

SCHEDULES

SCHEDULE 3

SLAVERY AND TRAFFICKING PREVENTION ORDERS

PART 1

MAKING AND EFFECT OF SLAVERY AND TRAFFICKING PREVENTION ORDERS

Slavery and trafficking prevention orders on dealing with defendant

1.—(1) A court may make a slavery and trafficking prevention order against a person aged 18 or over (“the defendant”) where it deals with the defendant in respect of—

- (a) a conviction for a slavery or human trafficking offence,
- (b) a finding that the defendant is not guilty of a slavery or human trafficking offence by reason of insanity, or
- (c) a finding that the defendant is unfit to plead and has done the act charged against the defendant in respect of a slavery or human trafficking offence.

(2) The court may make the order only if it is satisfied that—

- (a) there is a risk that the defendant may commit a slavery or human trafficking offence; and
- (b) it is necessary to make the order for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed such an offence.

(3) For the purposes of sub-paragraph (1), convictions and findings include those taking place before this Schedule comes into operation.

(4) In this Schedule a “slavery or human trafficking offence” means any of the following offences—

- (a) an offence under section 145 of the Nationality, Immigration and Asylum Act 2002 (trafficking for prostitution);
- (b) an offence under section 57, 58, 58A, 59 or 59A of the Sexual Offences Act 2003 (trafficking for sexual exploitation);

- (c) an offence under section 62 of that Act (committing offence with intent to commit relevant sexual offence), where the relevant sexual offence the person in question intended to commit was an offence under section 57, 58, 58A, 59 or 59A of that Act;
 - (d) an offence under section 22 of the Criminal Justice (Scotland) Act 2003 (trafficking for prostitution);
 - (e) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking for exploitation);
 - (f) an offence under section 71 of the Coroners and Justice Act 2009 (slavery, servitude and forced or compulsory labour);
 - (g) an offence under section 47 of the Criminal Justice and Licensing (Scotland) Act 2010 (slavery, servitude and forced or compulsory labour);
 - (h) an offence under section 1, 2 or 4 of this Act;
 - (i) an offence of attempting or conspiring to commit an offence listed above;
 - (j) an offence committed by aiding, abetting, counselling, procuring or inciting the commission of an offence so listed;
 - (k) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting) where the offence (or one of the offences) which the person in question intends or believes would be committed is an offence so listed.
- (5) The Department may by order amend sub-paragraph (4).

Slavery and trafficking prevention orders on application

2.—(1) A court of summary jurisdiction may make a slavery and trafficking prevention order against a person aged 18 or over (“the defendant”) on an application by the Chief Constable.

- (2) The court may make the order only if it is satisfied that—
 - (a) the defendant is a relevant offender (see paragraph 3), and
 - (b) since the defendant first became a relevant offender, the defendant has acted in a way which means that the condition in sub-paragraph (3) is met.
- (3) The condition is that—
 - (a) there is a risk that the defendant may commit a slavery or human trafficking offence; and
 - (b) it is necessary to make the order for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed such an offence.
- (4) The Chief Constable may make an application under this paragraph only in respect of a person—
 - (a) who lives in Northern Ireland, or

(b) who the Chief Constable believes is in, or is intending to come to, Northern Ireland.

(5) An application under this paragraph is to be made by complaint.

(6) The acts of the defendant which may be relied on for the purposes of sub-paragraph (2)(b) include acts taking place before this Schedule comes into operation.

(7) The Department may by order provide that an application under this paragraph may be made by a person or body specified in the order (as well as by the Chief Constable); and such an order may make such consequential amendments to this Schedule as the Department thinks necessary or expedient.

Meaning of “relevant offender”

3.—(1) A person is a “relevant offender” for the purposes of paragraph 2 if sub-paragraph (2) or (3) applies to the person.

(2) This sub-paragraph applies to a person if—

- (a) the person has been convicted of a slavery or human trafficking offence,
- (b) a court has made a finding that the person is not guilty of a slavery or human trafficking offence by reason of insanity,
- (c) a court has made a finding that the person is unfit to be tried and has done the act charged against the person in respect of a slavery or human trafficking offence, or
- (d) the person has been cautioned in respect of a slavery or human trafficking offence.

(3) This sub-paragraph applies to a person if, under the law of a country outside the United Kingdom—

- (a) the person has been convicted of an equivalent offence (whether or not the person has been punished for it),
- (b) a court has made, in relation to an equivalent offence, a finding equivalent to a finding that the person is not guilty by reason of insanity,
- (c) a court has made, in relation to an equivalent offence, a finding equivalent to a finding that the person is unfit to be tried and has done the act charged against the person, or
- (d) the person has been cautioned in respect of an equivalent offence.

(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 slavery or human trafficking offence under the law of Northern Ireland if it had been done in Northern Ireland, or by a UK national, or as regards the United Kingdom.

(5) For the purposes of sub-paragraph (4) an act punishable under the law of a country outside the United Kingdom constitutes an offence under that law, however it is described in that law.

(6) On an application under paragraph 2 where sub-paragraph (3) is alleged to apply to the defendant, the condition in sub-paragraph (4)(b) is to be taken as met unless—

- (a) not later than provided by magistrates' court rules, the defendant serves on the Chief Constable a notice which states that in the defendant's opinion the condition is not met, shows the grounds for that opinion, and requires the Chief Constable to prove that the condition is met, or
- (b) the court permits the defendant to require the Chief Constable to prove that the condition is met without service of such a notice.

(7) References in this paragraph to convictions, findings and cautions include those taking place before this paragraph comes into operation.

Effect of slavery and trafficking prevention orders

4.—(1) A slavery and trafficking prevention order is an order prohibiting the defendant from doing anything described in the order or requiring the defendant to do anything described in the order (or both).

(2) The only prohibitions or requirements that may be included in the order are those which the court is satisfied are 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 defendant committed a slavery or human trafficking offence.

(3) Subject to paragraph 5(1), a prohibition or requirement contained in a slavery and trafficking prevention order has effect—

- (a) for a fixed period, specified in the order, of at least 5 years, or
- (b) until further order.

(4) A slavery and trafficking prevention order—

- (a) may specify that some of its prohibitions or requirements have effect until further order and some for a fixed period;
- (b) may specify different periods for different prohibitions or requirements.

(5) If a court makes a slavery and trafficking prevention order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order ceases to have effect.

Prohibitions on foreign travel

5.—(1) A prohibition on foreign travel contained in a slavery and trafficking prevention order must be for a fixed period of not more than 5 years.

(2) A “prohibition on foreign travel” means—

- (a) a prohibition on travelling to any country outside the United Kingdom named or described in the order,
- (b) a prohibition on travelling to any country outside the United Kingdom other than a country named or described in the order, or
- (c) a prohibition on travelling to any country outside the United Kingdom.

(3) Sub-paragraph (1) does not prevent a prohibition on foreign travel from being extended for a further period (of no more than 5 years each time) under paragraph 6.

(4) A slavery and trafficking prevention order that contains a prohibition within sub-paragraph (2)(c) must require the defendant to surrender all of the defendant’s passports at a police station specified in the order—

- (a) on or before the date when the prohibition takes effect, or
- (b) within a period specified in the order.

(5) Any passports surrendered must be returned as soon as reasonably practicable after the person ceases to be subject to a slavery and trafficking prevention order containing a prohibition within sub-paragraph (2)(c).

(6) Sub-paragraph (5) does not apply in relation to—

- (a) a passport issued by or on behalf of the authorities of a country outside the United Kingdom if the passport has been returned to those authorities;
- (b) a passport issued by or on behalf of an international organisation if the passport has been returned to that organisation.

Variation, renewal and discharge

6.—(1) A person within sub-paragraph (2) may apply to the appropriate court for an order varying, renewing or discharging a slavery and trafficking prevention order.

(2) The persons are—

- (a) the defendant;
- (b) the Chief Constable.

(3) On the application the court, after hearing—

- (a) the person making the application, and
- (b) the other person mentioned in sub-paragraph (2) (if that person wishes to be heard),

may make any order varying, renewing or discharging the slavery and trafficking prevention order that the court considers appropriate.

(4) An order may be renewed, or varied so as to impose additional prohibitions or requirements on the defendant, only if the court is satisfied that—

- (a) there is a risk that the defendant may commit a slavery or human trafficking offence; and
- (b) it is necessary to renew or vary the order for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed such an offence.

(5) Any renewed or varied order may contain only those prohibitions or requirements which the court is satisfied are necessary for that purpose.

(6) The court must not discharge an order before the end of 5 years beginning with the day on which the order was made, without the consent of the defendant and the Chief Constable.

(7) Sub-paragraph (6) does not apply to an order containing a prohibition on foreign travel and no other prohibitions.

(8) In this paragraph “the appropriate court” means—

- (a) where the Crown Court or the Court of Appeal made the slavery and trafficking prevention order, the Crown Court;
- (b) in any other case, a court of summary jurisdiction.

(9) An application under sub-paragraph (1) may be made—

- (a) where the appropriate court is the Crown Court, in accordance with Crown Court rules;
- (b) in any other case, by complaint.

Interim slavery and trafficking prevention orders

7.—(1) This paragraph applies where an application under paragraph 2 (“the main application”) has not been determined.

(2) An application for an interim slavery and trafficking prevention order—

- (a) may be made by the complaint by which the main application is made, or
- (b) if the main application has been made, may be made by the person who has made that application, by complaint to the court to which that application has been made.

(3) The court may, if it considers it just to do so, make an interim slavery and trafficking prevention order.

(4) An interim slavery and trafficking prevention order is an order prohibiting the defendant from doing anything described in the order or requiring the defendant to do anything described in the order (or both).

(5) The order—

- (a) has effect only for a fixed period, specified in the order;
- (b) ceases to have effect, if it has not already done so, on the determination of the main application.

(6) The applicant or the defendant may by complaint apply to the court that made the interim slavery and trafficking prevention order for the order to be varied, renewed or discharged.

Appeals

8.—(1) A defendant may appeal against the making of a slavery and trafficking prevention order—

- (a) where the order was made under paragraph 1(1)(a), as if the order were a sentence passed on the defendant for the offence;
- (b) where the order was made under paragraph 1(1)(b) or (c), as if the defendant had been convicted of the offence and the order were a sentence passed on the defendant for that offence;
- (c) where the order was made on an application under paragraph 2, to the county court.

(2) A defendant may appeal to the county court against the making of an interim slavery and trafficking prevention order.

(3) A defendant may appeal against the making of an order under paragraph 6, or the refusal to make such an order—

- (a) where the application for such an order was made to the Crown Court, to the Court of Appeal;
- (b) in any other case, to the county court.

(4) On an appeal under sub-paragraph (1)(c), (2) or (3)(b), the county court may make such orders as may be necessary to give effect to its determination of the appeal, and may also make such incidental or consequential orders as appear to it to be just.

(5) Any order made by the county court on an appeal under sub-paragraph (1)(c) or (2) is for the purposes of paragraph 6(8) or 7(6) (respectively) to be treated as if it were an order of the court from which the appeal was brought.

(6) Sub-paragraph (5) does not apply to an order directing that an application be reheard by a court of summary jurisdiction.