
Status: Point in time view as at 25/07/2015.

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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—

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- (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

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- (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)).

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(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

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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.

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(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).

VALID FROM 27/11/2015	
<p>SCHEDULE 3</p> <p>SLAVERY AND TRAFFICKING PREVENTION ORDERS</p> <p>.....</p>	Section 11.

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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. 3)

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) ”.

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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”

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;

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- (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 ”.

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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

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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).
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.

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The Policing and Crime Act 2009 Section 15.
(c. 26)

The Criminal Justice Act (Northern Sections 6 to 8.
Ireland) 2013 (c. 7)

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