULE 2

Section 10.

SLAVERY AND TRAFFICKING REPARATION ORDERS

Power to make slavery and trafficking reparation order

1.—(1) The Crown Court may make a slavery and trafficking reparation order against a person if—

- (a) the person has been convicted of an offence under section 1, 2 or 4, and
- (b) the Crown Court makes a confiscation order against the person in respect of the offence.

(2) The Crown Court may also make a slavery and trafficking reparation order against a person if—

- (a) by virtue of section 178 of the Proceeds of Crime Act 2002 (defendants who abscond during proceedings) it has made a confiscation order against a person in respect of an offence under section 1, 2 or 4, and
- (b) the person is later convicted of the offence.

(3) The court may make a slavery and trafficking reparation order against the person in addition to dealing with the person in any other way (subject to paragraph 3(1)).

(4) In a case within sub-paragraph (1) the court may make a slavery and trafficking reparation order against the person even if the person has been sentenced for the offence before the confiscation order is made.

(5) In determining whether to make a slavery and trafficking reparation order against the person the court must have regard to the person's means.

(6) If the court considers that—

- (a) it would be appropriate both to impose a fine and to make a slavery and trafficking reparation order, but
- (b) the person has insufficient means to pay both an appropriate fine and appropriate compensation under such an order,

the court must give preference to compensation (although it may impose a fine as well).

(7) In any case in which the court has power to make a slavery and trafficking reparation order it must—

- (a) consider whether to make such an order (whether or not an application for such an order is made), and
 - (b) if it does not make an order, give reasons.
- (8) In this paragraph—
- (a) “confiscation order” means a confiscation order under section 156 of the Proceeds of Crime Act 2002;
 - (b) a confiscation order is made in respect of an offence if the offence is the offence (or one of the offences) concerned for the purposes of Part 4 of that Act.

Effect of slavery and trafficking reparation order

2.—(1) A slavery and trafficking reparation order is an order requiring the person against whom it is made to pay compensation to the victim of a relevant offence for any harm resulting from that offence.

- (2) “Relevant offence” means—
- (a) the offence under section 1, 2 or 4 of which the person is convicted;
 - (b) any other offence under section 1, 2 or 4 which is taken into consideration in determining the person’s sentence.

(3) The amount of the compensation is to be such amount as the court considers appropriate having regard to any evidence and to any representations made by or on behalf of the person or the prosecutor, but subject to sub-paragraph (4).

(4) The amount of the compensation payable under the slavery and trafficking reparation order (or if more than one order is made in the same proceedings, the total amount of the compensation payable under those orders) must not exceed the amount the person is required to pay under the confiscation order.

(5) In determining the amount to be paid by the person under a slavery and trafficking reparation order the court must have regard to the person’s means.

(6) A slavery and trafficking reparation order is enforceable in the same manner as any fine which has been, or might have been, imposed in respect of the offence for which the person has been convicted by the court making the order.

(7) In sub-paragraph (4) “the confiscation order” means the confiscation order within paragraph 1(1)(b) or (2)(a) (as the case may be).

Supplementary

3.—(1) A slavery and trafficking reparation order and a compensation order under Article 14 of the Criminal Justice (Northern Ireland) Order 1994 may not both be made in respect of the same offence.

(2) Where the court makes a slavery and trafficking reparation order as mentioned in paragraph 1(4), for the purposes of the following provisions the person's sentence is to be regarded as imposed or made on the day on which the order is made—

- (a) section 16(1) of the Criminal Appeal (Northern Ireland) Act 1980 (time limit for notice of appeal or application for leave to appeal);
- (b) paragraph 1 of Schedule 3 to the Criminal Justice Act 1988 (time limit for notice of application for leave to refer a case under section 36 of that Act).

(3) Articles 15 to 17 of the Criminal Justice (Northern Ireland) Order 1994 (appeals, review etc. of compensation orders) apply to slavery and trafficking reparation orders as if—

- (a) references to a compensation order were references to a slavery and trafficking reparation order;
- (b) references to injury, loss or damage were references to harm;
- (c) in Article 16(a) (as amended by Schedule 4) for sub-paragraph (ii) there were substituted—

“(ii) a compensation order under Article 14 of this Order; or”;

- (d) in Article 17 the references to service compensation orders or awards were omitted.

(4) If under section 171 or 172 of the Proceeds of Crime Act 2002 the court varies a confiscation order so as to increase the amount required to be paid under that order, it may also vary any slavery and trafficking reparation order made by virtue of the confiscation order so as to increase the amount required to be paid under the slavery and trafficking reparation order.

(5) If under section 173 or 179 of that Act the court varies a confiscation order so as to reduce the amount required to be paid under that order, it may also—

- (a) vary any relevant slavery and trafficking reparation order so as to reduce the amount which remains to be paid under that order;
- (b) discharge any relevant slavery and trafficking reparation order.

(6) If under section 174 of that Act the court discharges a confiscation order, it may also discharge any relevant slavery and trafficking reparation order.

(7) For the purposes of sub-paragraphs (5) and (6) a slavery and trafficking reparation order is relevant if it is made by virtue of the confiscation order and some or all of the amount required to be paid under it has not been paid.

(8) If on an appeal under section 181 of the Proceeds of Crime Act 2002 the Court of Appeal—

- (a) quashes a confiscation order, it must also quash any slavery and trafficking reparation order made by virtue of the confiscation order;

- (b) varies a confiscation order, it may also vary any slavery and trafficking reparation order made by virtue of the confiscation order;
 - (c) makes a confiscation order, it may make any slavery and trafficking reparation order the Crown Court could have made if it had made the confiscation order.
- (9) If on an appeal under section 183 of that Act the Supreme Court—
- (a) quashes a confiscation order, it must also quash any slavery and trafficking reparation order made by virtue of the confiscation order;
 - (b) varies a confiscation order, it may also vary any slavery and trafficking reparation order made by virtue of the confiscation order.
- (10) For the purposes of this paragraph—
- (a) a slavery and trafficking reparation order made under paragraph 1(1) is made by virtue of the confiscation order within paragraph 1(1)(b);
 - (b) a slavery and trafficking reparation order made under paragraph 1(2) is made by virtue of the confiscation order within paragraph 1(2)(a).