



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

CHAPTER 2

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

2015 CHAPTER 2

An Act to make provision about human trafficking, slavery and other forms of exploitation, including measures to prevent and combat such exploitation and to provide support for victims of such exploitation; and for connected purposes.

[13th January 2015]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

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.

Slavery, servitude and forced or compulsory labour

(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—

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- (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).”.

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),

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- (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—
“*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.

PART 2

OTHER EXPLOITATION OFFENCES

Paying for sexual services of a person

Paying for sexual services of a person

15.—(1) The Sexual Offences (Northern Ireland) Order 2008 is amended as follows.

(2) In the heading to Part 5, after “PROSTITUTION” insert “AND PAYING FOR SEXUAL SERVICES OF A PERSON”.

(3) In Article 58 (interpretation of this Part) at the end of paragraph (3) insert “other than in Article 64A”.

(4) Article 59 (loitering or soliciting for purposes of prostitution) is repealed.

(5) For Article 64A (paying for sexual services of a prostitute subjected to force etc.) substitute—

“Paying for sexual services of a person

64A.—(1) A person (A) commits an offence if A obtains sexual services from a person (B) in exchange for payment—

- (a) if the payment is made or promised by A; or
- (b) if the payment is made or promised by a third party and A knows or believes that the payment is made or promised by a third party.
- (2) A person guilty of an offence under this Article is liable—
 - (a) on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment to imprisonment for a term not exceeding one year or a fine, or both.
- (3) In paragraph (1), “payment” means any financial advantage to B, or any person other than B, including the discharge of an obligation to pay or the provision of goods or services (other than sexual services) gratuitously or at a discount.
- (4) No offence is committed under this Article unless the sexual services that are provided or are to be provided by B to A involve—
 - (a) B being physically in A’s presence,
 - (b) B touching A or A touching B, and
 - (c) the touching being sexual; or
 - (d) B touching B in a sexual manner for the sexual gratification of A, B being physically in A’s presence.
- (5) B does not commit an offence by doing anything which (apart from this paragraph) would amount to—
 - (a) aiding, abetting, counselling or procuring the commission of an offence under this Article by A;
 - (b) conspiring with A to commit an offence under this Article; or
 - (c) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting offences) in relation to the commission of an offence under this Article by A.”.
- (6) The Department must before the coming into operation of subsection (5) raise public awareness of the change in the law to be effected by that subsection.
- (7) The Department must, at the end of the period of 3 years beginning with the coming into operation of subsection (5), review the operation of Article 64A of the Sexual Offences (Northern Ireland) Order 2008 and lay before the Assembly a report on that review; that report must in particular include—
 - (a) information as to the number of arrests and convictions during that period in respect of offences under Article 64A;
 - (b) the Department’s assessment of the impact of Article 64A on the safety and well-being of persons providing for payment sexual services of the kind to which that Article applies;
 - (c) information as to the number of arrests and convictions in the period covered by the report in respect of—
 - (i) offences under section 2 committed with a view to exploitation that consists of or includes behaviour within section 3(3) (sexual exploitation);
 - (ii) offences under section 4 committed with the intention of committing an offence mentioned in sub-paragraph (i); and

- (d) the Department's assessment of the extent to which Article 64A has operated to reduce human trafficking for the purposes of sexual exploitation.

Offence of forced marriage

Offence of forced marriage

16.—(1) A person commits an offence if he or she—

- (a) uses violence, threats or any other form of coercion for the purpose of causing another person to enter into a marriage, and
- (b) believes, or ought reasonably to believe, that the conduct may cause the other person to enter into the marriage without free and full consent.

(2) It is irrelevant whether the conduct mentioned in paragraph (a) of subsection (1) is directed at the victim of the offence under that subsection or another person.

(3) In relation to a victim who is incapable of consenting by reason of mental disorder, the offence under subsection (1) is capable of being committed by any conduct carried out for the purpose of causing the victim to enter into a marriage (whether or not the conduct amounts to violence, threats or any other form of coercion).

(4) In this section—

“marriage” means any religious or civil ceremony of marriage (whether or not legally binding);

“mental disorder” has the meaning given by the Mental Health (Northern Ireland) Order 1986.

(5) A person commits an offence if he or she—

- (a) practises any form of deception with the intention of causing another person to leave the United Kingdom, and
- (b) intends the other person to be subjected to conduct outside the United Kingdom that is an offence under subsection (1) or would be an offence under that subsection if the victim were in Northern Ireland.

(6) A person commits an offence under subsection (1) or (5) only if, at the time of the conduct or deception—

- (a) the person or the victim or both of them are in Northern Ireland,
- (b) neither the person nor the victim is in Northern Ireland but at least one of them is habitually resident in Northern Ireland, or
- (c) neither the person nor the victim is in the United Kingdom but at least one of them is a UK national.

(7) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years.

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PART 3

ASSISTANCE AND SUPPORT

Interpretation of this Part

17.—(1) For the purposes of this Part there is a conclusive determination that a person is, or is not, a victim of trafficking in human beings when, on completion of the identification process required by Article 10 of the Trafficking Convention, a competent authority concludes that the person is, or is not, such a victim.

(2) In this Part—

“competent authority” means a person who is a competent authority of the United Kingdom for the purposes of the Trafficking Convention;

“the Trafficking Convention” means the Council of Europe Convention on Action against Trafficking in Human Beings (done at Warsaw on 16 May 2005);

“trafficking in human beings” has the same meaning as in the Trafficking Convention.

Assistance and support pending determination by competent authority

18.—(1) The Department must ensure that a person to whom this section applies is provided with assistance and support in accordance with this section.

(2) This section applies to a person if—

(a) that person is aged 18 or over or, in a case where the age of the person is uncertain, the Department reasonably believes that person is aged 18 or over; and

(b) a reference relating to that person has been, or is about to be, made to the competent authority for a determination for the purposes of Article 10 of the Trafficking Convention as to whether there are reasonable grounds to believe that the person is a victim of trafficking in human beings.

(3) Assistance and support is to be provided under this section until there is made in relation to that person—

(a) a determination that there are not reasonable grounds to believe that the person is a victim of trafficking in human beings; or

(b) a conclusive determination that the person is or is not a victim of trafficking in human beings;

but if a conclusive determination that a person is a victim of trafficking in human beings is made within the relevant period, assistance and support is to be provided until the end of that period.

(4) The relevant period is the period of 45 days from the date on which the determination mentioned in subsection (2)(b) is made by the competent authority.

(5) Assistance and support provided to a person under this section—

(a) must not be conditional on the person’s acting as a witness in any criminal proceedings;

(b) must only be provided with the agreement of that person;

- (c) must be provided in a manner which takes due account of the needs of that person as regards safety and protection from harm;
 - (d) must be provided to meet the assessed needs of that person, having regard in particular to any special needs or vulnerabilities of that person caused by gender, pregnancy, physical or mental illness, disability or being the victim of serious violence or serious abuse.
- (6) Assistance and support under this section must be offered from a person who is of the same gender as the person receiving it.
- (7) The assistance and support which may be provided under this section includes, but is not to be restricted to, the provision of—
- (a) appropriate and safe accommodation;
 - (b) material assistance (including financial assistance);
 - (c) assistance in obtaining healthcare services (including counselling);
 - (d) appropriate information on any matter of relevance or potential relevance to the particular circumstances of the person;
 - (e) translation and interpretation services;
 - (f) assistance in obtaining legal advice or representation;
 - (g) assistance with repatriation.
- (8) Where assistance and support has been provided to any person under this section, it may continue to be provided even if that person leaves Northern Ireland.
- (9) Where—
- (a) assistance and support has been provided to a person under this section; and
 - (b) that person ceases, by virtue of a conclusive determination that the person is a victim of trafficking in human beings or the ending of the relevant period, to be a person to whom assistance and support is to be provided under this section,
- the Department may nevertheless ensure that assistance and support continues to be provided to that person under this section for such further period as the Department thinks necessary.
- (10) Nothing in this section affects the entitlement of any person to assistance and support under any other statutory provision.

Assistance and support for exiting prostitution

19.—(1) The Department of Health, Social Services and Public Safety must, in conjunction with the other Northern Ireland departments, prepare and publish a strategy in relation to actions to be taken by Northern Ireland departments in the exercise of their respective functions to ensure that a programme of assistance and support is made available to persons who wish to leave prostitution.

- (2) The strategy must—
- (a) be published no later than 10 months after the coming into operation of this section; and

- (b) provide for a programme of support and assistance to be made available in accordance with the strategy no later than 1 April 2016.
- (3) The strategy must ensure that assistance and support provided to a person—
 - (a) is not conditional on the person acting as a witness in any criminal proceedings;
 - (b) is provided only with the agreement of that person; and
 - (c) is provided in a manner which takes due account of the needs of that person as regards safety and protection from harm.
- (4) The strategy must ensure that assistance and support is offered from a person who is of the same gender as the person receiving it.
- (5) The Department of Health, Social Services and Public Safety must, in conjunction with the other Northern Ireland departments—
 - (a) review the strategy (or revised strategy) for the time being published under this section at intervals of not more than 3 years; and
 - (b) if appropriate, revise the strategy and publish the revised strategy.
- (6) Nothing in this section affects the entitlement of any person to assistance and support under any other statutory provision.
- (7) For the purposes of this section “prostitution” has the same meaning as in Article 58 of the Sexual Offences (Northern Ireland) Order 2008.

Guidance as to compensation for victims

- 20.**—(1) The Department shall issue guidance as to—
- (a) the procedures to be followed by a person to whom this section applies to apply for compensation under the Criminal Injuries (Compensation) (Northern Ireland) Order 2002;
 - (b) the grounds on which compensation may be awarded under that Order; and
 - (c) the arrangements available to assist and support such a person in applying for such compensation.
- (2) This section applies to a person if (and only if) there has been a conclusive determination that the person is a victim of trafficking in human beings.

Independent guardian

- 21.**—(1) The Regional Health and Social Care Board must, in accordance with this section, make arrangements to enable a person (an “independent guardian”) to be appointed to assist, represent and support a child to whom this section applies.
- (2) This section applies to a child if—
- (a) a reference relating to that child has been, or is about to be, made to a competent authority for a determination for the purposes of Article 10 of the Trafficking Convention as to whether there are reasonable grounds to believe that the child is a victim of trafficking in human beings; and
 - (b) there has not been a conclusive determination that the child is not such a victim;

and for the purposes of this subsection a determination which has been challenged by way of proceedings for judicial review shall not be treated as conclusive until those proceedings are finally determined.

(3) This section also applies to a child who appears to the Regional Health and Social Care Board to be a separated child.

(4) Arrangements under this section must—

- (a) be made with a registered charity (within the meaning of the Charities Act (Northern Ireland) 2008);
- (b) provide for the appointment of a person as the independent guardian for a child to whom this section applies to be made by that charity;
- (c) ensure that a person is not so appointed by that charity unless that person—
 - (i) is an employee of the charity; and
 - (ii) is eligible to be so appointed in accordance with regulations under subsection (5);
- (d) provide for the appointment of an independent guardian only where the person with parental responsibility for the child—
 - (i) is not in regular contact with the child or is outside the United Kingdom;
 - (ii) is suspected of having committed an offence under section 2 in relation to the child; or
 - (iii) for other reasons has interests which conflict with those of the child;
- (e) include provision for the termination of the appointment of an independent guardian, including in particular provision for such termination—
 - (i) if the child ceases to be a child to whom this section applies;
 - (ii) on the child attaining the age of 18 (unless subsection (10) applies);
 - (iii) on paragraph (d) ceasing to apply in relation to the child;
 - (iv) where, after consulting the independent guardian, the Regional Health and Social Care Board is of the opinion that it is no longer necessary to continue the appointment because long-term arrangements have been made in relation to the child.

(5) The Department of Health, Social Services and Public Safety shall by regulations make provision for—

- (a) the training and qualifications required for a person to be eligible for appointment as an independent guardian;
- (b) the support to be provided for, and the supervision of, an independent guardian.

(6) An independent guardian appointed in relation to a child must at all times act in the best interests of the child.

(7) The functions of an independent guardian include (where appropriate)—

- (a) ascertaining and communicating the views of the child in relation to matters affecting the child;

- (b) making representations to, and liaising with, bodies or persons responsible for—
 - (i) providing care, accommodation, health services, education or translation and interpretation services to or in respect of the child; or
 - (ii) otherwise taking decisions in relation to the child;
- (c) assisting the child to obtain legal or other advice, assistance and representation, including (where necessary) the appointment and instructing of legal representatives to act on behalf of the child;
- (d) consulting regularly with the child and keeping the child informed of legal and other proceedings affecting the child and any other matters affecting the child;
- (e) contributing to a plan to safeguard and promote the future welfare of the child based on an individual assessment of that child's best interests;
- (f) providing a link between the child and any body or person who may provide services to the child;
- (g) assisting in establishing contact with members of the child's family, where the child so wishes and it is in the child's best interests;
- (h) accompanying the child to meetings or on other occasions.

(8) Any person or body providing services or taking administrative decisions in relation to a child for whom an independent guardian has been appointed under this section must recognise, and pay due regard to, the functions of the guardian and must (to the extent otherwise permitted by law) provide the guardian with access to such information relating to the child as will enable the guardian to carry out his or her functions effectively.

(9) The Department of Health, Social Services and Public Safety may by regulations confer additional functions on independent guardians.

(10) The arrangements under this section may provide for an independent guardian appointed in relation to a person under the age of 18 to continue (with the consent of that person) to act in relation to that person after that person attains the age of 18 but is under the age of 21.

(11) In this section—

“administrative decision” does not include a decision taken by a court or tribunal;

“parental responsibility” has the meaning given by Article 6 of the Children (Northern Ireland) Order 1995, except that it does not include parental responsibility conferred by a care order (within the meaning of Article 49(1) of that Order);

“separated child” means a child who—

- (a) is not ordinarily resident in Northern Ireland;
- (b) is separated from all persons who—
 - (i) have parental responsibility for the child; or
 - (ii) before the child's arrival in Northern Ireland, were responsible for the child whether by law or custom; and
- (c) because of that separation, may be at risk of harm.

(12) A reference in any other statutory provision to the guardian of a child does not include a reference to an independent guardian appointed under this section.

PART 4

PROTECTION OF SLAVERY AND TRAFFICKING VICTIMS IN CRIMINAL INVESTIGATIONS AND PROCEEDINGS

Defence for slavery and trafficking victims in relation to certain offences

22.—(1) Subject to subsection (9), a person is not guilty of an offence if—

- (a) the person is over the age of 18 when the act which constitutes the offence was done;
- (b) the person does that act because the person is compelled to do that act,
- (c) the compulsion is attributable to slavery or to relevant exploitation, and
- (d) a reasonable person in the same situation as the person and having the person's relevant characteristics would have no realistic alternative to doing that act.

(2) "Relevant characteristics" means age, sex and any physical or mental illness or disability.

(3) A person may be compelled to do something by another person or by the person's circumstances.

(4) Compulsion is attributable to slavery or to relevant exploitation only if—

- (a) it is, or is part of, conduct which constitutes an offence under section 1 or conduct which constitutes relevant exploitation, or
- (b) it is a direct consequence of a person being, or having been, a victim of an offence under section 1 or a victim of relevant exploitation.

(5) For the purposes of subsection (4) "relevant exploitation" is exploitation (within the meaning of section 3) that is attributable to the exploited person being, or having been, a victim of an offence under section 2.

(6) Subject to subsection (9), a person is not guilty of an offence if—

- (a) the person is a child at the time the act which constitutes the offence is done; and
- (b) that act was done as a direct consequence of the person being, or having been, a victim of an offence under section 1 or of relevant exploitation.

(7) For the purposes of subsection (6) "relevant exploitation" is exploitation which falls within one or more of subsections (2) to (5) of section 3 and is attributable to the exploited person being, or having been, a victim of an offence under section 2.

(8) In this section references to an act include an omission.

(9) This section does not apply to an offence which, in the case of a person over the age of 21, is punishable on indictment with imprisonment for life or for a term of at least 5 years, other than—

- (a) an offence under—

- (i) section 4(2) of the Misuse of Drugs Act 1971 committed in respect of a Class B or Class C drug;
 - (ii) section 5(2) of that Act committed in respect of a Class B drug;
 - (iii) section 6(2) of that Act;
 - (b) an offence under section 26A(3)(a), (b), (d), (e), (f) or (g) of the Immigration Act 1971;
 - (c) an offence under section 1, 2, 3 or 4 of the Forgery and Counterfeiting Act 1981;
 - (d) an offence under section 106 of the Asylum and Immigration Act 1999;
 - (e) an offence under section 4 of the Identity Documents Act 2010.
- (10) The Department may by order amend subsection (9).

Protection of slavery and trafficking victims in criminal investigations

23.—(1) Without prejudice to the rights of the accused, and in accordance with an individualised assessment of the personal circumstances of the complainant, the Chief Constable shall ensure that during an investigation of an offence under section 1 or 2—

- (a) the complainant receives specific treatment aimed at preventing secondary victimisation by avoiding, as far as possible—
 - (i) unnecessary repetition of interviews;
 - (ii) visual contact between the complainant and the accused, using appropriate means including communication technologies;
 - (iii) unnecessary questioning concerning the complainant’s private life;
- (b) in addition if the complainant is under the age of 18—
 - (i) interviews with the complainant take place without unjustified delay after the facts have been reported;
 - (ii) interviews with the complainant take place, where necessary, in premises designed or adapted for the purpose;
 - (iii) interviews with the complainant are carried out, where necessary, by or through persons trained for the purpose;
 - (iv) if possible and where appropriate, the same persons conduct all the interviews with the complainant;
 - (v) the number of interviews with the complainant is as limited as possible and interviews are carried out only where strictly necessary for the purposes of the investigation;
 - (vi) the complainant may be accompanied by an adult of the complainant’s choice, unless the police officer in charge of the investigation decides to the contrary and records the reasons for that decision in writing.

(2) In this section—

“the accused” means a person who is alleged to have committed, or has committed, an offence under section 1 or 2;

“complainant” means a person against or in relation to whom an offence under section 1 or 2 is alleged to have been committed, or has been committed.

Special measures: amendments to the Criminal Evidence (Northern Ireland) Order 1999

24.—(1) The Criminal Evidence (Northern Ireland) Order 1999 is amended as follows.

(2) In Article 3 after paragraph (1) insert—

“(1A) In this Order “a slavery or human trafficking offence” means an offence under—

- (a) section 57, 58, 58A or 59 of the Sexual Offences Act 2003 (trafficking for sexual exploitation);
- (b) section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking for exploitation);
- (c) section 71 of the Coroners and Justice Act 2009 (slavery, servitude and forced or compulsory labour); or
- (d) section 1 or 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (slavery, servitude, forced or compulsory labour and human trafficking).”.

(3) In Article 5(4) (witnesses eligible for assistance on grounds of fear or distress about testifying) after “sexual offence” insert “or a slavery or human trafficking offence”.

(4) In Article 13(4)(a) (evidence given in private) after “sexual offence” insert “or a slavery or human trafficking offence”.

(5) In Article 21 (interpretation etc. of Part 2) after paragraph (4) insert—

“(5) For the purposes of this Part as it applies in relation to a witness who is the complainant in respect of a slavery or human trafficking offence, where the age of the witness is uncertain and there are reasons to believe that the witness is under the age of 18, that witness is presumed to be under the age of 18.”.

(6) In Article 22 (complainants in proceedings for sexual offences) after “sexual offence” insert “or a slavery or human trafficking offence”.

(7) In Article 23 (child complainants and other child witnesses) in paragraph (3) for sub-paragraph (cc) substitute—

“(cc) a slavery or human trafficking offence;”.

(8) In Article 39 (general supplementary provisions) after paragraph (2) insert—

“(3) Paragraph (2) is subject to Article 21(5).”.

PART 5

SUPPLEMENTARY

Interpretation of this Act

25.—(1) In this Act—

“child” means a person under the age of 18;

“country” includes territory or other part of the world;

“the Department” means the Department of Justice;

“the Human Rights Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4th November 1950;

“public authority” means any public authority within the meaning of section 6 of the Human Rights Act 1998 (other than a court or tribunal) which exercises functions wholly or mainly in Northern Ireland;

“UK national” means—

- (a) a British citizen;
- (b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has a right of abode in the United Kingdom; or
- (c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar;

“vulnerable adult” means a person aged 18 or over whose ability to protect himself or herself from violence, abuse or exploitation is significantly impaired through physical or mental disability or illness, old age, addiction to alcohol or drugs or for any other reason.

(2) For the purposes of this Act—

- (a) a person is in a position of trust in relation to another person in the circumstances mentioned in Article 28 of the Sexual Offences (Northern Ireland) Order 2008;
- (b) a person is a member of another person’s family if the relation of that person to the other person is within Article 34 of that Order.

(3) For the purposes of the exercise of any function under this Act relating to a child, if—

- (a) the age of a person (“P”) is uncertain; and
- (b) the person exercising the function has reason to believe that P is a child,

P is to be treated as a child.

Amendments, repeals and consequential provision

26.—(1) The statutory provisions set out in Schedule 4 have effect subject to the amendments in that Schedule.

(2) The statutory provisions set out in Schedule 5 are repealed to the extent specified in the second column of that Schedule.

(3) The repeal of a provision by this Act does not affect the operation of that provision in relation to an offence committed before the coming into operation of that repeal.

(4) The Department may by order make whatever provision the Department thinks appropriate in consequence of this Act.

(5) The provision which may be made by order under subsection (4) includes provision amending, repealing or revoking any statutory provision.

Orders and regulations

27.—(1) Subject to subsections (2) to (5), orders made by the Department under this Act and regulations under this Act are subject to negative resolution.

(2) Subsection (1) does not apply to an order under section 28 (commencement).

(3) Orders to which subsection (4) applies shall not be made unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.

(4) This subsection applies to—

- (a) an order under section 13(6) (power to amend body to be notified about suspected victims);
- (b) an order under section 22(10) (power to amend list of offences excluded from defence in section 22);
- (c) an order under section 26(4) (consequential provision) which amends or repeals any provision of an Act or of Northern Ireland legislation;
- (d) an order under paragraph 1(5) of Schedule 3 (power to amend definition of “slavery or human trafficking offence”);
- (e) an order under paragraph 2(7) of Schedule 3 (provision as to additional applicants for slavery and trafficking prevention orders);
- (f) an order under paragraph 17 of Schedule 3 (cross-border enforcement of certain court orders).

(5) Regulations under section 13 (duty to notify National Crime Agency) or 21(9) (additional functions for independent guardians) shall not be made unless a draft of the regulations has been laid before and approved by resolution of the Assembly.

(6) Regulations under this Act and orders made by the Department under this Act may include saving, transitional, transitory, supplementary or consequential provision.

Short title and commencement

28.—(1) This Act may be cited as the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.

(2) Except as provided by the following subsections, this Act comes into operation on the day after Royal Assent.

(3) The following provisions come into operation on such day or days as the Department may by order appoint—

- (a) section 11 (with Schedule 3);
- (b) section 13.

(4) Sections 12 and 20 come into operation one month after Royal Assent.

(5) Section 15(1) to (5) and (7) comes into operation on 1 June 2015.

(6) Section 21(1) to (4) and (6) to (12) comes into operation 10 months after Royal Assent.

c. 2 *Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015*

SCHEDULES

SCHEDULE 1

Section 9.

DETENTION AND FORFEITURE OF CERTAIN VEHICLES, SHIPS AND AIRCRAFT

Forfeiture on conviction of offence under section 1 or 2

1.—(1) This paragraph applies if a person is convicted of an offence under section 1 or 2.

(2) The court may order the forfeiture of a land vehicle used or intended to be used in connection with the offence if the convicted person—

- (a) owned the vehicle at the time the offence was committed,
- (b) was at that time a director, secretary or manager of a company which owned the vehicle,
- (c) was at that time in possession of the vehicle under a hire-purchase agreement,
- (d) was at that time a director, secretary or manager of a company which was in possession of the vehicle under a hire-purchase agreement, or
- (e) was driving the vehicle in the course of the commission of the offence.

(3) The court may order the forfeiture of a ship or aircraft used or intended to be used in connection with the offence if the convicted person—

- (a) owned the ship or aircraft at the time the offence was committed,
- (b) was at that time a director, secretary or manager of a company which owned the ship or aircraft,
- (c) was at that time in possession of the ship or aircraft under a hire purchase agreement,
- (d) was at that time a director, secretary or manager of a company which was in possession of the ship or aircraft under a hire-purchase agreement,
- (e) was at that time a charterer of the ship or aircraft, or
- (f) committed the offence while acting as captain of the ship or aircraft.

(4) But where sub-paragraph (3)(a) or (b) does not apply to the convicted person, forfeiture of a ship or aircraft may be ordered only if sub-paragraph (5) applies or—

- (a) in the case of a ship (other than a hovercraft), its gross tonnage is less than 500 tons;
- (b) in the case of an aircraft, the maximum weight at which it may take off in accordance with its certificate of airworthiness is less than 5,700 kilogrammes.

(5) This sub-paragraph applies where a person who, at the time the offence was committed—

(a) owned the ship or aircraft, or

(b) was a director, secretary or manager of a company which owned it, knew or ought to have known of the intention to use it in the course of the commission of an offence under section 1 or 2.

(6) Where a person who claims to have an interest in a land vehicle, ship or aircraft applies to a court to make representations about its forfeiture, the court may not order its forfeiture without giving the person an opportunity to make representations.

Detention of certain vehicles, ships and aircraft

2.—(1) If a person (“P”) has been arrested for an offence under section 1 or 2, a constable may detain a relevant land vehicle, ship or aircraft.

(2) A land vehicle, ship or aircraft is relevant if the constable has reasonable grounds to believe that an order for its forfeiture could be made under paragraph 1 if P were convicted of the offence.

(3) The land vehicle, ship or aircraft may be detained—

(a) until a decision is taken as to whether or not to charge P with the offence,

(b) if P has been charged, until P is acquitted, the charge against P is dismissed or the proceedings are discontinued, or

(c) if P has been charged and convicted, until the court decides whether or not to order forfeiture of the vehicle, ship or aircraft.

(4) A person (other than P) may apply to the court for the release of the land vehicle, ship or aircraft on the grounds that the person—

(a) owns the vehicle, ship or aircraft,

(b) was, immediately before the detention of the vehicle, ship or aircraft, in possession of it under a hire-purchase agreement, or

(c) is a charterer of the ship or aircraft.

(5) The court to which an application is made under sub-paragraph (4) may, if satisfactory security or surety is tendered, release the land vehicle, ship or aircraft on condition that it is made available to the court if—

(a) P is convicted, and

(b) an order for its forfeiture is made under paragraph 1.

(6) In this paragraph “the court” means—

(a) if P has not been charged, or P has been charged but proceedings for the offence have not begun to be heard, a magistrates’ court;

(b) if P has been charged and proceedings for the offence have begun to be heard, the court hearing the proceedings.

Interpretation

3.—(1) In this Schedule—

“captain” means master (of a ship) or commander (of an aircraft);

“land vehicle” means any vehicle other than a ship or aircraft;

“ship” includes every description of vessel (including a hovercraft) used in navigation.

(2) In this Schedule a reference to being an owner of a vehicle, ship or aircraft includes a reference to being any of a number of persons who jointly own it.

SCHEDULE 2

Section 10.

SLAVERY AND TRAFFICKING REPARATION ORDERS

Power to make slavery and trafficking reparation order

1.—(1) The Crown Court may make a slavery and trafficking reparation order against a person if—

- (a) the person has been convicted of an offence under section 1, 2 or 4, and
- (b) the Crown Court makes a confiscation order against the person in respect of the offence.

(2) The Crown Court may also make a slavery and trafficking reparation order against a person if—

- (a) by virtue of section 178 of the Proceeds of Crime Act 2002 (defendants who abscond during proceedings) it has made a confiscation order against a person in respect of an offence under section 1, 2 or 4, and
- (b) the person is later convicted of the offence.

(3) The court may make a slavery and trafficking reparation order against the person in addition to dealing with the person in any other way (subject to paragraph 3(1)).

(4) In a case within sub-paragraph (1) the court may make a slavery and trafficking reparation order against the person even if the person has been sentenced for the offence before the confiscation order is made.

(5) In determining whether to make a slavery and trafficking reparation order against the person the court must have regard to the person’s means.

(6) If the court considers that—

- (a) it would be appropriate both to impose a fine and to make a slavery and trafficking reparation order, but
- (b) the person has insufficient means to pay both an appropriate fine and appropriate compensation under such an order,

the court must give preference to compensation (although it may impose a fine as well).

(7) In any case in which the court has power to make a slavery and trafficking reparation order it must—

- (a) consider whether to make such an order (whether or not an application for such an order is made), and
- (b) if it does not make an order, give reasons.

(8) In this paragraph—

- (a) “confiscation order” means a confiscation order under section 156 of the Proceeds of Crime Act 2002;
- (b) a confiscation order is made in respect of an offence if the offence is the offence (or one of the offences) concerned for the purposes of Part 4 of that Act.

Effect of slavery and trafficking reparation order

2.—(1) A slavery and trafficking reparation order is an order requiring the person against whom it is made to pay compensation to the victim of a relevant offence for any harm resulting from that offence.

(2) “Relevant offence” means—

- (a) the offence under section 1, 2 or 4 of which the person is convicted;
- (b) any other offence under section 1, 2 or 4 which is taken into consideration in determining the person’s sentence.

(3) The amount of the compensation is to be such amount as the court considers appropriate having regard to any evidence and to any representations made by or on behalf of the person or the prosecutor, but subject to sub-paragraph (4).

(4) The amount of the compensation payable under the slavery and trafficking reparation order (or if more than one order is made in the same proceedings, the total amount of the compensation payable under those orders) must not exceed the amount the person is required to pay under the confiscation order.

(5) In determining the amount to be paid by the person under a slavery and trafficking reparation order the court must have regard to the person’s means.

(6) A slavery and trafficking reparation order is enforceable in the same manner as any fine which has been, or might have been, imposed in respect of the offence for which the person has been convicted by the court making the order.

(7) In sub-paragraph (4) “the confiscation order” means the confiscation order within paragraph 1(1)(b) or (2)(a) (as the case may be).

Supplementary

3.—(1) A slavery and trafficking reparation order and a compensation order under Article 14 of the Criminal Justice (Northern Ireland) Order 1994 may not both be made in respect of the same offence.

(2) Where the court makes a slavery and trafficking reparation order as mentioned in paragraph 1(4), for the purposes of the following provisions the person’s sentence is to be regarded as imposed or made on the day on which the order is made—

- (a) section 16(1) of the Criminal Appeal (Northern Ireland) Act 1980 (time limit for notice of appeal or application for leave to appeal);
- (b) paragraph 1 of Schedule 3 to the Criminal Justice Act 1988 (time limit for notice of application for leave to refer a case under section 36 of that Act).

(3) Articles 15 to 17 of the Criminal Justice (Northern Ireland) Order 1994 (appeals, review etc. of compensation orders) apply to slavery and trafficking reparation orders as if—

- (a) references to a compensation order were references to a slavery and trafficking reparation order;
- (b) references to injury, loss or damage were references to harm;
- (c) in Article 16(a) (as amended by Schedule 4) for sub-paragraph (ii) there were substituted—
 - “(ii) a compensation order under Article 14 of this Order; or”;
- (d) in Article 17 the references to service compensation orders or awards were omitted.

(4) If under section 171 or 172 of the Proceeds of Crime Act 2002 the court varies a confiscation order so as to increase the amount required to be paid under that order, it may also vary any slavery and trafficking reparation order made by virtue of the confiscation order so as to increase the amount required to be paid under the slavery and trafficking reparation order.

(5) If under section 173 or 179 of that Act the court varies a confiscation order so as to reduce the amount required to be paid under that order, it may also—

- (a) vary any relevant slavery and trafficking reparation order so as to reduce the amount which remains to be paid under that order;
- (b) discharge any relevant slavery and trafficking reparation order.

(6) If under section 174 of that Act the court discharges a confiscation order, it may also discharge any relevant slavery and trafficking reparation order.

(7) For the purposes of sub-paragraphs (5) and (6) a slavery and trafficking reparation order is relevant if it is made by virtue of the confiscation order and some or all of the amount required to be paid under it has not been paid.

(8) If on an appeal under section 181 of the Proceeds of Crime Act 2002 the Court of Appeal—

- (a) quashes a confiscation order, it must also quash any slavery and trafficking reparation order made by virtue of the confiscation order;
- (b) varies a confiscation order, it may also vary any slavery and trafficking reparation order made by virtue of the confiscation order;
- (c) makes a confiscation order, it may make any slavery and trafficking reparation order the Crown Court could have made if it had made the confiscation order.

(9) If on an appeal under section 183 of that Act the Supreme Court—

- (a) quashes a confiscation order, it must also quash any slavery and trafficking reparation order made by virtue of the confiscation order;
- (b) varies a confiscation order, it may also vary any slavery and trafficking reparation order made by virtue of the confiscation order.

(10) For the purposes of this paragraph—

- (a) a slavery and trafficking reparation order made under paragraph 1(1) is made by virtue of the confiscation order within paragraph 1(1)(b);

- (b) a slavery and trafficking reparation order made under paragraph 1(2) is made by virtue of the confiscation order within paragraph 1(2)(a).

SCHEDULE 3

Section 11.

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.

PART 2

NOTIFICATION REQUIREMENTS

Offender subject to notification requirements

9.—(1) References in the following provisions of this Schedule to an offender subject to notification requirements are references to an offender who is for the time being subject to a slavery and trafficking prevention order or an interim slavery and trafficking prevention order which is in effect under this Schedule.

(2) Sub-paragraph (1) has effect subject to paragraph 12(7) (which excludes from paragraph 12 an offender subject to an interim slavery and trafficking prevention order).

Initial notification

10.—(1) An offender subject to notification requirements must notify the required information to the police within the period of 3 days beginning with the date on which the slavery and trafficking prevention order or the interim slavery and trafficking prevention order comes into force in relation to the offender (“the relevant date”).

(2) The “required information” is the following information about the offender—

- (a) date of birth;
- (b) national insurance number;
- (c) name on the relevant date or, if the offender used two or more names on that date, each of those names;
- (d) home address on the relevant date;
- (e) name on the date on which the notification is given or, if the offender used two or more names on that date, each of those names;
- (f) home address on the date on which the notification is given;
- (g) the address of any other premises in the United Kingdom at which on that date the offender regularly resides or stays;
- (h) any information prescribed by regulations made by the Department.

(3) When determining the period of 3 days mentioned in sub-paragraph (1), there is to be disregarded any time when the offender is—

- (a) remanded in or committed to custody by an order of a court;
- (b) serving a custodial sentence;
- (c) detained in a hospital; or
- (d) outside the United Kingdom.

- (4) In this Part “home address” means in relation to the offender—
- (a) the address of the offender’s sole or main residence in the United Kingdom, or
 - (b) if the offender has no such residence, the address or location of a place in the United Kingdom where the offender can regularly be found or, if there is more than one such place, such one of them as the offender selects.

Notification of changes

11.—(1) An offender subject to notification requirements must, within the period of 3 days beginning with the date on which any notifiable event occurs, notify to the police—

- (a) the required new information, and
 - (b) the information mentioned in paragraph 10(2).
- (2) A “notifiable event” means—
- (a) the use by the offender of a name which has not been notified to the police under paragraph 10 or this paragraph;
 - (b) any change of the offender’s home address;
 - (c) the expiry of any qualifying period during which the offender has resided or stayed at any premises in the United Kingdom the address of which has not been notified to the police under paragraph 10 or this paragraph;
 - (d) any prescribed change of circumstances; or
 - (e) the release of the offender from custody pursuant to an order of a court or from a custodial sentence or detention in a hospital.
- (3) The “required new information” is—
- (a) the name referred to in sub-paragraph (2)(a),
 - (b) the new home address (see sub-paragraph (2)(b)),
 - (c) the address of the premises referred to in sub-paragraph (2)(c),
 - (d) the prescribed details, or
 - (e) the fact that the offender has been released as mentioned in sub-paragraph (2)(e),

as the case may be.

(4) A notification under sub-paragraph (1) may be given before the notifiable event occurs, but in that case the offender must also specify the date when the event is expected to occur.

(5) If a notification is given in accordance with sub-paragraph (4) and the event to which it relates occurs more than 2 days before the date specified, the notification does not affect the duty imposed by sub-paragraph (1).

(6) If a notification is given in accordance with sub-paragraph (4) and the event to which it relates has not occurred by the end of the period of 3 days beginning with the date specified—

- (a) the notification does not affect the duty imposed by sub-paragraph (1), and

- (b) the offender must, within the period of 6 days beginning with the date specified, notify to the police the fact that the event did not occur within the period of 3 days beginning with the date specified.

(7) Paragraph 10(3) applies to the determination of—

- (a) any period of 3 days for the purposes of sub-paragraph (1), or
- (b) any period of 6 days for the purposes of sub-paragraph (6),

as it applies to the determination of the period of 3 days mentioned in paragraph 10(1).

(8) In this paragraph—

- (a) “prescribed change of circumstances” means any change—
 - (i) occurring in relation to any matter in respect of which information is required to be notified by virtue of paragraph 10(2)(h), and
 - (ii) of a description prescribed by regulations made by the Department;
- (b) “the prescribed details”, in relation to a prescribed change of circumstances, means such details of the change as may be so prescribed.

(9) In this paragraph “qualifying period” means—

- (a) a period of 7 days, or
- (b) two or more periods, in any period of 12 months, which taken together amount to 7 days.

Periodic notification

12.—(1) An offender subject to notification requirements must, within the applicable period after each notification date, notify to the police the information mentioned in paragraph 10(2), unless the offender has already given a notification under paragraph 11(1) within that period.

(2) A “notification date” means, in relation to the offender, the date of any notification given by the offender under paragraph 10(1) or 11(1) or sub-paragraph (1).

(3) Where the applicable period would (apart from this paragraph) end while sub-paragraph (4) applies, that period is to be treated as continuing until the end of the period of 3 days beginning with the date on which sub-paragraph (4) first ceases to apply.

(4) This sub-paragraph applies if the offender is—

- (a) remanded in or committed to custody by an order of a court,
- (b) serving a custodial sentence,
- (c) detained in a hospital, or
- (d) outside the United Kingdom.

(5) In this paragraph “the applicable period” means—

- (a) in any case where sub-paragraph (6) applies, such period as may be prescribed by regulations made by the Department, and
- (b) in any other case, the period of one year.

(6) This sub-paragraph applies if the last home address notified by the offender under paragraph 10(1) or 11(1) or sub-paragraph (1) was the address or location of such a place as is mentioned in paragraph 10(4)(b).

(7) Nothing in this paragraph applies to an offender who is subject to an interim slavery and trafficking prevention order.

Absence from notified residence

13.—(1) This paragraph applies to an offender subject to notification requirements at any time if the last home address notified by the offender under paragraph 10(1), 11(1) or 12(1) was an address in Northern Ireland such as is mentioned in paragraph 10(4)(a) (sole or main residence).

(2) If the offender intends to be absent from that home address for a period of more than 3 days (“the relevant period”), the offender must, not less than 12 hours before leaving that home address, notify to the police the information set out in sub-paragraph (3).

(3) The information is—

- (a) the date on which the offender will leave that home address;
- (b) such details as the offender holds about—
 - (i) the offender’s travel arrangements during the relevant period;
 - (ii) the offender’s accommodation arrangements during that period;
 - (iii) the offender’s date of return to that address.

(4) In this paragraph—

“travel arrangements” include, in particular, the means of transport to be used and the dates of travel,

“accommodation arrangements” include, in particular, the address of any accommodation at which the relevant offender will spend the night during the relevant period and the nature of that accommodation.

(5) Where—

- (a) an offender has given a notification under sub-paragraph (2), and
- (b) at any time before that mentioned in that sub-paragraph, the information notified becomes inaccurate or incomplete,

the offender must give a further notification under sub-paragraph (2).

(6) Where an offender—

- (a) has notified a date of return to the offender’s home address, but
- (b) returns to that home address on a date other than that notified,

the offender must notify the date of the offender’s actual return to the police within 3 days of the actual return.

(7) Nothing in this paragraph requires an offender to notify any information which falls to be notified in accordance with a requirement imposed by regulations under paragraph 14.

(8) In calculating the relevant period for the purposes of this paragraph there is to be disregarded—

- (a) any period or periods which the offender intends to spend at, or travelling directly to or from, an address of the kind mentioned in paragraph 10(2)(g) notified to the police under paragraph 10(1), 11(1) or 12(1);
- (b) any period or periods which the offender intends to spend at, or travelling directly to or from, any premises, if his stay at those premises would give rise to a requirement to notify the address of those premises under paragraph 11(2)(c).

Travel outside the United Kingdom

14.—(1) The Department may by regulations make provision with respect to offenders subject to notification requirements, or any description of such offenders—

- (a) requiring such persons, before they leave the United Kingdom, to give in accordance with the regulations a notification under sub-paragraph (2);
 - (b) requiring such persons, if they subsequently return to the United Kingdom, to give in accordance with the regulations a notification under sub-paragraph (3).
- (2) A notification under this paragraph must disclose—
- (a) the date on which the offender proposes to leave the United Kingdom;
 - (b) the country (or, if there is more than one, the first country) to which the offender proposes to travel and the proposed point of arrival (determined in accordance with the regulations) in that country;
 - (c) any other information prescribed by the regulations which the offender holds about the offender's departure from or return to the United Kingdom, or about the offender's movements while outside the United Kingdom.
- (3) A notification under this sub-paragraph must disclose any information prescribed by the regulations about the offender's return to the United Kingdom.

Method of notification and related matters

15.—(1) An offender gives a notification to the police under paragraph 10(1), 11(1), 12(1) or 13(2) or (6) by—

- (a) attending at any police station in Northern Ireland prescribed by regulations under section 87(1)(a) of the Sexual Offences Act 2003, and
 - (b) giving an oral notification to any police officer, or to any person authorised for the purpose by the officer in charge of the station.
- (2) Any notification given in accordance with this paragraph must be acknowledged; and the acknowledgement must be—
- (a) in writing, and
 - (b) in such form as the Department may direct.
- (3) Where a notification is given under paragraph 10(1), 11(1), 12(1) or 13(2) or (6), the offender must, if requested to do so by the police officer or other person mentioned in sub-paragraph (1)(b), allow that officer or person to—
- (a) take the offender's fingerprints,
 - (b) photograph any part of the offender, or

(c) do both of those things,
in order to verify the offender's identity.

(4) Fingerprints taken from a person under this paragraph (and any copies of those fingerprints) must be destroyed no later than the date on which the offender ceases to be subject to notification requirements.

(5) Photographs taken of any part of the offender under this paragraph (and any copies of such photographs) must be destroyed no later than the date on which the offender ceases to be subject to notification requirements.

(6) In this paragraph “photograph” includes any process by means of which an image may be produced.

PART 3

SUPPLEMENTARY

Offences

16.—(1) A person who, without reasonable excuse, fails to comply with any prohibition or requirement contained in—

- (a) a slavery and trafficking prevention order, or
- (b) an interim slavery and trafficking prevention order,

commits an offence.

(2) A person who, without reasonable excuse, fails to comply with—

- (a) paragraph 10(1), 11(1) or (6)(b), 12(1), 13(2) or (6) or 15(3), or
- (b) any requirement imposed by regulations made under paragraph 14(1),

commits an offence.

(3) A person who notifies to the police, in purported compliance with—

- (a) paragraph 10(1), 11(1), 12(1) or 13(2) or (6), or
- (b) any requirement imposed by regulations made under paragraph 14(1),

any information which the person knows to be false, commits an offence.

(4) As regards an offence under sub-paragraph (2), so far as it relates to non-compliance with—

- (a) paragraph 10(1), 11(1), 12(1) or 13(2) or (6), or
- (b) any requirement imposed by regulations made under paragraph 14(1),

a person commits such an offence on the first day on which the person first fails, without reasonable excuse, to comply with the provision mentioned in paragraph (a) or (as the case may be) the requirement mentioned in paragraph (b), and continues to commit it throughout any period during which the failure continues.

(5) But a person must not be prosecuted under sub-paragraph (2) more than once in respect of the same failure.

(6) A person guilty of an offence under this paragraph is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years;

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

(7) Where a person is convicted of an offence under this paragraph, it is not open to the court by or before which the person is convicted to make an order for conditional discharge in respect of the offence.

Cross-border enforcement within UK

17.—(1) The Department may by order amend paragraph 16(1) so as to add to or remove from the list of orders in that paragraph any relevant UK order.

(2) “Relevant UK order” means an order under the law of Scotland or England and Wales which appears to the Department to be equivalent or similar to—

- (a) a slavery and trafficking prevention order,
- (b) an interim slavery and trafficking prevention order.

Supply of information to relevant Northern Ireland departments, Secretary of State, etc.

18.—(1) This paragraph applies to information notified to the police under paragraph 10(1), 11(1) or 12(1).

(2) The Chief Constable may, for the purposes of the prevention, detection, investigation or prosecution of offences under this Schedule, supply information to which this paragraph applies to—

- (a) a relevant Northern Ireland department,
- (b) the Secretary of State,
- (c) a person providing services to a relevant Northern Ireland department or the Secretary of State in connection with a relevant function,

for use for the purpose of verifying the information.

(3) In relation to information supplied to any person under sub-paragraph (2), the reference to verifying the information is a reference to—

- (a) checking its accuracy by comparing it with information held—
 - (i) in the case of a relevant Northern Ireland department or the Secretary of State by that department or the Secretary of State in connection with the exercise of a relevant function, or
 - (ii) in the case of a person within sub-paragraph (2)(c), by that person in connection with the provision of services as mentioned there, and
- (b) compiling a report of that comparison.

(4) Subject to sub-paragraph (5), the supply of information under this paragraph is to be taken not to breach any restriction on the disclosure of information (however arising).

(5) This paragraph does not authorise the doing of anything that contravenes the Data Protection Act 1998.

(6) This paragraph does not affect any power to supply information that exists apart from this paragraph.

(7) In this paragraph—

“relevant Northern Ireland department” means the Department for Employment and Learning, the Department of the Environment, the Department of Health, Social Services and Public Safety or the Department for Social Development;

“relevant function” means—

- (a) in relation to the Department for Employment and Learning, a function relating to employment or training,
- (b) in relation to the Department of the Environment, a function under Part 2 of the Road Traffic (Northern Ireland) Order 1981;
- (c) in relation to the Department of Health, Social Services and Public Safety, a function relating to health or social care;
- (d) in relation to the Department for Social Development, a function relating to social security or child support;
- (e) in relation to the Secretary of State, a function relating to passports or the Gangmasters Licensing Authority.

Supply of information by relevant Northern Ireland departments, Secretary of State, etc.

19.—(1) A report compiled under paragraph 18 may be supplied to the Chief Constable by—

- (a) the relevant Northern Ireland department,
- (b) the Secretary of State, or
- (c) a person within paragraph 18(2)(c).

(2) Such a report may contain any information held—

- (a) by the relevant Northern Ireland department or the Secretary of State in connection with the exercise of a relevant function, or
- (b) by a person within paragraph 18(2)(c) in connection with the provision of services as mentioned there.

(3) Where such a report contains information within sub-paragraph (2), the Chief Constable—

- (a) may, subject to sub-paragraph (4), retain the information, whether or not used for the purposes of the prevention, detection, investigation or prosecution of offences under this Part, and
- (b) may use the information for any purpose related to the prevention, detection, investigation or prosecution of offences (whether or not under this Part), but for no other purpose.

(4) The information must be destroyed no later than the date on which the offender ceases to be subject to notification requirements.

(5) Sub-paragraphs (4) to (7) of paragraph 18 apply in relation to this paragraph as they apply in relation to paragraph 18.

Information about release or transfer of offender

20.—(1) This paragraph applies to an offender subject to notification requirements who is—

- (a) serving a custodial sentence; or
 - (b) detained in a hospital.
- (2) The Department may by regulations make provision requiring the person who is responsible for such an offender to give notice to specified persons—
- (a) of the fact that that person has become responsible for the offender; and
 - (b) of any occasion when—
 - (i) the offender is released, or
 - (ii) a different person is to become responsible for the offender.
- (3) In sub-paragraph (2) “specified persons” means persons specified, or of a description specified, in the regulations.
- (4) The regulations may make provision for determining who is to be taken for the purposes of this paragraph as being responsible for an offender.

Power of entry and search of offender’s home address

- 21.—(1) If, on an application made by a police officer of the rank of superintendent or above, a lay magistrate is satisfied that the requirements in sub-paragraph (2) are met in relation to any premises, the lay magistrate may issue a warrant authorising a constable—
- (a) to enter the premises for the purpose of assessing the risks posed by the offender subject to notification requirements to whom the warrant relates; and
 - (b) to search the premises for that purpose.
- (2) The requirements are—
- (a) that the address of each set of premises specified in the application is an address falling within sub-paragraph (3);
 - (b) that the offender is not one to whom sub-paragraph (4) applies;
 - (c) that it is necessary for a constable to enter and search the premises for the purpose mentioned in sub-paragraph (1)(a); and
 - (d) that on at least two occasions a constable has sought entry to the premises in order to search them for that purpose and has been unable to obtain entry for that purpose.
- (3) An address falls within this sub-paragraph if—
- (a) it is the address which was last notified in accordance with this Schedule by the offender to the police as the offender’s home address; or
 - (b) there are reasonable grounds to believe that the offender resides there or may regularly be found there.
- (4) This sub-paragraph applies to an offender if the offender is—
- (a) remanded in or committed to custody by order of a court;
 - (b) serving a custodial sentence;
 - (c) detained in a hospital; or
 - (d) outside the United Kingdom.
- (5) A warrant issued under this paragraph must specify the one or more sets of premises to which it relates.

(6) The warrant may authorise the constable executing it to use reasonable force if necessary to enter and search the premises.

(7) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the lay magistrate is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose mentioned in sub-paragraph (1)(a).

(8) Where a warrant issued under this paragraph authorises multiple entries, the number of entries authorised may be unlimited or limited to a maximum.

(9) In this paragraph a reference to the offender subject to notification requirements to whom the warrant relates is a reference to the offender—

- (a) who has in accordance with this Schedule notified the police that the premises specified in the warrant are the offender’s home address; or
- (b) in respect of whom there are reasonable grounds to believe that the offender resides there or may regularly be found there.

Guidance

22.—(1) The Department must issue guidance to the Chief Constable in relation to the exercise of the powers of the Chief Constable under this Schedule.

(2) The Department may, from time to time, revise the guidance issued under sub-paragraph (1).

(3) The Department must arrange for any guidance issued or revised under this paragraph to be published in a way the Department considers appropriate.

Interpretation of this Schedule

23.—(1) In this Schedule—

“cautioned” means cautioned after the person concerned has admitted the offence;

“custodial sentence” means—

- (a) a sentence of imprisonment,
- (b) a sentence of detention in a young offenders centre;
- (c) a sentence of detention under Article 13(4)(b) or 14(5) of the Criminal Justice (Northern Ireland) Order 2008;
- (d) a sentence of detention under Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998;
- (e) an order under Article 39A of that Order sending the offender to a juvenile justice centre;
- (f) any other sentence under which a person is detained in custody;

“detained in a hospital” means detained in a hospital under Part 3 of the Mental Health (Northern Ireland) Order 1986;

“home address” has the meaning given by paragraph 10(4);

“interim slavery and trafficking prevention order” means an order under paragraph 7;

“slavery and trafficking prevention order” means an order under paragraph 1 or 2;

“slavery or human trafficking offence” has the meaning given by paragraph 1(4).

(2) In this Schedule “passport” means—

- (a) United Kingdom passport within the meaning of the Immigration Act 1971;
- (b) a passport issued by or on behalf of the authorities of a country outside the United Kingdom, or by or on behalf of an international organisation;
- (c) a document that can be used (in some or all circumstances) instead of a passport.

(3) In this Schedule a reference to a conviction includes a conviction for an offence in respect of which an order for conditional discharge is made, despite—

- (a) Article 6(1) of the Criminal Justice (Northern Ireland) Order 1996 (conviction with conditional discharge deemed not to be a conviction), or
- (b) section 14(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (equivalent provision for England and Wales).

(4) Sub-paragraph (3) applies only to convictions after this Schedule comes into operation.

(5) In this Schedule a reference to a conviction includes a finding of a court in summary proceedings that the accused did the act charged, where the court makes an order under—

- (a) Article 44(4) of the Mental Health (Northern Ireland) Order 1986;
- (b) section 37(3) of the Mental Health Act 1983, or
- (c) section 58(3) of the Criminal Procedure (Scotland) Act 1995,

(hospital and guardianship orders).

(6) In relation to an offence under the law of Scotland, a reference in this Schedule to a person being found not guilty by reason of insanity is to be treated as a reference to a person being acquitted by reason of the special defence in section 51A of the Criminal Procedure (Scotland) Act 1995.

(7) References in this Schedule to an offender subject to notification requirements are to be read in accordance with paragraph 9.

(8) In this Schedule, a reference to a finding that a person is unfit to be tried and has done the act charged against the person in respect of an offence includes a finding that a person is under a disability or insane and has done the act charged against the person in respect of an offence.

(9) A person’s age is to be treated for the purposes of this Schedule as being that which it appears to the court to be after considering any available evidence.

c. 2 *Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015*

SCHEDULE 4

Section 26.

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS RELATING TO OFFENCES UNDER SECTION 1 OR 2

The Children and Young Persons Act (Northern Ireland) 1968 (c. 34)

1. In Schedule 1 (offences against children and young persons to which special provisions of the Act apply) at the end add—

“An offence against a child or young person under section 1 or 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 or any attempt to commit such an offence.”

The Immigration Act 1971 (c. 77)

2. In section 25C (forfeiture of vehicle, ship or aircraft) in subsections (9)(b), (10)(b) and (11) for the words from “a passenger” to the end substitute “the victim of conduct which constitutes an offence under section 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland 2015”.

The Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12)

3. In Article 53A(2) (questioning and treatment of persons by police: meaning of “qualifying offence”) at the end add—

“(t) an offence under section 1 or 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.”

The Sexual Offences (Amendment) Act 1992 (c. 34)

4. In section 2(3) (offences under law of Northern Ireland to which the Act applies)—

(a) after paragraph (hb) insert—

“(hc) any offence under section 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015;”;

(b) in paragraph (i) for “(hb)” substitute “(hc)”.

The Sexual Offences Act 2003 (c. 42)

5. In Schedule 5 (relevant offences for purposes of notification and orders) after paragraph 171B insert—

“171C. An offence under section 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.”

c. 2 *Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015* SCH. 4

The Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19)

6. In section 14(2) (immigration officers' power of arrest) after paragraph (q) insert—

“(r) an offence under section 1 or 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.”

The Serious Crime Act 2007 (c. 27)

7. In paragraph 18 of Part 2 of Schedule 1 (serious offences in Northern Ireland) at the end add—

“(4) An offence under section 1 or 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.”

The Sexual Offences (Northern Ireland) Order 2008 (NI 2)

8.—(1) In Article 22(2)(b) (meeting child following sexual grooming, etc.) for paragraph (ii) substitute—

“(ii) an offence under section 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (human trafficking) committed with a view to exploitation that consists of or includes behaviour within section 3(3) of that Act (sexual exploitation), or”.

(2) In Article 58(7) for “Articles 59 to 60” substitute “Article 60”.

PART 2

AMENDMENTS RELATING TO SLAVERY AND TRAFFICKING REPARATION ORDERS

The Criminal Justice (Northern Ireland) Order 1994 (NI 15)

9. In Article 16(a) (review of compensation orders) for the words from “a confiscation order” to the end substitute “either or both of the following made against him in the same proceedings—

- (i) a confiscation order under Part 4 of the Proceeds of Crime Act 2002;
- (ii) a slavery and trafficking reparation order under Schedule 2 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015; or”.

The Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 (NI 12)

10. In paragraph 2 of Schedule 1 (exempted payments) for “1994 or” substitute “1994, Schedule 2 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 or”.

The Criminal Justice (Northern Ireland) Order 1996 (NI 24)

11. In Article 4(5) (absolute and conditional discharge) at the end insert “or a slavery and trafficking reparation order under Schedule 2 to the Human

Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.”

12. In Article 13(11) (community service order) at the end insert “or a slavery and trafficking reparation order under Schedule 2 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.”

The Proceeds of Crime Act 2002 (c. 29)

13.—(1) Section 163 (effect of confiscation order on court’s other powers) is amended as follows.

(2) In subsection (3)(a) at the end add “or an order under Schedule 2 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (slavery and trafficking reparation orders)”.

(3) In subsection (5)—

(a) in paragraph (a) for “both a confiscation order and” substitute “a confiscation order and one or both of” and after “1994 (SI 1994/2795 (N.I. 15)” insert “and a slavery and trafficking reparation order under Schedule 2 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015,”;

(b) in paragraph (b) for “both the orders” substitute “all the orders”.

(4) In subsection (6) (priorities of confiscation orders and other orders) for the words from “of the compensation” to “as it specifies” substitute “as it specifies of the amount (or amounts) payable under the other order (or orders) mentioned in subsection (5)(a)”.

14. In section 182(7)(b) (court’s powers on appeal) at the end insert “so far as they relate to such orders”.

15. In section 183(9)(b) (appeal to Supreme Court) at the end insert “so far as they relate to such orders”.

16. In section 205(5) (application of sums received under confiscation order to pay compensation) for the words “of compensation” substitute “payable under any other order (or orders)”.

17. In section 308 (general exceptions to concept of recoverable property) after subsection (4) insert—

“(4A) If—

(a) a payment is made to a person in pursuance of a slavery and trafficking reparation order under Schedule 2 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, and

(b) apart from this subsection, the sum received would be recoverable property,

the property ceases to be recoverable.”.

The Recovery of Health Service Charges (Northern Ireland) Order 2006 (NI 13)

18. In paragraph 1 of Schedule 1 (recovery of health care charges: exemptions)—

- (a) omit “or” at the end of sub-paragraph (b);
 (b) after sub-paragraph (c) insert—
 “(d) Schedule 2 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (slavery and trafficking reparation orders).”.

The Justice (Northern Ireland) Act 2012 (c. 24)

19. In section 1(5) (offender levy) after “1994 (NI 15)” insert “or an order under Schedule 2 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 or both” and for “appropriate compensation” substitute “and appropriate amounts under such of those orders as it would be appropriate to make”.

SCHEDULE 5

Section 26.

REPEALS

Short Title	Extent of Repeal
The Children and Young Persons Act (Northern Ireland) 1968 (c. 38)	In Schedule 1 the entry relating to an offence under any of sections 57 to 59 of the Sexual Offences Act 2003.
The Sexual Offences (Amendment) Act 1992 (c. 34)	In section 2(3)(ha) the words “57 to 59”.
The Criminal Evidence (Northern Ireland) Order 1999 (NI 8)	Article 3(1)(ga).
The Proceeds of Crime Act 2002 (c. 29)	In Schedule 5, paragraph 4(2) and (3).
The Sexual Offences Act 2003 (c. 42)	Sections 57 to 60C. In section 142(2) the words “57 to 60C”. In Schedule 5, paragraph 171. In Schedule 6, paragraphs 42(2) and (3)(a) and 46(4).
The Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19)	Section 4. Section 5(3) to (5), (9) and (10). Section 14(2)(n) and (p).

Short Title	Extent of Repeal
The Violent Crime Reduction Act 2006 (c. 38)	Section 54. Schedule 4.
The Serious Crime Act 2007 (c. 27)	In Schedule 1, paragraph 18(2) and (3).
The UK Borders Act 2007 (c. 30)	Section 31.
The Criminal Justice (Northern Ireland) Order 2008 (NI 1)	In Schedule 1 in paragraph 28 the entries for sections 57 to 59. In Part 2 of Schedule 2 in paragraph 13 the entries for sections 57 to 59.
The Sexual Offences (Northern Ireland) Order 2008 (NI 2)	Article 59. In Article 66(2), sub-paragraph (b) and the word “or” immediately before it. In Schedule 1, paragraph 12(4)(h).
The Borders, Citizenship and Immigration Act 2009 (c. 11)	Section 54.
The Coroners and Justice Act 2009 (c. 25)	Section 71.
The Policing and Crime Act 2009 (c. 26)	Section 15.
The Criminal Justice Act (Northern Ireland) 2013 (c. 7)	Sections 6 to 8.

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