

2015 CHAPTER 2

PART 1

SLAVERY AND HUMAN TRAFFICKING OFFENCES

The offences

Slavery, servitude and forced or compulsory labour

1.—(1) A person (“A”) commits an offence if—

- (a) A holds another person (“B”) in slavery or servitude and the circumstances are such that A knows or ought to know that B is held in slavery or servitude, or
- (b) A requires B to perform forced or compulsory labour and the circumstances are such that A knows or ought to know that B is being required to perform forced or compulsory labour.

(2) In subsection (1) the references to holding B in slavery or servitude or requiring B to perform forced or compulsory labour are to be construed in accordance with Article 4 of the Human Rights Convention.

(3) In determining whether B is being held in slavery or servitude or required to perform forced or compulsory labour regard may be had to all the circumstances.

(4) In particular, regard may be had to any of B’s personal circumstances which may make B more vulnerable than other persons such as, for example—

- (a) that B is a child or a vulnerable adult; or
- (b) that A is a member of B’s family.

(5) The consent of B to any act which forms part of an offence under this section is irrelevant.

(6) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for life.

Human trafficking

2.—(1) A person (“A”) commits an offence if A arranges or facilitates the travel of another person (“B”) with a view to B being exploited.

(2) A may in particular arrange or facilitate B’s travel by recruiting B, transporting or transferring B, harbouring or receiving B, or transferring or exchanging control over B.

(3) A arranges or facilitates B’s travel with a view to B being exploited only if—

- (a) A intends to exploit B (in any part of the world) during or after the travel, or
- (b) A knows or ought to know that another person is likely to exploit B (in any part of the world) during or after the travel.

(4) “Travel” means—

- (a) arriving in, or entering, any country,
- (b) departing from any country,
- (c) travelling within any country.

(5) The consent of B to any act which forms part of an offence under this section is irrelevant.

(6) A person to whom this subsection applies commits an offence under this section regardless of—

- (a) where the arranging or facilitating takes place, or
- (b) where the travel takes place.

(7) Any other person commits an offence under this section if—

- (a) any part of the arranging or facilitating takes place in the United Kingdom, or
- (b) the travel consists of arrival in or entry into, departure from, or travel within the United Kingdom.

(8) Subsection (6) applies to—

- (a) a UK national;
- (b) a person who at the time of the offence was habitually resident in Northern Ireland; and
- (c) a body incorporated under the law of a part of the United Kingdom.

(9) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for life.

Meaning of exploitation for purposes of section 2

3.—(1) For the purposes of section 2, a person is exploited only if one or more of the following subsections apply in relation to the person.

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- (2) The person is the victim of behaviour—
- (a) which involves the commission of an offence under section 1, or
 - (b) which would involve the commission of an offence under that section if it took place in Northern Ireland.

Sexual exploitation

- (3) Something is done to or in respect of the person—
- (a) which involves the commission of an offence under—
 - (i) Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978 (indecent photographs of children), or
 - (ii) any provision of the Sexual Offences (Northern Ireland) Order 2008 (sexual offences), or
 - (b) which would involve the commission of such an offence if it were done in Northern Ireland.

Removal of organs etc.

- (4) The person is encouraged, required or expected to do anything—
- (a) which involves the commission, by him or her or another person, of an offence under section 32 or 33 of the Human Tissue Act 2004 (prohibition of commercial dealings in organs and restrictions on use of live donors) in Northern Ireland, or
 - (b) which would involve the commission of such an offence, by him or her or another person, if it were done in Northern Ireland.

Securing services etc. by force, threats or deception

- (5) The person is subjected to force, threats, abduction, coercion, fraud or deception designed to induce him or her—
- (a) to provide services of any kind,
 - (b) to provide another person with benefits of any kind, or
 - (c) to enable another person to acquire benefits of any kind;

and for the purposes of this subsection “benefits” includes the proceeds of forced begging or of criminal activities.

Securing services etc. from children and vulnerable persons

(6) Another person uses or attempts to use the person for a purpose within paragraph (a), (b) or (c) of subsection (5), having chosen him or her for that purpose on the grounds that—

- (a) he or she is a child or a vulnerable adult or is a member of the other person’s family or the other person is in a position of trust in relation to him or her; and
- (b) a person who was not within paragraph (a) would be likely to refuse to be used for that purpose.

Committing offence with intent to commit offence under section 1 or 2

4.—(1) A person commits an offence under this section if the person commits any offence with the intention of committing an offence under section 1 or 2 (including an offence committed by aiding, abetting, counselling or procuring an offence under that section).

(2) A person guilty of an offence under this section is (unless subsection (3) applies) liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 10 years;
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both.

(3) Where the offence under this section is committed by kidnapping or false imprisonment, a person guilty of that offence is liable, on conviction on indictment, to imprisonment for life.

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.”.

Orders that may be made on conviction of offence under section 1 or 2

Confiscation of assets

8.—(1) Schedule 5 to the Proceeds of Crime Act 2002 (criminal lifestyle offences in Northern Ireland) is amended as follows.

- (2) After paragraph 3 insert—

“3A Slavery, etc.

3A. An offence under section 1 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (slavery, servitude and forced or compulsory labour).”.

- (3) In paragraph 4 (people trafficking) at the end insert—

“(4) An offence under section 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (human trafficking).”.

Detention and forfeiture of certain vehicles, ships and aircraft

9. Schedule 1 (which makes provision for, and in connection with, the detention and forfeiture of certain vehicles, ships and aircraft used or intended to be used in connection with offences under section 1 or 2) has effect.

Slavery and trafficking reparation orders

10. Schedule 2 (which makes provision for, and in connection with, slavery and trafficking reparation orders) has effect.

Prevention, enforcement, etc.

Slavery and trafficking prevention orders

11. Schedule 3 (which makes provision for, and in connection with, slavery and trafficking prevention orders) has effect.

Strategy on offences under sections 1 and 2

12.—(1) The Department shall, at least once in every year, publish a strategy on offences under section 1 and 2 (“relevant offences”).

(2) In drawing up the strategy the Department must—

- (a) consult with other relevant organisations; and
- (b) have regard to views expressed by such organisations.

(3) The purpose of the strategy is to—

- (a) raise awareness of relevant offences in Northern Ireland;
- (b) contribute to a reduction in the number of such offences.

(4) The strategy shall in particular—

- (a) set out arrangements for co-operation between relevant organisations in dealing with relevant offences or the victims of such offences;
- (b) include provision as to the training and equipment of those involved in investigating or prosecuting relevant offences or dealing with the victims of such offences;
- (c) include provisions aimed at raising awareness of the rights and entitlements of victims of such offences.

(5) In this section “relevant organisation” means any body, agency or other organisation with functions or activities relating to relevant offences or the victims of such offences.

Duty to notify National Crime Agency about suspected victims of offences under section 1 or 2

13.—(1) A specified public authority must notify the National Crime Agency if it has reason to believe that a person may be a victim of an offence under section 1 or 2.

(2) The Department—

- (a) must issue guidance to specified public authorities about the sorts of things which indicate that a person may be a victim of an offence under section 1 or 2;
- (b) may from time to time revise the guidance; and

(c) must arrange for any guidance issued or revised to be published in a way the Department considers appropriate.

(3) The Department may by regulations make provision about the information to be included in a notification under subsection (1).

(4) The regulations must provide that a notification relating to a person aged 18 or over may not include information that—

(a) identifies the person, or

(b) enables the person to be identified (either by itself or in combination with other information),

unless the person consents to the inclusion of the information.

(5) The regulations may not require information to be included if its inclusion would result in a disclosure which contravenes the Data Protection Act 1998.

(6) The Department may by order substitute for the reference to the National Crime Agency in subsection (1) a reference to such other body or person as may be specified in the order.

(7) In this section “specified public authority” means a public authority specified in regulations made by the Department.

Investigation and prosecution of offences under section 1 or 2

14.—(1) The investigation or prosecution of an offence under section 1 or 2 is not dependent on the victim reporting the offence or accusing a person of committing the offence.

(2) Proceedings for an offence under section 1 or 2 may be commenced or continued even if the victim of the offence has withdrawn any statement made in relation to the offence.