



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 2

CRIMINAL LAW

People trafficking

46 People trafficking

(1) In section 22 of the Criminal Justice (Scotland) Act 2003 ([asp 7](#)) (traffic in prostitution etc.)—

- (a) in subsection (1)(a)—
 - (i) after “arrival in” insert “or the entry into”, and
 - (ii) after “such arrival” insert “or entry”,
- (b) after subsection (1) insert—

“(1A) A person to whom subsection (6) applies commits an offence if the person arranges or facilitates—

- (a) the arrival in or the entry into a country (other than the United Kingdom), or travel there (whether or not following such arrival or entry) by, an individual and—
 - (i) intends to exercise control over prostitution by the individual or to involve the individual in the making or production of obscene or indecent material; or
 - (ii) believes that another person is likely to exercise such control or so to involve the individual, there or elsewhere; or
- (b) the departure from a country (other than the United Kingdom) of an individual and—
 - (i) intends to exercise such control or so to involve the individual; or

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- (ii) believes that another person is likely to exercise such control or so to involve the individual, outwith the country.”,
 - (c) in subsection (2), for “subsection (1)” substitute “subsections (1) and (1A)”,
 - (d) for subsection (4) substitute—
 - “(4) Subsections (1) and (1A) apply to anything done in or outwith the United Kingdom.”,
 - (e) for subsection (5) substitute—
 - “(5) A person may be prosecuted, tried and punished for any offence to which this section applies—
 - (a) in any sheriff court district in which the person is apprehended or is in custody, or
 - (b) in such sheriff court district as the Lord Advocate may determine,
 as if the offence had been committed in that district (and the offence is, for all purposes incidental to or consequential on the trial or punishment, to be deemed to have been committed in that district).”, and
 - (f) in subsection (6)—
 - (i) the word “and” immediately following paragraph (e) is repealed, and
 - (ii) after paragraph (f) insert—
 - “(g) a person who at the time of the offence was habitually resident in Scotland, and
 - (h) a body incorporated under the law of a part of the United Kingdom.”.
- (2) In section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c.19) (trafficking people for exploitation)—
- (a) in subsection (1), after “arrival in” insert “or the entry into”,
 - (b) in subsection (2), the words from “in” where it first occurs to “committed” are repealed,
 - (c) after subsection (3) insert—
 - “(3A) A person to whom section 5(2) applies commits an offence if—
 - (a) in relation to an individual (the “passenger”), he arranges or facilitates—
 - (i) the arrival in or the entry into a country other than the United Kingdom of the passenger,
 - (ii) travel by the passenger within a country other than the United Kingdom,
 - (iii) the departure of the passenger from a country other than the United Kingdom, and
 - (b) he—
 - (i) intends to exploit the passenger, or
 - (ii) believes that another person is likely to exploit the passenger,
 (wherever the exploitation is to occur).”, and
 - (d) in subsection (4)—

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- (i) in paragraph (b), the words from “as a result” to “Act 2004,” become sub-paragraph (i),
 - (ii) immediately following that sub-paragraph insert “or
 - (i) which, were it done in Scotland, would constitute an offence mentioned in sub-paragraph (i),”,
 - (iii) after paragraph (b) insert—
 - “(ba) he is encouraged, required or expected to do anything in connection with the removal of any part of a human body—
 - (i) as a result of which he or another person would commit an offence under the law of Scotland (other than an offence mentioned in paragraph (b)(i)), or
 - (ii) which, were it done in Scotland, would constitute such an offence,”, and
 - (iv) for paragraph (d) substitute—
 - “(d) another person uses or attempts to use him for any purpose within sub-paragraph (i), (ii) or (iii) of paragraph (c), having chosen him for that purpose on the grounds that—
 - (i) he is mentally or physically ill or disabled, he is young, or he has a family relationship with a person, and
 - (ii) a person without the illness, disability, youth or family relationship would be likely to refuse to be used for that purpose.”.
- (3) In section 5 of that Act—
- (a) in subsection (1), for the words from “(3)” to the end substitute “(3A) of section 4 apply to anything done in or outwith the United Kingdom.”,
 - (b) in subsection (2)—
 - (i) the word “and” immediately following paragraph (e) is repealed, and
 - (ii) after paragraph (f) insert—
 - “(g) a person who at the time of the offence was habitually resident in Scotland, and
 - (h) a body incorporated under the law of a part of the United Kingdom.”, and
 - (c) after subsection (2) insert—
 - “(2A) A person may be prosecuted, tried and punished for any offence to which section 4 applies—
 - (a) in any sheriff court district in which the person is apprehended or is in custody, or
 - (b) in such sheriff court district as the Lord Advocate may determine,as if the offence had been committed in that district (and the offence is, for all purposes incidental to or consequential on the trial or punishment, to be deemed to have been committed in that district).

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(2B) In subsection (2A), “sheriff court district” is to be construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995 (c.46) (interpretation).”.