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STATUTORY INSTRUMENTS

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**2013 No. 470 (C. 20)**

**CRIMINAL LAW, ENGLAND AND WALES**

**The Protection of Freedoms Act 2012 (Commencement  
No. 5 and Saving and Transitional Provision) Order 2013**

*Made* - - - - *3rd March 2013*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 116 and 120(1) of the Protection of Freedoms Act 2012<sup>(1)</sup>.

**Citation and interpretation**

**1.**—(1) This Order may be cited as the Protection of Freedoms Act 2012 (Commencement No. 5 and Saving and Transitional Provision) Order 2013.

(2) In this Order—

“Act” means the Protection of Freedoms Act 2012;

“2003 Act” means the Sexual Offences Act 2003<sup>(2)</sup>;

“2004 Act” means the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004<sup>(3)</sup>.

**Provisions coming into force on 6th April 2013**

**2.** The day appointed for the coming into force of the following provisions of the Act is 6th April 2013—

- (a) section 109 (trafficking people for sexual exploitation);
- (b) section 110 (trafficking people for labour and other exploitation);
- (c) section 115(1) (consequential amendments) in so far as it relates to the provisions specified in sub-paragraph (d);
- (d) in Schedule 9, paragraphs 136 to 142;
- (e) section 115(2) (repeals and revocations) in so far as it relates to the provisions specified in sub-paragraph (f); and
- (f) in Schedule 10, the repeals in Part 9.

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(1) 2012 c.9.  
(2) 2003 c. 42.  
(3) 2004 c. 19.

### **Saving and transitional provision**

**3.** The amendments and repeals made by the following provisions of the Act do not apply in relation to offences committed wholly or partly before 6th April 2013—

- (a) sections 109 and 110;
- (b) paragraphs 136(a), 138 and 140(2) and (3) of Schedule 9.

**4.** Section 4 of the 2004 Act continues to apply, without the amendments made by section 110 of the Act, for the purposes of interpreting the references to an individual who is a passenger in section 25C(9), (10) and (11) of the Immigration Act 1971(4).

**5.—(1)** This article applies where in any proceedings—

- (a) a person (“D”) is charged in respect of the same conduct with—
  - (i) an offence under any of sections 57 to 59 of the 2003 Act; and
  - (ii) an offence under section 59A of the 2003 Act;
- (b) the only thing preventing D from being found guilty of an offence under section 59A is the fact that it has not been proved beyond reasonable doubt that the offence was committed wholly on or after 6th April 2013;
- (c) the only thing preventing D from being found guilty of an offence under any of sections 57 to 59 is the fact that it has not been proved beyond reasonable doubt that the offence was committed wholly or partly before 6th April 2013.

(2) For the purpose of determining D’s guilt it shall be conclusively presumed that the offence was committed wholly or partly before 6th April 2013.

**6.—(1)** This article applies where in any proceedings—

- (a) a person (“P”) is charged in respect of the same conduct with—
  - (i) an offence under section 4 of the 2004 Act as it was before it was amended by section 110 of the Act (“the old offence”); and
  - (ii) an offence under section 4 of the 2004 Act as amended by section 110 of the Act (“the new offence”);
- (b) the only thing preventing P from being found guilty of the new offence is the fact that it has not been proved beyond reasonable doubt that the offence was committed wholly on or after 6th April 2013;
- (c) the only thing preventing P from being found guilty of the old offence is the fact that it has not been proved beyond reasonable doubt that the offence was committed wholly or partly before 6th April 2013.

(2) For the purpose of determining P’s guilt it shall be conclusively presumed that the offence was committed wholly or partly before 6th April 2013.

**7.** A reference in articles 5 and 6 to an offence includes a reference to—

- (a) aiding, abetting, counselling or procuring the commission of the offence;
- (b) conspiracy to commit the offence;
- (c) an attempt to commit the offence; and
- (d) an offence under Part 2 of the Serious Crime Act 2007(5) (encouraging or assisting crime) in relation to the offence.

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(4) 1971 c. 77.

(5) 2007 c. 27.

**8.** For the purposes of articles 3, 5 and 6, an offence is partly committed before 6th April 2013 if any act or omission which forms part of the offence takes place before that day.

Home Office  
3rd March 2013

*Mark Harper*  
Minister of State

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order commences on 6th April 2013 the provisions of the Protection of Freedoms Act 2012 mentioned in article 2. These provisions amend human trafficking offences in England and Wales as part of the implementation of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

Articles 3 to 8 make the necessary saving and transitional provision in connection with the coming into force of those provisions.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the Protection of Freedoms Act 2012 have been brought into force by commencement order made before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
section 20 partially	1st October 2012	<a href="#">2012/2234</a>
section 22	1st October 2012	<a href="#">2012/2234</a>
section 29	1st July 2012	<a href="#">2012/1205</a>
section 30	1st July 2012	<a href="#">2012/1205</a>
section 31	1st July 2012	<a href="#">2012/1205</a>
section 32	1st July 2012	<a href="#">2012/1205</a>
section 33	1st July 2012	<a href="#">2012/1205</a>
section 34	1st July 2012	<a href="#">2012/1205</a>
section 35	1st July 2012	<a href="#">2012/1205</a>
section 36	1st July 2012	<a href="#">2012/1205</a>
section 37	1st November 2012	<a href="#">2012/2075</a>
section 38	1st November 2012	<a href="#">2012/2075</a>
section 39(1)	1st July 2012	<a href="#">2012/1205</a>
section 40 in relation to England	1st July 2012	<a href="#">2012/1205</a>
section 41 in relation to England	1st July 2012	<a href="#">2012/1205</a>
section 42	1st July 2012	<a href="#">2012/1205</a>
section 43 in relation to England	1st July 2012	<a href="#">2012/1205</a>
section 44 in relation to England	1st July 2012	<a href="#">2012/1205</a>
section 45 in relation to England	1st July 2012	<a href="#">2012/1205</a>

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
section 46 in relation to England	1st July 2012	2012/1205
section 47	1st July 2012	2012/1205
section 48	1st July 2012	2012/1205
section 49	1st July 2012	2012/1205
section 50	1st July 2012	2012/1205
section 51	1st July 2012	2012/1205
section 52	1st July 2012	2012/1205
section 54	1st October 2012	2012/2075
section 55	1st October 2012	2012/2075
section 56	1st October 2012	2012/2075
section 57	10th July 2012	2012/1205
section 58	10th July 2012	2012/1205
section 59	10th July 2012	2012/1205
section 60	10th July 2012	2012/1205
section 61	10th July 2012	2012/1205
section 62	9th May 2012	2012/1205
section 63	10th July 2012	2012/1205
section 64	10th September 2012	2012/2234
section 65	10th September 2012	2012/2234
section 66	10th September 2012	2012/2234
section 67	10th September 2012	2012/2234
section 68	10th September 2012	2012/2234
section 69	10th September 2012	2012/2234
section 70	10th September 2012	2012/2234
section 71	10th September 2012	2012/2234
section 72 partially	10th September 2012	2012/2234
section 75 partially	10th September 2012	2012/2234
section 76 partially	10th September 2012	2012/2234
section 77	10th September 2012	2012/2234
section 78 partially	10th August 2012	2012/2075
section 78 partially	10th September 2012	2012/2234
section 79 partially	10th September 2012	2012/2234
section 80	10th September 2012	2012/2234
section 81	10th September 2012	2012/2234

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
section 82	10th September 2012	2012/2234
section 84	10th September 2012	2012/2234
section 85	1st July 2012	2012/1205
section 86	10th September 2012	2012/2234
section 87 partially	15th October 2012	2012/2521
section 87 so far as not already in force	1st December 2012	2012/2521
section 92	1st October 2012	2012/2234
section 93	1st October 2012	2012/2234
section 94	1st October 2012	2012/2234
section 95	1st October 2012	2012/2234
section 96	1st October 2012	2012/2234
section 97	1st October 2012	2012/2234
section 98	1st October 2012	2012/2234
section 99	1st October 2012	2012/2234
section 100	1st October 2012	2012/2234
section 101	1st October 2012	2012/2234
section 104	1st July 2012	2012/1205
section 111	25th November 2012	2012/2075
section 112	25th November 2012	2012/2075
section 114	1st October 2012	2012/2234
section 115(1) partially	1st July 2012	2012/1205
section 115(1) partially	10th July 2012	2012/1205
section 115(1) partially	10th September 2012	2012/2234
section 115(1) partially	1st October 2012	2012/2075
section 115(1) partially	1st October 2012	2012/2234
section 115(1) partially	15th October 2012	2012/2521
section 115(1) partially	1st November 2012	2010/2075
section 115(1) partially	25th November 2012	2012/2075
section 115(2) partially	1st July 2012	2012/1205
section 115(2) partially	10th July 2012	2012/1205
section 115(2) partially	10th September 2012	2012/2234
section 115(2) partially	1st October 2012	2012/2075
Schedule 4	1st October 2012	2012/2075
Schedule 5	10th July 2012	2012/1205

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 6	10th July 2012	<a href="#">2012/1205</a>
Schedule 7 partially	10th August 2012	<a href="#">2012/2075</a>
Schedule 7 partially	10th September 2012	<a href="#">2012/2234</a>
Schedule 8 partially	15th October 2012	<a href="#">2012/2521</a>
Schedule 8 so far as not already in force	1st December 2012	<a href="#">2012/2521</a>
Schedule 9 partially	1st July 2012	<a href="#">2012/1205</a>
Schedule 9 partially	10th July 2012	<a href="#">2012/1205</a>
Schedule 9 partially	10th September 2012	<a href="#">2012/2234</a>
Schedule 9 partially	1st October 2012	<a href="#">2012/2075</a>
Schedule 9 partially	1st October 2012	<a href="#">2012/2234</a>
Schedule 9 partially	15th October 2012	<a href="#">2012/2521</a>
Schedule 9 partially	1st November 2012	<a href="#">2012/2075</a>
Schedule 9 partially	25th November 2012	<a href="#">2012/2075</a>
Schedule 10 partially	1st July 2012	<a href="#">2012/1205</a>
Schedule 10 partially	10th July 2012	<a href="#">2012/1205</a>
Schedule 10 partially	10th September 2012	<a href="#">2012/2234</a>
Schedule 10 partially	1st October 2012	<a href="#">2012/2075</a>