



Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

PART 4

CLOSURE OF PREMISES

Interpretation

[^{F1}40A Exploitation offences

- (1) In this Part, an “exploitation offence” is any of the following offences—
- (a) so far as concerning travel or identity documentation for enabling the trafficking of people (including passports, visas and work permits)—
 - (i) fraud, or
 - (ii) uttering a forged document,
 - (b) so far as concerning the trafficking of people, an offence under section 26(1) (d) of the Immigration Act 1971 (c.77) (falsification of documentation),
 - (c) an offence under section 52 or 52A of the Civic Government (Scotland) Act 1982 (c.45) (possession, taking or distribution of indecent images of children),
 - (d) an offence under sections 7 to 12 or 13(9) of the Criminal Law (Consolidation) (Scotland) Act 1995 (c.39) (offences relating to prostitution and brothels),
 - ^{F2}(e)
 - (f) an offence under section 1 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9) (meeting a child following certain preliminary contact),
 - (g) an offence under sections 9 to 12 of that Act (offences relating to provision by child of sexual services or child pornography),
 - ^{F2}(h)
 - (i) an offence under Part 1 of the Sexual Offences (Scotland) Act 2009 (asp 9) (rape etc.),
 - (j) an offence under Part 4 of that Act (sexual offences involving children) other than an offence under section 37 (older children engaging in sexual conduct with each other),

Status: Point in time view as at 31/05/2016.

Changes to legislation: Antisocial Behaviour etc. (Scotland) Act 2004, Section 40A is up to date with all changes known to be in force on or before 22 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (k) an offence under section 42 of that Act (sexual abuse of trust),
 - (l) an offence under section 46 of that Act (sexual abuse of trust of a mentally disordered person),
 - [^{F3}(m) an offence under section 4 of the Human Trafficking and Exploitation (Scotland) Act 2015 (slavery, servitude and forced or compulsory labour),]
 - [^{F4}(n) an offence of human trafficking (see section 1 of the Human Trafficking and Exploitation (Scotland) Act 2015).]
- (2) For the purposes of subsection (1)(a) and (b), a reference to trafficking of people is a reference to a person intentionally doing something in respect of at least one other person which involves the commission of an offence mentioned in subsection (1)(e) or (h).
- (3) For the purposes of subsection (1), a reference to an offence includes a reference to—
- (a) an attempt to commit an offence,
 - (b) incitement to commit an offence,
 - (c) counselling or procuring the commission of an offence,
 - (d) involvement art and part in an offence, and
 - (e) an offence as modified by section 54 of the Sexual Offences (Scotland) Act 2009 (asp 9) (incitement to commit certain sexual acts outside the United Kingdom).
- (4) The Scottish Ministers may by order add to or otherwise modify the specification of offences listed in subsection (1).]

Textual Amendments

- F1** S. 40A inserted (13.12.2010) by *Criminal Justice and Licensing (Scotland) Act 2010* (asp 13), **ss. 99(7)**, 206; S.S.I. 2010/413, **art. 2**, Sch (with art. 6)
- F2** S. 40A(1)(e)(h) repealed (31.5.2016) by *Human Trafficking and Exploitation (Scotland) Act 2015* (asp 12), s. 45(2), **sch. para. 3(a)** (with s. 44); S.S.I. 2016/128, reg. 2, sch. (with reg. 3); S.S.I. 2016/128, reg. 2, sch. (with reg. 3)
- F3** S. 40A(1)(m) substituted (31.5.2016) by *Human Trafficking and Exploitation (Scotland) Act 2015* (asp 12), s. 45(2), **sch. para. 3(b)** (with s. 44); S.S.I. 2016/128, reg. 2, sch. (with reg. 3)
- F4** S. 40A(1)(n) inserted (31.5.2016) by *Human Trafficking and Exploitation (Scotland) Act 2015* (asp 12), s. 45(2), **sch. para. 3(c)** (with s. 44); S.S.I. 2016/128, reg. 2, sch. (with reg. 3)

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