

SCHEDULES

SCHEDULE 2

Section 48.

REPORTING RESTRICTIONS: MISCELLANEOUS AMENDMENTS

Children and Young Persons Act 1933 (c. 12)

- 1 The Children and Young Persons Act 1933 has effect subject to the following amendments.
- 2 (1) In section 39 (power of court in any proceedings to restrict reporting about children and young persons concerned in the proceedings), after subsection (2) insert—
 - “(3) In this section “proceedings” means proceedings other than criminal proceedings.”
- (2) Sub-paragraph (1) shall not affect the continued operation of section 39 in relation to any criminal proceedings instituted (within the meaning given by paragraph 1(2) of Schedule 7 to this Act) before the day on which sub-paragraph (1) comes into force.
- 3 (1) Section 49 (restrictions on reports of proceedings in which children or young persons concerned) is amended as follows.
 - (2) For subsection (1) substitute—
 - “(1) No matter relating to any child or young person concerned in proceedings to which this section applies shall while he is under the age of 18 be included in any publication if it is likely to lead members of the public to identify him as someone concerned in the proceedings.”
 - (3) For subsection (3) substitute—
 - “(3) In this section “publication” includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public (and for this purpose every relevant programme shall be taken to be so addressed), but does not include an indictment or other document prepared for use in particular legal proceedings.
 - (3A) The matters relating to a person in relation to which the restrictions imposed by subsection (1) above apply (if their inclusion in any publication is likely to have the result mentioned in that subsection) include in particular—
 - (a) his name,
 - (b) his address,
 - (c) the identity of any school or other educational establishment attended by him,
 - (d) the identity of any place of work, and
 - (e) any still or moving picture of him.”

Status: This is the original version (as it was originally enacted).

- (4) In subsection (4), for the words from “whether as being” onwards substitute “if he is—
- (a) a person against or in respect of whom the proceedings are taken, or
 - (b) a person called, or proposed to be called, to give evidence in the proceedings.”
- (5) In subsection (4A), for “requirements of this section” substitute “restrictions imposed by subsection (1) above”.
- (6) In subsection (8), after “subsection” insert “(4A) or”.
- (7) For subsection (9) substitute—
- “(9) If a publication includes any matter in contravention of subsection (1) above, the following persons shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale—
- (a) where the publication is a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;
 - (b) where the publication is a relevant programme—
 - (i) any body corporate or Scottish partnership engaged in providing the programme service in which the programme is included; and
 - (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper;
 - (c) in the case of any other publication, any person publishing it.
- (9A) Where a person is charged with an offence under subsection (9) above it shall be a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the publication included the matter in question.
- (9B) If an offence under subsection (9) above committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of, or
 - (b) to be attributable to any neglect on the part of,
- an officer, the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (9C) In subsection (9B) above “officer” means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.
- (9D) If the affairs of a body corporate are managed by its members, “director” in subsection (9C) above means a member of that body.
- (9E) Where an offence under subsection (9) above is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of a partner, he as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.”
- (8) In subsection (11), for the definition of “programme” and “programme service” substitute—

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““picture” includes a likeness however produced;

“relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990;”.

(9) After subsection (11) insert—

“(12) This section extends to England and Wales, Scotland and Northern Ireland, but no reference in this section to any court includes a court in Scotland.

(13) In its application to Northern Ireland, this section has effect as if—

- (a) in subsection (1) for the reference to the age of 18 there were substituted a reference to the age of 17;
- (b) subsection (2)(c) and (d) were omitted;
- (c) in subsection (4A)—
 - (i) in paragraph (d) for the reference to section 16(3) of the Criminal Justice Act 1982 there were substituted a reference to Article 50(3) of the Criminal Justice (Children) (Northern Ireland) Order 1998; and
 - (ii) in paragraph (e) for the references to a detention and training order and to section 76(6)(b) of the Crime and Disorder Act 1998 there were substituted references to a juvenile justice centre order and to Article 40(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998;
- (d) in subsection (5) for references to a court (other than the reference in paragraph (b)) there were substituted references to a court or the Secretary of State;
- (e) in subsection (7)—
 - (i) for the references to the Director of Public Prosecutions there were substituted references to the Director of Public Prosecutions for Northern Ireland; and
 - (ii) in paragraph (b) for the reference to any legal representative of the child or young person there were substituted a reference to any barrister or solicitor acting for the child or young person;
- (f) subsections (8) and (10) were omitted; and
- (g) in subsection (11)—
 - (i) the definition of “legal representative” were omitted; and
 - (ii) for the references to section 31(1) of the Criminal Justice Act 1991 there were substituted references to Article 2(2) of the Criminal Justice (Northern Ireland) Order 1996.

(14) References in this section to a young person concerned in proceedings are, where the proceedings are in a court in Northern Ireland, to a person who has attained the age of 14 but is under the age of 17.”

(10) The amendments made by this paragraph do not apply to the inclusion of matter in a publication if—

- (a) where the publication is a relevant programme, it is transmitted, or
 - (b) in the case of any other publication, it is published,
- before the coming into force of this paragraph.

Status: This is the original version (as it was originally enacted).

Sexual Offences (Amendment) Act 1976 (c. 82)

- 4 (1) The Sexual Offences (Amendment) Act 1976 has effect subject to the following amendments.
- (2) Omit sections 4 and 5 (which provide for the anonymity of complainants in rape etc. cases and are superseded by the amendments made by this Schedule to the Sexual Offences (Amendment) Act 1992).
- (3) In section 7(6) (extent), for the words after “Scotland” substitute “or Northern Ireland.”

Sexual Offences (Northern Ireland) Order 1978 (N.I.15)

- 5 In the Sexual Offences (Northern Ireland) Order 1978, omit Articles 6 and 7 (which provide for the anonymity of complainants in rape offence cases and are superseded by the amendments made by this Schedule to the Sexual Offences (Amendment) Act 1992).

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

- 6 The Sexual Offences (Amendment) Act 1992 has effect subject to the following amendments.
- 7 (1) Section 1 (anonymity of victims of certain sexual offences) is amended as follows.
- (2) In subsection (1), for the words from “neither the name” to the end of paragraph (b) substitute “no matter relating to that person shall during that person’s lifetime be included in any publication”.
- (3) In subsection (2), for the words after “complainant’s lifetime” substitute “be included in any publication.”
- (4) For subsection (3) substitute—
- “(3) This section—
- (a) does not apply in relation to a person by virtue of subsection (1) at any time after a person has been accused of the offence, and
- (b) in its application in relation to a person by virtue of subsection (2), has effect subject to any direction given under section 3.
- (3A) The matters relating to a person in relation to which the restrictions imposed by subsection (1) or (2) apply (if their inclusion in any publication is likely to have the result mentioned in that subsection) include in particular—
- (a) the person’s name,
- (b) the person’s address,
- (c) the identity of any school or other educational establishment attended by the person,
- (d) the identity of any place of work, and
- (e) any still or moving picture of the person.”
- (5) In subsection (4), for “publication or inclusion in a relevant programme” substitute “inclusion in a publication”.
- 8 (1) Section 2 (offences to which Act applies) is amended as follows.

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- (2) In subsection (1), after “This Act applies to the following offences” insert “against the law of England and Wales—
- (aa) rape;
 - (ab) burglary with intent to rape;”.
- (3) In subsection (1)(e), for “(a)” substitute “(aa)”.
- (4) In subsection (1), after paragraph (g) insert—
- “(h) aiding, abetting, counselling or procuring the commission of any of the offences mentioned in paragraphs (aa) to (e) and (g);”.
- (5) In subsection (2), after paragraph (m) insert—
- “(n) section 17 (abduction of woman by force).”
- (6) After subsection (2) insert—
- “(3) This Act applies to the following offences against the law of Northern Ireland—
 - (a) rape;
 - (b) burglary with intent to rape;
 - (c) any offence under any of the following provisions of the Offences against the Person Act 1861—
 - (i) section 52 (indecent assault on a female);
 - (ii) section 53 so far as it relates to abduction of a woman against her will;
 - (iii) section 61 (buggery);
 - (iv) section 62 (attempt to commit buggery, assault with intent to commit buggery or indecent assault on a male);
 - (d) any offence under any of the following provisions of the Criminal Law Amendment Act 1885—
 - (i) section 3 (procuring unlawful carnal knowledge of woman by threats, false pretences or administering drugs);
 - (ii) section 4 (unlawful carnal knowledge, or attempted unlawful carnal knowledge, of a girl under 14);
 - (iii) section 5 (unlawful carnal knowledge of a girl under 17);
 - (e) any offence under any of the following provisions of the Punishment of Incest Act 1908—
 - (i) section 1 (incest, attempted incest by males);
 - (ii) section 2 (incest by females over 16);
 - (f) any offence under section 22 of the Children and Young Persons Act (Northern Ireland) 1968 (indecent conduct towards child);
 - (g) any offence under Article 9 of the Criminal Justice (Northern Ireland) Order 1980 (inciting girl under 16 to have incestuous sexual intercourse);
 - (h) any offence under any of the following provisions of the Mental Health (Northern Ireland) Order 1986—
 - (i) Article 122(1)(a) (unlawful sexual intercourse with a woman suffering from severe mental handicap);
 - (ii) Article 122(1)(b) (procuring a woman suffering from severe mental handicap to have unlawful sexual intercourse);

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- (iii) Article 123 (unlawful sexual intercourse by hospital staff, etc. with a person receiving treatment for mental disorder);
 - (i) any attempt to commit any of the offences mentioned in paragraphs (a) to (h);
 - (j) any conspiracy to commit any of those offences;
 - (k) any incitement of another to commit any of those offences;
 - (l) aiding, abetting, counselling or procuring the commission of any of the offences mentioned in paragraphs (a) to (i) and (k).”
- 9 (1) Section 3 (power to displace reporting restrictions under section 1) is amended as follows.
- (2) In subsection (6)(b) (meaning of “judge”), after “Crown Court” insert “in England and Wales.”
- (3) After subsection (6) insert—
- “(6A) In its application to Northern Ireland, this section has effect as if—
- (a) in subsections (1) and (2) for any reference to the judge there were substituted a reference to the court; and
 - (b) subsection (6) were omitted.”
- 10 In section 4 (special rules for cases of incest or buggery), after subsection (7) insert—
- “(8) In its application to Northern Ireland, this section has effect as if—
- (a) subsection (1) were omitted;
 - (b) for references to a section 10 offence there were substituted references to an offence under section 1 of the Punishment of Incest Act 1908 (incest by a man) or an attempt to commit that offence;
 - (c) for references to a section 11 offence there were substituted references to an offence under section 2 of that Act (incest by a woman) or an attempt to commit that offence; and
 - (d) for references to a section 12 offence there were substituted references to an offence under section 61 of the Offences against the Person Act 1861 (buggery) or an attempt to commit that offence.”
- 11 (1) Section 5 (offences) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) If any matter is included in a publication in contravention of section 1, the following persons shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale—
- (a) where the publication is a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;
 - (b) where the publication is a relevant programme—
 - (i) any body corporate or Scottish partnership engaged in providing the programme service in which the programme is included; and
 - (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper;
 - (c) in the case of any other publication, any person publishing it.”

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- (3) In subsection (2) (defence where victim consented to publication)—
- (a) for “publication of any matter or the inclusion of any matter in a relevant programme” substitute “inclusion of any matter in a publication”, and
 - (b) omit “or programme”.
- (4) In subsection (3) (cases where written consent not a defence), at the end insert “, or that person was under the age of 16 at the time when it was given.”
- (5) In subsection (4) (Attorney General’s consent to prosecution), at the end insert “if the offence is alleged to have been committed in England and Wales or of the Attorney General for Northern Ireland if the offence is alleged to have been committed in Northern Ireland.”
- (6) In subsection (5) (defence for person unaware of inclusion of prohibited matter), for the words from “or programme” onwards substitute “included the matter in question.”
- (7) After subsection (5) insert—
- “(5A) Where—
- (a) a person is charged with an offence under this section, and
 - (b) the offence relates to the inclusion of any matter in a publication in contravention of section 1(1),
- it shall be a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the allegation in question had been made.”
- (8) After subsection (7) insert—
- “(8) Where an offence under this section is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of a partner, he as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.”
- 12 (1) Section 6 (interpretation) is amended as follows.
- (2) In subsection (1), omit the definition of “written publication” (and the word “and” preceding it) and after the definition of “picture” insert—
- ““publication” includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public (and for this purpose every relevant programme shall be taken to be so addressed), but does not include an indictment or other document prepared for use in particular legal proceedings;”.
- (3) In subsection (2A) (victims of conspiracy etc.), for the words from “accusation that” to “committed, the” substitute “accusation—
- (a) that an offence of conspiracy or incitement of another to commit an offence mentioned in section 2(1)(aa) to (d) or (3)(a) to (h) has been committed, or
 - (b) that an offence of aiding, abetting, counselling or procuring the commission of an offence of incitement of another to commit an offence mentioned in section 2(1)(aa) to (d) or (3)(a) to (h) has been committed,

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the”.

- (4) In subsection (3) (time when person is accused of an offence), in paragraph (a) after “is laid” insert “, or (in Northern Ireland) a complaint is made,”.
- 13 (1) Section 7 (application of Act to courts-martial) is amended as follows.
- (2) In subsection (1) (Act to apply with modifications where in pursuance of armed forces law a person is charged with an offence to which the Act applies), after “applies” insert “by virtue of section 2(1)”.
- (3) In subsection (2) (modifications with which Act applies to courts-martial)—
- (a) omit paragraph (b);
 - (b) for paragraph (c) substitute—
 - “(c) in section 3(1) any reference to a judge, in relation to the person charged with the offence, shall be read as a reference to the judge advocate appointed to conduct proceedings under section 3(1) relating to the offence (whether or not also appointed to conduct other preliminary proceedings relating to the offence);”;
 - (c) in paragraph (d), for “court” substitute “judge advocate appointed to be a member of the court-martial”; and
 - (d) omit paragraph (e) except for the word “and” at the end.
- 14 For section 8(6) and (7) (application of Act to Scotland and to Northern Ireland) substitute—
- “(6) This Act extends to England and Wales, Scotland and Northern Ireland.
- (7) This Act, so far as it relates to proceedings before a court-martial or the Courts-Martial Appeal Court, applies to such proceedings wherever they may take place (whether in the United Kingdom or elsewhere).”

Criminal Justice (Northern Ireland) Order 1994 (N.I.15)

- 15 In the Criminal Justice (Northern Ireland) Order 1994, omit Articles 19 to 24 (which provide for the anonymity of victims of certain sexual offences and are superseded by the amendments made by this Schedule to the Sexual Offences (Amendment) Act 1992).