

2017 No. 145

HIGH COURT OF JUSTICIARY

SHERIFF COURT

**Act of Adjournal (Criminal Procedure Rules 1996 Amendment)
(No. 2) (Human Trafficking and Exploitation) 2017**

<i>Made</i> - - - -	<i>9th May 2017</i>
<i>Laid before the Scottish Parliament</i>	<i>11th May 2017</i>
<i>Coming into force</i> - -	<i>30th June 2017</i>

The High Court of Justiciary makes this Act of Adjournal under the powers conferred by section 305 of the Criminal Procedure (Scotland) Act 1995(a), and all other powers enabling it to do so.

Citation and commencement, etc.

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (No. 2) (Human Trafficking and Exploitation) 2017.

(2) It comes into force on 30th June 2017.

(3) A certified copy is to be inserted in the Books of Adjournal.

Amendment of the Criminal Procedure Rules 1996

2.—(1) The Criminal Procedure Rules 1996(b) are amended in accordance with this paragraph.

(2) After Chapter 63 (Serious Crime Prevention Orders)(c) insert—

“CHAPTER 64

TRAFFICKING AND EXPLOITATION PREVENTION ORDERS

Interpretation

64.1. In this Chapter—

“the 2015 Act” means the Human Trafficking and Exploitation (Scotland) Act 2015(d);

(a) 1995 c.46.

(b) The Criminal Procedure Rules 1996 are in Schedule 2 to the Act of Adjournal (Criminal Procedure Rules) 1996 (S.I. 1996/513, last amended by S.S.I. 2017/144.

(c) Chapter 63 was inserted by S.S.I. 2016/137.

(d) 2015 asp 12.

“prosecutor” has the meaning given in section 22 of the 2015 Act;

“trafficking and exploitation prevention order” means an order made under section 17 of the 2015 Act.

Trafficking and exploitation prevention order

64.2. A trafficking and exploitation prevention order is to be in Form 64.2.

Variation, renewal or discharge of trafficking and exploitation prevention order

64.3.—(1) An application under section 22 of the 2015 Act for the variation, renewal or discharge of a trafficking and exploitation prevention order is to be made in Form 64.3.

(2) When an application under paragraph (1) is lodged, the court must—

- (a) order intimation of the application—
 - (i) in the case of an application by the person subject to the order, to the prosecutor and chief constable; or
 - (ii) in the case of an application by the prosecutor, to the person subject to the order and to the chief constable;
- (b) appoint a hearing on the application; and
- (c) order intimation of the hearing to the persons referred to in sub-paragraph (a).

Representations by a third party claiming an interest in a vehicle, ship or aircraft

64.4.—(1) An application to make representations to the court under section 14(5) of the 2015 Act by a person who claims an interest in a vehicle, ship or aircraft shall be in Form 64.4.

(2) The court may fix a diet for considering representations mentioned in paragraph (1).

(3) Where the court fixes a diet under paragraph (2) the clerk of court shall intimate—

- (a) the representations and the diet to—
 - (i) the person convicted on indictment of the offence of human trafficking;
 - (ii) any other person from whose possession the vehicle, ship or aircraft was taken; and
- (b) the diet to the person claiming an interest.”.

(3) In the Appendix after Form 63.4-B(a) (form of extension of serious crime prevention order) insert the Forms set out in the schedule of this Act of Adjournal.

Edinburgh
9th May 2017

CJM SUTHERLAND
Lord Justice General
I.P.D.

(a) Form 63.4-B was inserted by S.S.I. 2016/137.

SCHEDULE

Paragraph 2(3)

Form 64.2

Rule 64.2

Form of trafficking and exploitation prevention order

TRAFFICKING AND EXPLOITATION PREVENTION ORDER

under section 17 of the Human Trafficking and Exploitation (Scotland) Act 2015

Court Ref No:

Court:

Date:

Offender: *[insert name]*:

Address:

Date of birth:

1. THE COURT, sentencing or otherwise dealing with the offender, in respect of an offence to which section 17 of the Human Trafficking and Exploitation Act 2015 applies;
2. BEING SATISFIED that there is a risk that the offender may commit a relevant trafficking or exploitation offence, and that each of the prohibitions or requirements in the order is necessary for the purposes of protecting persons generally, or particular persons, from the physical and psychological harm which would be likely to occur if the subject committed such an offence;
3. ORDERS that the offender shall from the date of this order be prohibited from [*or, require to do*].

(specify in numbered paragraphs the prohibitions or requirements imposed and the respective duration(s) of each prohibition or requirement).

(Signed)

Clerk of Court

COPY:

Subject:

[Supervising Officer]

FORM 64.3

Rule 64.3

Form of application for variation, renewal or discharge of trafficking and exploitation prevention order

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL, THE
LORD JUSTICE CLERK and LORDS COMMISSIONERS OF JUSTICIARY

[or UNTO THE HONOURABLE THE SHERIFF OF (*name of sheriffdom*)]

AT (*place*)

APPLICATION

of

PROSECUTOR

[or [A.B.] (*address*)]

[or Prisoner at the Prison of (*place*)]

for

VARIATION [or RENEWAL] [or DISCHARGE] OF A TRAFFICKING AND
EXPLOITATION PREVENTION ORDER

made under section 17 of the Human Trafficking and Exploitation (Scotland) Act 2015

APPLICANT

HUMBLY SHEWETH:

1. That there is annexed to this petition a copy of the trafficking and exploitation prevention order which was made by the sheriff at (*place*) [or by the High Court sitting at (*place*)] on (*date*).
2. That the petitioner seeks to renew [or discharge] [or vary] the trafficking and exploitation order for the following reasons:- (*here state reasons*).

MAY IT THEREFORE PLEASE YOUR LORDSHIP[S]:

- (1) to appoint intimation of this application to be made to [A.B.] [or the prosecutor] and to the chief constable;
- (2) to appoint parties to be heard thereon on the earliest practicable date thereafter; and
- (3) thereafter, on being duly satisfied, to make an order renewing [or discharging] [or varying] the trafficking and exploitation prevention order [by] (*here state the terms of the variation sought*) and to do further and otherwise as to your Lordship[s] [or to the court] shall seem proper.

ACCORDING TO JUSTICE, etc.

(*signed*)

[Prosecutor]

[or Solicitor for [A.B.]]

(*address, email address and telephone number of solicitor*)

(*Place and date*)

FORM 64.4

Rule 64.4

Form of application to make representations under section 14(5) of the Human Trafficking and Exploitation (Scotland) Act 2015

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL, THE LORD JUSTICE CLERK and LORDS COMMISSIONERS OF JUSTICIARY

[or UNTO THE HONOURABLE THE SHERIFF OF *(name of sheriffdom)*]

AT *(place)*

APPLICATION TO MAKE REPRESENTATIONS

by

[A.B.] *(address)*

1. It is proposed that a vehicle forfeiture order be made against *(name of offender)* in respect of [vehicle] or [ship] or [aircraft] registration number *(specify number)*.
2. The applicant has an interest in the said [vehicle] or [ship] or [aircraft] registration number *(here provide details and attach any proof of ownership or other specified interest)*.

MAY IT THEREFORE PLEASE YOUR LORDSHIP[S]:

- (a) *(here state the terms of the order sought)*;
- (b) to fix a diet for consideration of this application; or
- (c) to do otherwise as to your Lordship shall seem proper.

IN RESPECT WHEREOF

(signed)

[A.B.]

[or Legal Representative for [A.B.]]

(Name, address, email address and telephone number)

(Place and date)

EXPLANATORY NOTE

(This note is not part of the Act of Adjournal)

This Act of Adjournal amends the Criminal Procedure Rules 1996 by inserting a new Chapter 64 which makes provision for trafficking and exploitation prevention orders.

Paragraph 2(2) makes provision for the form of trafficking and exploitation prevention orders, applications for variation, renewal or discharge of such orders and applications to make representations to a sheriff by a person claiming an interest in a vehicle, ship or aircraft in respect of which a forfeiture order is proposed.

Paragraph 2(3) and the Schedule insert the relevant forms.

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