



2015 CHAPTER 2

PART 1

SLAVERY AND HUMAN TRAFFICKING OFFENCES

Sentencing for offences under section 1 or 2

Offences to be serious offences for purposes of sentencing

5.—(1) The Criminal Justice (Northern Ireland) Order 2008 is amended as follows.

(2) In Schedule 1 (serious offences for purposes of sentencing dangerous offenders) after paragraph 31 insert—

“The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015

31A. An offence under—

section 1 (slavery, servitude and forced or compulsory labour);

section 2 (human trafficking).”.

(3) In Part 1 of Schedule 2 (specified violent offences for purposes of sentencing dangerous offenders) after paragraph 31 insert—

“The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015

31A. An offence under—

section 1 (slavery, servitude and forced or compulsory labour);

section 2 (human trafficking) which is not within Part 2 of this Schedule.”.

(4) In Part 2 of Schedule 2 (specified sexual offences for purposes of sentencing dangerous offenders) after paragraph 14 insert—

“The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015

14A. An offence under section 2 (human trafficking) committed with a view to exploitation that consists of or includes behaviour within section 3(3) of that Act (sexual exploitation)..2 (human trafficking) committed with a view to exploitation that consists of or includes behaviour within section 3(3) of that Act (sexual exploitation).”.

Aggravating factors

6.—(1) Where a court is considering for the purposes of sentencing the seriousness of an offence under section 1 or 2, the court must treat the following as aggravating factors—

- (a) the offence was committed by a public official in relation to the performance of her or his duties;
- (b) the offence was committed by a member of the family of the victim;
- (c) the offence was committed by a person in a position of trust;
- (d) the offence was committed against a child;
- (e) the offence was committed against a vulnerable adult;
- (f) the offence was committed by the use of threats against a member of the family of the victim;
- (g) the offender deliberately or by gross negligence endangered the life of the victim;
- (h) the offence caused serious harm to the victim; or
- (i) the offence was committed by a person who has previously been convicted—
 - (i) of an offence under section 1 or 2;
 - (ii) of an offence under any provision repealed by this Act;
 - (iii) in respect of anything done outside Northern Ireland which was not an offence mentioned in sub-paragraph (i) or (ii) but would have been such an offence if done in Northern Ireland.

(2) In this section—

“public official” means—

- (a) a member of the Northern Ireland civil service or the United Kingdom civil service;
- (b) a person employed by a body established by an Act of Parliament or by Northern Ireland legislation;
- (c) the holder of an office established by an Act of Parliament or by Northern Ireland legislation;
- (d) a police officer;

“serious harm” has the same meaning as in Article 3 of the Criminal Justice (Northern Ireland) Order 2008.

Minimum sentence for offence under section 1 or 2

7.—(1) This section applies where an individual is convicted of an offence under section 1 or 2 and that individual was aged 18 or over when the offence was committed.

(2) The court shall impose a custodial sentence for a term of at least two years (with or without a fine) unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.

(3) If there are exceptional circumstances which justify—

- (a) the imposition of a lesser sentence than that provided for under subsection (2), or
- (b) the exercise by the court of its powers under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968,

the court shall state in open court that it is of the opinion that such exceptional circumstances exist and the reasons for that opinion.

(4) Where subsection (3) applies the Chief Clerk shall record both the opinion of the court that exceptional circumstances exist and the reasons stated in open court which justify either the imposition of a lesser sentence or the exercise of its powers under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 as the case may be.

(5) For the purposes of subsection (2) “custodial sentence” shall not include a sentence in relation to which the court has made an order under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968.

(6) In section 36 (review of sentencing) of the Criminal Justice Act 1988 in subsection (9)(b) omit the “and” at the end of the subsection and after subsection (9)(c) insert—

“and

- (d) subsection (2)(b) shall be read as if it included a reference to a sentence required by section 7(2) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.”.

(7) The Criminal Justice (Northern Ireland) Order 1996 is amended as follows—

- (a) in Article 2(9) (interpretation of references to sentences falling to be imposed under various statutory provisions) after “2006” insert “or section 7(2) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015” and for “that paragraph” substitute “that provision”;

(b) in each of —

- (i) Article 4(1) (power to discharge defendant except in specified circumstances),
- (ii) Article 10(1) (power to impose probation order except in specified cases),
- (iii) Article 13(1) (power to impose community service order except in specified cases),
- (iv) Article 15(1) (power to impose combination order except in specified circumstances),

after “2008” insert “or section 7(2) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015”.

(8) In the Criminal Justice (Northern Ireland) Order 2008—

- (a) in Article 4(2) (interpretation) omit the “and” at the end of sub-paragraph (c) and after sub-paragraph (d) add—

“(e) a sentence falls to be imposed under section 7(2) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 if it is required by that provision and the court is not of the opinion there mentioned;”;

- (b) in Article 5 (restrictions on imposing certain custodial sentences) in paragraph (1)(b) omit “or” at the end of paragraph (ii) and after paragraph (iii) add—

“or

(iv) section 7(2) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.”;

- (c) in Article 7 (length of custodial sentence) in paragraph (3) at the end add—

“(c) section 7(2) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.”.