

Causeway Coast and Glens Borough Council

To: Leisure & Development Committee

Consultation Response Secondary Legislation under Human Trafficking Legislation

8th September 2015

For Decision
Report to Committee

Linkage to Interim Corporate Plan	
Strategic Themes	Health & Wellbeing Cohesive Community
Lead Officer	Julie Welsh – Head of Community & Culture
Cost: (If applicable)	N/A

The purpose of this report is to seek Council's endorsement on the Department of Justice's consultation regarding legislative proposals under the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 and the Modern Slavery Act 2015.

Background

The Department of Justice is undertaking a targeted consultation around a proposal to bring forward three pieces of secondary legislation under the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 and the Modern Slavery Act 2015. The consultation period is from 30 July 2015 to 22 October 2015.

Views are invited on the following:

Statutory Rule No 1 amends the list of human trafficking and slavery offences and adds civil orders to facilitate cross-border enforcement. It also allows the courts in Northern Ireland to impose Slavery and Trafficking Prevention Orders (STPO) in respect of those convicted in other jurisdictions within the United Kingdom.

Statutory Rule No 2 would enhance the existing notification regime for offenders who are subject to a Slavery and Trafficking Prevention Order (STPO). The current basic notification requirements are informed by existing notification regimes for violent and sexual offenders and require offenders to:

- Provide personal information to PSNI within 3 days of an STPO being made.
- Notify any change in circumstance.
- Periodic notification to PSNI regardless of change in circumstance.
- Notify any absence of more than 3 days from notified residence.

The Department is now seeking to enhance these arrangements to include:

- Notification of bank accounts and credit cards to PSNI and changes to same.
- Notify PSNI of any travel outside the United Kingdom except to the Republic of Ireland.
- Notify PSNI of any travel to Republic of Ireland for a period of 3 days or longer.

In addition to the proposed Statutory Rules above, the Department also invites comment on two associated issues:

- (i) Application to the court for an SPTO and
- (ii) Information about release or transfer of offenders.

(i) The Department is of the view that it is appropriate that the power to make an application for an STPO should remain with PSNI.

(ii) The Department is of the view that specific regulations to require notification of release or transfer are unlikely to be needed in Northern Ireland and believes that it would be sufficient to amend existing arrangements to include offenders who are subject to STPOs.

Secondary Legislation under the Modern Slavery Act 2015

The proposed Statutory Rule to the Modern Slavery Act intends to specify certain Public Authorities in Northern Ireland who would then have a duty to co-operate with the UK Independent Anti-Slavery Commissioner, Kevin Hyland OBE.

The proposal is that the following authorities, which are broadly reflective of those specified in England and Wales, should be specified under the regulations:

- The Chief Constable of the Police Service of Northern Ireland
- The Regional Health and Social Care Board; and
- The five Health and Social Care Trusts.

While local Councils have not been specified in the list above, the Department is seeking views on the merits of their inclusion. As the duty to co-operate with the Commissioner only came into force on 31 July 2015 in England and Wales, it isn't possible to assess the exact resource implication in order to determine how it might apply here, however it is anticipated that it would potentially involve the provision of information to and meetings with the Commissioner.

This proposal is considered to be in line with responsibilities that Council both currently hold in relation to community safety, through the Policing & Community Safety Partnerships and will have through the Transfer of Powers from the Department of Social Development in respect of community development.

The Department of Justice is proposing that it should also be a specified public authority given its policy development and legislative functions and the potential for some of its agencies to play a role in the identification of potential victims.

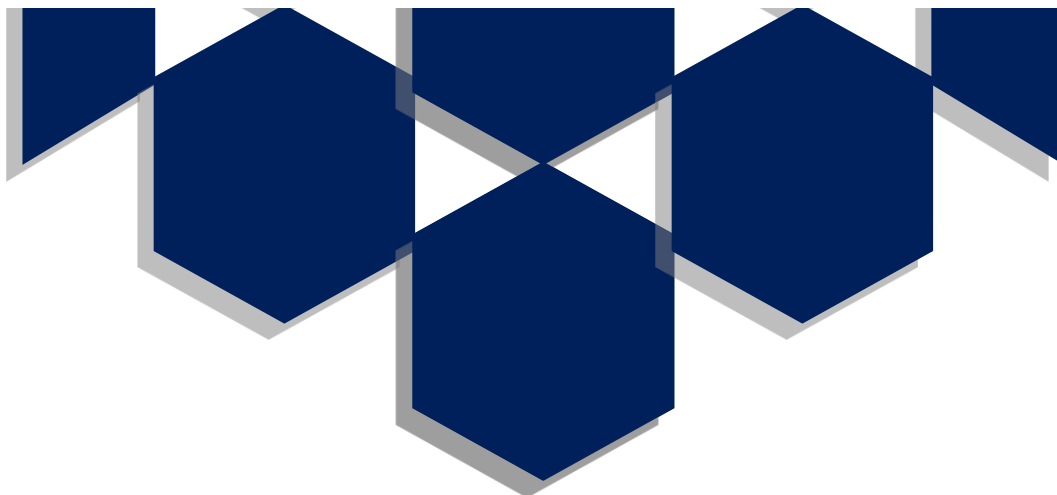
Views are invited on the above proposal and whether there are any additional public authorities who should co-operate with the Commissioner. Consultees are also invited to submit any additional equality, regulatory and financial implications which may be relevant to the implementation of the secondary legislation.

Recommendation:

To endorse the three pieces of secondary legislation under the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 and the Modern Slavery Act 2015 (Annex A-C). In relation to the Secondary Legislation under the Modern Slavery Act 2015, it is recommended that Council endorse the Department's proposals to consider a range of authorities, which may include Councils, to be specified under the regulations.



**Proposal for secondary legislation under the
Human Trafficking and Exploitation (Criminal
Justice and Support for Victims) Act (Northern
Ireland) 2015 and the Modern Slavery Act 2015**



Targeted consultation

This consultation begins on 30 July 2015 and closes on 22 October 2015.

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6.	Annex B: draft Statutory Rule: <i>The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (Slavery and Trafficking Prevention Orders) (Notification Requirements) Regulations (Northern Ireland) 2015.</i>	Attached separately
7.	Annex C: draft Statutory Rule: <i>The Modern Slavery Act 2015 (Duty to Co-operate with Commissioner) (Northern Irish Public Authority) Regulations (Northern Ireland) 2015</i>	Attached separately

1. Introduction

- 1.1 This paper sets out the Department of Justice's proposals to make secondary legislation under the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 and the Modern Slavery Act 2015¹. The Department intends to bring forward three pieces of secondary legislation at this stage. Background information and further detail on each Statutory Rule is outlined in this paper. Copies of the draft Statutory Rules are attached separately.
- 1.2 Copies of this document in other formats, including Braille, large print, computer disk etc may be made available on request. Please let us know if you need copies in an alternative language or format.
- 1.3 Consultees are invited to submit any comments to the Department no later than 22 October 2015. Responses should be emailed to htconsultation@dojni.x.gsi.gov.uk or posted to the following address:

Human Trafficking Team
Protection and Organised Crime Division
Department of Justice
Room B4.20
Castle Buildings
Stormont Estate
Belfast
BT4 3SG

¹ Copies of the Acts are available at <http://www.legislation.gov.uk/nia/2015/2/enacted> and <http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>

1.5 If you require any additional information, or would like to discuss any aspects of the consultation, please contact Alison Redmond by telephone: 028 90 528677 or by email Alison.Redmond@dojni.x.gsi.gov.uk

2. Secondary legislation under the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015

Background

- 2.1 The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015² (the “HT Act”) received Royal Assent on 14 January 2015. Section 11 of, and Schedule 3 to, the HT Act, taken together, introduce a regime for Slavery and Trafficking Prevention Orders (STPOs).
- 2.2 The HT Act provides the courts in Northern Ireland with power to make STPOs in two circumstances. The first is that a court dealing with an adult who has been convicted of a slavery or human trafficking offence may make an order if the court is satisfied that there is a risk that the defendant may commit a slavery or human trafficking offence and it is necessary to make the order to protect persons generally or particular persons from harm which would be likely to occur if the defendant committed such an offence. Paragraph 1 of Schedule 3 refers.
- 2.3 STPOs may also be made by a court of summary jurisdiction against a person aged 18 or over, on the application of the PSNI, if the court is satisfied that the defendant has been convicted of a slavery or human trafficking offence and since the defendant offended he or she has acted in a way which means that there is a risk that he or she may commit a slavery or human trafficking offence and it is necessary to make the order to protect the persons generally or particular persons from harm which would be likely to occur if the defendant committed such an offence. This is set out in paragraphs 2 and 3 of Schedule 3. A STPO may prohibit the defendant from doing anything described in the order or require the defendant to do anything described. In line with paragraph 4 of Schedule 3, an order will have affect for a fixed period of at least 5 years or until a further order by the courts.

² A copy of the Act can be found at: <http://www.legislation.gov.uk/nia/2015/2/contents/enacted>

The Explanatory Notes to the Act are available at:
<http://www.legislation.gov.uk/nia/2015/2/notes/contents>

2.4 The Department intends to commence section 11 of, and Schedule 3 to, the HT Act in Autumn 2015. In tandem with this the Department proposes to make two Statutory Rules (SRs) which are intended to give effect to the STPO regime. Further details on the two SRs are set out below.

Statutory Rule No 1

2.5 The first proposed SR is entitled:

The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (Amendment of Slavery or Human Trafficking Offences and Relevant United Kingdom Orders) Order (Northern Ireland) 2015

2.6 This Order would be made in accordance with sub-paragraphs 1(5) and 17(1) of Schedule 3 to the HT Act and would be subject to the draft affirmative procedure in the Assembly. A copy of the draft SR is attached separately (Annex A).

2.7 The purpose of the Order is to ensure that STPOs may be made in Northern Ireland in respect of offenders who have been convicted of human trafficking and slavery offences in other parts of the United Kingdom. In deciding whether to make a STPO in such cases, the court would apply the same test as outlined above. The Order would also allow the courts to enforce equivalent or similar protection orders, made in other parts of the United Kingdom, so that breach of such orders in Northern Ireland, would be a criminal offence in Northern Ireland. To this end the Order:

- amends the list of relevant human trafficking and slavery offences under paragraph 1(4) of Schedule 3 for which a court may impose a STPO, to include the new offences under sections 1, 2 and 4 of the Modern Slavery Act 2015 and equivalent Scottish offences which are to be provided for under the Human Trafficking and Exploitation

(Scotland) Bill, which is currently progressing through the Scottish Parliament³; and

- adds civil orders under Part 2 of the Modern Slavery Act 2015 and equivalent orders under the Scottish Bill to the list of orders specified under paragraph 16(1) of Schedule 3. This will facilitate cross-border enforcement of relevant civil prevention orders across the United Kingdom. As such, breach of those orders whilst the offender is in Northern Ireland would be a criminal offence, enforceable by the courts in Northern Ireland.

2.8 Reciprocal arrangements are in place to ensure that an offender who breaches a Northern Ireland STPO whilst in England and Wales would have committed a criminal offence in that jurisdiction. It is the intention to include equivalent provision in the Scottish Bill.

2.9 **Consultees are invited to provide any comments on the Department's approach and on the draft SR at Annex A.**

Statutory Rule No 2

2.10 The second proposed SR is entitled:

The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (Slavery and Trafficking Prevention Orders) (Notification Requirements) Regulations (Northern Ireland) 2015.

2.11 These proposed regulations would enhance the existing notification regime for offenders who are subject to a STPO (as set out in Schedule 3 to the Act) and

³ A copy of the Human Trafficking and Exploitation (Scotland) Bill can be found at: http://www.scottish.parliament.uk/S4_Bills/Human%20Trafficking%20Bill/b57as4-stage2.pdf

Please note that references in the draft SR at Annex A, to offences in Scotland, are provisional until the Scottish Bill receives Royal Assent.

would be made in accordance with powers under paragraphs 10(2)(h), 11(8)(a)(ii), 12(5) and 14(1) of Schedule 3 to the HT Act. The regulations would be subject to the negative resolution procedure. A copy of the draft SR is attached separately (Annex B).

2.12 The basic notification requirements are already set out in Schedule 3 to the Act and are informed by existing notification regimes for violent and sexual offenders and by the notification regime for Violent Offences Prevention Orders⁴. In line with the existing provisions of Schedule 3, offenders subject to a STPO must make:

- initial notification of “required information” to the PSNI within three days of the STPO being made (including name; date of birth; national insurance number; any aliases; home address and any other address where he or she regularly resides) – paragraph 10;
- notification of any relevant change to the offender’s circumstances - paragraph 11;
- periodic notification to PSNI (in most cases annually), regardless of whether or not the offender’s circumstances have changed – paragraph 12; and
- notification of any absence of more than three days from the notified residence – paragraph 13.

2.13 In addition to these basic notification requirements, and following engagement with the PSNI, the Department is seeking to enhance the notification regime by placing additional requirements on offenders. These are:

⁴ For example, see notification requirements for sex offenders in Northern Ireland: <http://www.legislation.gov.uk/nidsr/2014/9780337992643>

Notification requirements in respect of Violent Offences Prevention Orders (VOPOs) are set out in the Justice Act (Northern Ireland) 2015:

<http://www.legislation.gov.uk/nia/2015/9/contents/enacted>

- a requirement to include information relating to bank accounts and credit cards in the initial notification to PSNI (made under paragraph 10(2)). This mirrors the notification requirements in place in respect of sex offenders in England and Wales⁵. PSNI has indicated that this information would strengthen the ability of the police to detect offenders who failed to comply with the requirements to notify and thus protect the public. This would be complemented by a requirement to notify any changes of information relating to bank accounts and credit cards to the PSNI (made under paragraph 11(8));
- more frequent periodic notification where the offender is of no fixed abode (made under paragraph 12(5)). In these circumstances notification would be on a weekly rather than an annual basis. The Department assessed that weekly notification by those of no fixed abode might prevent offenders from failing to tell police where they live by claiming they are homeless;
- a requirement to notify PSNI of any travel outside the United Kingdom, except to the Republic of Ireland (made under paragraph 14(1)). Offenders would be required to provide the date of departure; the country or countries to which they will travel; and the point of arrival in those countries. Details of accommodation arrangements, the carriers by which the offender is to travel and return dates to the United Kingdom must be provided. All notifications should be made at least seven days in advance of intended travel, where known, and no less than 24 hours before intended travel, except where the offender provides a reasonable excuse (eg family bereavement) in which case the offender must provide the information at least 12 hours in advance; and
- a requirement to notify PSNI of any travel to the Republic of Ireland if it is for a period of three days or longer (made under paragraph 14(1)).

⁵ See <http://www.legislation.gov.uk/ukdsi/2012/9780111521410>

Given the land border, the Department considers that this is an appropriate and proportionate threshold which does not have an overbearing impact on policing resources. Again offenders would be required to provide the date of departure; the point of arrival; details of accommodation arrangements; carriers by which they will travel and return dates to the United Kingdom. All notifications should be made at least seven days in advance of intended travel, where known, and no less than 24 hours before intended travel, except where the offender provides a reasonable excuse in which case the offender must provide the information at least 12 hours in advance.

2.14 Consultees are invited to provide any comments on the Department's proposed approach and the draft SR at Annex B.

Associated issues

2.15 In addition to the two proposed statutory rules, the Department invites comments on two associated issues: (i) application to the court for STPOs and (ii) information about release or transfer of offenders.

Application to the court for an STPO

2.16 Paragraph 2 of Schedule 3 provides for an STPO to be made by the court following an application by the PSNI. Paragraph 2(7) provides a discretionary Order-making power for the Department to add to the list of persons or bodies who may apply to the court for a STPO.

2.17 The Department has carried out pre-consultation engagement with the PSNI and with the Public Prosecution Service for Northern Ireland (PPS) and is of the view that it is appropriate that the power to make application to the court for a STPO should remain with PSNI. PPS has also indicated that it is satisfied that in the course of its normal prosecutorial duties in a case where a person is being convicted of a human trafficking or slavery offence it can, if necessary, highlight to the court the need to consider whether a STPO should

be made. The Department does not therefore propose at this time to bring forward an Order under paragraph 2(7). Any comments on this approach are welcome.

Information about release or transfer of offenders

- 2.18 Paragraph 20 of Schedule 3 provides a discretionary power to make regulations about the release or transfer of offenders who are subject to a STPO and who are serving a custodial sentence or detained in hospitals. Such regulations would require the person responsible for the offender to give notice to specified persons of: the fact that they have become responsible for the offender; any occasion where the offender is released; or where a different person becomes responsible for the offender.
- 2.19 Initial engagement with the relevant authorities and agencies has suggested that specific regulations to require notification of release or transfer are unlikely to be needed in Northern Ireland and has highlighted existing guidance and arrangements. We believe that it would be sufficient to amend these to ensure that they also apply to offenders who are also subject to the STPOs. The Department does not at this stage, therefore, propose to make regulations under paragraph 20. Again, the Department invites views on the need for regulations in this context.

3. Secondary legislation under the Modern Slavery Act 2015

Background

- 3.1 The Modern Slavery Act 2015 (“the MS Act”) received Royal Assent on 26 March 2015⁶. Certain parts of the Act extend to Northern Ireland, by virtue of a Legislative Consent Motion agreed in the Assembly on 8 December 2015.⁷ This includes Part Four of the MS Act, which provides for the appointment of a United Kingdom wide Independent Anti-slavery Commissioner⁸.
- 3.2 Under section 41 of the Act, the Commissioner’s functions are to encourage good practice in: the prevention, detection, investigation and prosecution of slavery and human trafficking offences; and the identification of victims of those offences.
- 3.3 Section 43 of the Act allows the Commissioner to request a specified public authority to co-operate with him in any way that he considers necessary for the purpose of his functions. In line with section 43(2), specified public authorities must, so far as reasonably practicable, comply with a request to co-operate made by the Commissioner. The draft SR specifies the relevant public authorities in Northern Ireland which would be subject to this duty to co-operate with the Commissioner.

Statutory Rule No. 1

- 3.4 The proposed SR is entitled:

**The Modern Slavery Act 2015 (Duty to Co-operate with Commissioner)
(Northern Irish Public Authority) Regulations (Northern Ireland) 2015**

- 3.5 This SR is made in accordance with section 43(8) of the MS Act. It would be subject to negative resolution, unless the Department modifies the application

⁶ The Act can be accessed at <http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>
Explanatory notes are available at <http://www.legislation.gov.uk/ukpga/2015/30/notes/contents>

⁷ A transcript of the debate can be found at pages 13 to 18:
<http://data.niassembly.gov.uk/HansardXml/plenary-08-12-2014.pdf>

⁸ Details about the Commissioner’s appointment can be found at:
<https://www.gov.uk/government/news/uks-first-independent-anti-slavery-commissioner-announced>

of the duty to co-operate in respect of any specified public authority in Northern Ireland. Where regulations modify the duty they would be subject to affirmative resolution. A copy of the draft SR is attached at Annex C.

3.6 In considering which public authorities in Northern Ireland should be specified under the proposed statutory rule, the Department has had regard to which public authorities in England and Wales have been specified under Schedule 3 to the Act. The Schedule 3 list there currently includes chief officers of police areas, NHS trusts, NHS foundation trusts, and Local Health Boards. Public authorities dealing with reserved matters, but who operate in Northern Ireland (namely the National Crime Agency, Gangmasters Licensing Authority and immigration and customs officers and officials) have also been specified under Schedule 3.

3.7 The Department proposes that the specified public authorities in Northern Ireland should broadly reflect those specified in England and Wales, whilst also covering any relevant authorities that are specific to this jurisdiction. As such, we propose that the following authorities should be specified under the regulations:

- the Chief Constable of the Police Service of Northern Ireland;
- the Regional Health and Social Care Board; and
- the five Health and Social Care Trusts.

3.8 We are proposing that the Department of Justice itself should be a specified public authority, given its policy development and legislative functions and the potential for some of its agencies (such as the Northern Ireland Prison Service and the Youth Justice Agency) to play a role in the identification of potential victims. We are keen to receive comments on this matter.

3.9 The Department recognises that there are a number of additional public authorities which are also involved in tackling human trafficking and slavery / forced labour and would welcome views as to whether any other public authorities should be specified. The Department is also considering whether

the application of the duty to co-operate needs to be modified in respect of any Northern Ireland public authority.

- 3.10 Views are invited on whether there are any additional public authorities that consultees believe should co-operate with the Commissioner and on any issues relating to the modification of the duty.**

4. Equality, regulatory and financial impact

- 4.1 Consideration has been given to compliance with section 75 of the Northern Ireland Act 1998. An equality screening exercise has been carried out and no adverse impacts on the groups listed under section 75 have been identified. It has been concluded that a full Equality Impact Assessment is not required.
- 4.2 The proposals would not impose any restriction on business, charities or voluntary bodies and consequently the need for a full Regulatory Impact Assessment has been screened out.
- 4.3 There may be some minor costs linked to the management of the STPO notification regime for the PSNI or to the justice system for any breach of the notification requirements, which is a criminal offence. However the Department envisages that only a very small number of offenders will be subject to STPOs and so the associated costs can be absorbed within existing budgets. There may also be some minor resource implications for specified public authorities resulting from the duty to co-operate. Again the Department does not anticipate that these would be significant and believe that any associated costs would be absorbed within existing budgets.
- 4.5 **Consultees are invited to submit any additional equality, regulatory and financial implications which may be relevant to the implementation of the secondary legislation.**

DRAFT STATUTORY RULES OF NORTHERN IRELAND

2015 No. 0000

CRIMINAL LAW

The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (Amendment of Slavery or Human Trafficking Offences and Relevant United Kingdom Orders) Order (Northern Ireland) 2015

Made - - - - - ***

Coming into operation - - - - - ***

The Department of Justice makes the following Order, in exercise of the powers conferred by sections 11 and 28(3)(a) of, and paragraphs 1(5) and 17(1) of Schedule 3 to, the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015(a).

In accordance with section 27(3) and (4)(d) and (f) of that Act, a draft of this Order was laid before, and approved by a resolution of, the Assembly.

Citation and commencement

1.—(1) This Order may be cited as the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (Amendment of Slavery or Human Trafficking Offences and Relevant United Kingdom Orders) Order (Northern Ireland) 2015.

(2) This Order shall come into operation on the day following the date on which it is approved by a resolution of, the Assembly.

Interpretation

2. In this Order “the 2015 Act” means the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.

Amendment of Slavery or Human Trafficking Offences and Relevant United Kingdom Orders

3.—(1) Paragraph 1(4) of Schedule 3 to the 2015 Act is amended as follows.

(2) In paragraph 1(4) after (h) insert—

(a) C.2 2015 (N.I.).

“(ha) an offence under section 1 (slavery, servitude and forced or compulsory labour) or 2 (human trafficking) of the Modern Slavery Act 2015;

(hb) an offence under section 1 (Human trafficking) or 4 (slavery, servitude and forced or compulsory labour) of the Human Trafficking and Exploitation (Scotland) Act 2015;”.

4.—(1) Paragraph 16(1) of Schedule 4 to the 2015 Act is amended as follows.

(2) In sub-paragraph (1)(a), after “a slavery and trafficking prevention order,” delete “or”.

(3) After sub-paragraph (1)(b) insert—

“(c) a slavery and trafficking prevention order within the meaning of sections 14 and 15 of the Modern Slavery Act 2015.

(d) an interim slavery and trafficking prevention order within the meaning of section 21 of the Modern Slavery Act 2015.

(e) a trafficking and exploitation prevention order within the meaning of sections 13 and 14 of the Human Trafficking and Exploitation (Scotland) Act 2015, or

(f) an interim trafficking and exploitation prevention order within the meaning of section 20 of the Human Trafficking and Exploitation (Scotland) Act 2015.”.

Sealed with the Official Seal of the Department of Justice on ****

David Ford
Minister of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the definition of a slavery or human trafficking offence under paragraph 1(4) of Schedule 3 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (“the 2015 Act”), allowing the courts in Northern Ireland to impose slavery and trafficking prevention orders in respect of those convicted of human trafficking or slavery offences in other jurisdictions within the United Kingdom.

It also amends paragraph 16(1) of Schedule 3 to the 2015 Act to allow the courts in Northern Ireland to enforce equivalent civil orders which have been made by the courts in Great Britain. These include: slavery and trafficking prevention orders and interim slavery and trafficking prevention orders which have been made by the courts in England and Wales; and trafficking and exploitation prevention orders and interim trafficking and exploitation prevention orders which have been made by the courts in Scotland.

Breach of these orders will constitute a criminal offence in Northern Ireland, punishable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory minimum, or both. Conviction on indictment will attract imprisonment for a maximum term of five years.

2015 No. 0000

CRIMINAL LAW

The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (Slavery and Trafficking Prevention Orders) (Notification Requirements) Regulations (Northern Ireland) 2015

Made - - - - *****

Coming into operation - *****

The Department of Justice makes the following regulations in exercise of the powers conferred by section 11 of and paragraphs 10(2), 11(3) and (8), 12(5) and 14(1) of Schedule 3 to, the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015(a).

Citation and commencement

1. These Regulations may be cited as the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (Slavery and Trafficking Prevention Orders) (Notification Requirements) Regulations (Northern Ireland) 2015 and shall come into operation on 1st August 2015.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“banking institution” means a bank, building society or other institution which provides banking services;

“business” includes any trade, profession or vocation;

“credit card” means a card which is a credit-token within the meaning of section 14(1)(b) of the Consumer Credit Act 1974(b);

“credit card provider” means a bank, building society or other institution which provides a credit card;

“debit card” means a card the use of which by its holder to make a payment results in a current account of the holder at a banking institution being debited with the payment;

“R” means a “relevant offender” subject to notification requirements; and

“Schedule 3” means Schedule 3 to Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.

(a) c.2. (N.I.).
(b) 1974 c.39.

Notification of information about bank accounts and credit cards

3.—(1) The information set out in paragraph (2) to (7) is prescribed for the purposes of 10(2)(h) of Schedule 3 in a case where a relevant offenders holds—

- (a) an account with a banking institution in R's name, or in R's name and the name of another person, and in relation to each account, the information specified in paragraph (2);
- (b) an account with a banking institution in the name of an unincorporated business which is run by R, or run by R and another person, and in relation to each such account, the information specified in paragraph (3);
- (c) a debit card in relation to any account of which notification is given in accordance with sub-paragraph (a) or (b), and in relation to each such debit card, the information specified in paragraph (4);
- (d) an account with a credit card provider in R's name, or in R's name and the name of another person, and in relation to each such account, the information specified in paragraph (5);
- (e) an account with a credit card provider in the name of an unincorporated business which is run by R, or run by R and another person, and in relation to each such account, the information specified in paragraph (6); or
- (f) a credit card in relation to any account of which notification is given in accordance with sub-paragraph (d) or (e), and in relation to each such credit card, the information specified in paragraph (7).

(2) The information specified for the purposes of paragraph 91)(a) of this regulation is—

- (a) the name of each banking institution with which R holds an account;
- (b) the address of the office at which each account is held and, if that office is outside the United Kingdom, the address of the principal office in the United Kingdom (if any) of the banking institution;
- (c) the number of each account; and
- (d) the sort code in relation to each account.

(3) The information specified for the purposes of paragraph (1)(b) of this regulation is—

- (a) the information specified in paragraph (2); and
- (b) the name of the business in whose name the account is held.
- (c) the expiry date of each debit card; and
- (d) the name of the business (if any) in whose name the card is held.

(4) The information specified for the purposes of paragraph (1)(c) is—

- (a) the card number in relation to each debit card;
- (b) the validation date of each debit card;
- (c) the expiry date of each debit card; and
- (d) the name of the business (if any) in whose name the card is held.

(5) The information specified for the purposes of paragraph (1)(d) is—

- (a) the name of each credit card provider with which R holds an account;
- (b) the address of the office at which each account is held and, if that office is outside the United Kingdom, the address of the principal office in the United Kingdom (if any) of the credit card provider; and
- (c) the number of each account.

(6) The information specified for the purposes of paragraph (1)(e) is—

- (a) the information specified in paragraph (5); and
- (b) the name of the business in whose name the card is held.

(7) The information specified of the purposes of paragraph (1)(f) is—

- (a) the card number in relation to each credit card;
- (b) the validation date of each credit card; and
- (c) the expiry date of each credit card; and
- (d) the name of the business (if any) in whose name the card is held.

4. A notification give in relation to a prescribed change of circumstances under paragraph 11(1) of Schedule 3 must include the information specified in regulation 3(2) to (7) in relation to that account, or debit or credit card.

Notification of changes

5.—(1) The changes in circumstances set out in paragraph (2) are prescribed for the purposes of paragraph 11(8) of schedule 3.

(2) The changes of circumstances are where—

- (a) an account which R holds with a banking institution, as specified in regulation 3(1)(a) or (b), has been—
 - (i) opened, or
 - (ii) closed;
- (b) a debit card R holds in relation to any account specified in regulation 3(1)(a) or (b)—
 - (i) has been obtained by R, or
 - (ii) is no longer held by R;
- (c) an account R holds with a credit card provider, as specified in relation 3(109d) or (c), has been—
 - (i) opened, or
 - (ii) closed;
- (d) a credit card R holds in relation to any account specified in relation 3(1)(d) or (e)—
 - (i) has been obtained by R, or
 - (ii) is no longer held by R;
- (e) any information previously notified by R under regulation 3(1) has—
 - (i) altered, or
 - (ii) become inaccurate or incomplete

Periodic notification of address where there is no sole or main residence

6. For the purposes of paragraph 12(5)(a) of Schedule 3, the applicable period means the period of seven days.

Travel outside the United Kingdom: Determination of point of arrival

7.—(1) For the purposes of sub-paragraph 14(1) of Schedule 3 and of regulations 8 to 12, R's point of arrival in a country is determined to be in accordance with this regulation.

(2) In a case in which R will arrive in a country by rail, sea or air, his point of arrival is the station, port or airport at which he will first disembark.

(3) In the case in which R will arrive in a country by any means other than those mentioned in paragraph (2), his point of arrival is the place at which he will first enter the country.

Notification to be given before leaving the United Kingdom

8.—(1) While R intends to leave the United Kingdom for a period of less than three days, except to travel to the Republic of Ireland, R must give a notification under paragraph 14 of Schedule 3 in accordance with these Regulations.

(2) Where R intends to leave the United Kingdom to travel to the Republic of Ireland for a period of three days or longer must give a notification under paragraph 14 of Schedule 3 in accordance with these Regulations

(3) Where R knows the information required to be disclosed under paragraph 14(2)(a) and (b) of Schedule 3 and in accordance with regulation 9 in relation to information prescribed under paragraph 14(2)(c), R shall give a notification which sets out the paragraph 14(2)(a) and (b) information and, in respect of the prescribed regulation 9 information, so much of that regulation 9 information that is within R's knowledge—

- (a) not less than seven days before that date (“the seven day notification requirement”) or
- (b) as soon as reasonably practicable but not less than 24 hours before that date, if and only if the relevant offender has a reasonable excuse for not complying with the seven day notification requirement.

(4) Where R does not know the information required to be disclosed by paragraph 14(2) of Schedule 3 more than seven days before the date of his intended departure R shall not give less than 12 hours before that date, a notification which sets out that information and as much of the information required by regulation 10 as R holds.

Prescribed information to be disclosed in a notification

9. In addition to the information required by paragraph 14(2)(a) and (b) of Schedule 3 R must disclose where R holds such information—

- (a) where R intends to travel to more than one country outside the United Kingdom, R's intended point of arrival in each such additional country,
- (b) the dates on which R intends to stay in any country to which R intends to travel,
- (c) details of R's accommodation arrangements in any country to which R intends to travel,
- (d) the identify of any carrier or carriers R intends to use for the purpose of R's department from and return to the United Kingdom, and of travelling to any other point of arrival,
- (e) in a case in which he intends to return to the United Kingdom on a particular date, that date, and
- (f) in a case in which he intends to return to the United Kingdom at a particular point of arrival, that point of arrival.

10.—(1) Where—

- (a) R has given a notification under paragraph 14(2) of schedule 3, and
- (b) at any time prior to R's intended departure from the United Kingdom, the information disclosed in that notification becomes inaccurate or incomplete as a statement of all the information mentioned in paragraph 14(2) of Schedule 3 and regulation 9 which R currently holds.
- (c) he must give a further notification under paragraph 14(2) of Schedule 3.

(2) A further notification under paragraph (1) above must be given not less than 12 hours before the R's intended departure from the United Kingdom.

(3) R may not give notification under paragraph (2) less than 24 hours before the date of his intended departure unless he has a reasonable excuse for being unable to give such notification before that time.

Notification to be given on return to the United Kingdom

11.—(1) This regulation applies to R who—

- (a) is required to give a notification under paragraph 14(2) of Schedule 3
- (b) has left the United Kingdom, and
- (c) subsequently returns to the United Kingdom.

(2) Except as provided by paragraph (3), R must give a notification under paragraph 14(3) of Schedule 3 within three days of R's return to the United Kingdom.

(3) R need not give a notification under paragraph 14(3) of Schedule 3 in any case in which he gave a relevant notification under 14(2) of Schedule 3 which—

- (a) disclosed a date under the provisions of regulation 9(e) above, and
- (b) disclosed a point of arrival under the provisions of regulation 9(f) above, provided R's return to the United Kingdom was on that date and at that point of arrival.

Information to be disclosed in a notification under paragraph 14(3) of Schedule 3

12. A notification under paragraph 14(3) of Schedule 3 must disclose the date of R's return to the United Kingdom and his point of arrival in the United Kingdom.

Sealed with the Official Seal of the Department of Justice on ****

David Ford
Minister of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

Schedule 3 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 allows the courts to impose slavery and trafficking prevention orders on offenders who have been convicted of an offence of human trafficking or slavery, servitude and forced or compulsory labour. Part 2 of Schedule 3 places notification requirements on such offenders. These Regulations supplement the notification regime and are made in accordance with powers under Part 2 of Schedule 3.

Regulations 3 to 5 require offenders to notify to the Police Service of Northern Ireland (PSNI) details of their bank accounts and credit cards and any subsequent changes to these accounts or cards.

Regulation 6 requires offenders of no fixed abode to make a notification to the PSNI on a weekly basis.

Regulations 7 to 12 deal with travel outside of the United Kingdom. An offender who intends to travel outside the United Kingdom for any period of time (apart from to the Republic of Ireland) must notify PSNI of date of departure; the country or countries to which he will travel; and the point of arrival in those countries. Details of accommodation arrangements, the carriers by which the offender travels and return to the United Kingdom must also be provided. Notifications should be made at least seven days in advance of intended travel, where known, and no less than 24 hours before intended travel. Where the offender provides a reasonable excuse he must provide the information at least 12 hours in advance. Offenders travelling to the Republic of Ireland are required to make similar notifications to the PSNI if travel is for a period of three days or longer.

2015 No. 0000

CRIMINAL LAW

**The Modern Slavery Act 2015 (Duty to co-operate with
Commissioner) (Northern Irish public authority) Regulations
(Northern Ireland) 2015**

Made - - - - *****

Coming into operation - *****

The Department of Justice makes the following Regulations in exercise of the powers conferred by sections 43(8) and 58(6) and (7) of the Modern Slavery Act(a).

Citation and commencement

1. These Regulations may be cited as the Modern Slavery Act 2015 (Duty to co-operate with Commissioner) (Northern Irish public authority) Regulations (Northern Ireland) 2015 and shall come into operation on 1st July 2015.

Northern Irish Public Authority

2. In Schedule 3 (Public authorities under a duty to co-operate with the Commissioner), after “The Gangmasters Licensing Authority.”, insert—

“Northern Irish public authority

Law enforcement

The Chief Constable of the Police Service of Northern Ireland

Health bodies

The Regional Health and Social Care Board

The Belfast Health and Social Care Trust

The Northern Health and Social Care Trust

The South Eastern Health and Social Care Trust

The Southern Health and Social Care Trust

The Western Health and Social Care Trust

Sealed with the Official Seal of the Department of Justice on ****

David Ford
Minister of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 43 of the Modern Slavery Act 2015 (“the Act”) empowers the Independent Anti-Slavery Commissioner to request a “specified public authority” to co-operate with the Commissioner in any way that the Commissioner considers necessary for the purposes of the Commissioner’s functions. Specified public authorities are listed in Schedule 3 to the Act.

Section 43(8) of the Act provides that the Department of Justice may add a public authority, known as a “Northern Irish public authority”, to the list of specified public authorities listed in Schedule 3. These Regulations specify the Northern Irish public authorities for the purposes of section 43 of and Schedule 3 to the Act.

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