

SCHEDULES

SCHEDULE 1

Section 1(9).

SEXUAL OFFENCES TO WHICH PART I APPLIES

Offences in England and Wales

- 1 (1) This Part of this Act applies to the following sexual offences under the law of England and Wales, namely—
- (a) offences under the following provisions of the Sexual Offences Act 1956—
 - (i) section 1 (rape);
 - (ii) section 5 (intercourse with a girl under 13);
 - (iii) section 6 (intercourse with a girl between 13 and 16);
 - (iv) section 10 (incest by a man);
 - (v) section 12 (buggery);
 - (vi) section 13 (indecenty between men);
 - (vii) section 14 (indecent assault on a woman);
 - (viii) section 15 (indecent assault on a man);
 - (ix) section 16 (assault with intent to commit buggery);
 - (x) section 28 (causing or encouraging prostitution of, intercourse with, or indecent assault on, girl under 16);
 - (b) an offence under section 1(1) of the Indecency with Children Act 1960 (indecent conduct towards young child);
 - (c) an offence under section 54 of the Criminal Law Act 1977 (inciting girl under 16 to have incestuous sexual intercourse);
 - (d) an offence under section 1 of the Protection of Children Act 1978 (indecent photographs of children);
 - (e) an offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions); and
 - (f) an offence under section 160 of the Criminal Justice Act 1988 (possession of indecent photographs of children).
- (2) In sub-paragraph (1) above—
- (a) paragraph (a)(iii), (v) and (vi) does not apply where the offender was under 20;
 - (b) subject to sub-paragraph (3) below, paragraph (a)(iv) to (ix) does not apply where the victim of or, as the case may be, the other party to the offence was 18 or over; and
 - (c) paragraph (e) does not apply where the prohibited goods did not include indecent photographs of persons who were under the age of 16.

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- (3) Sub-paragraph (2)(b) above does not prevent the application of sub-paragraph (1)(a)(vii) or (viii) above in any case where, in respect of the offence or finding, the offender—
- (a) is or has been sentenced to imprisonment for a term of 30 months or more; or
 - (b) is or has been admitted to a hospital subject to a restriction order.
- (4) For the purposes of sub-paragraph (2)(c) above—
- (a) section 7 of the Protection of Children Act 1978 (interpretation) shall apply as it applies for the purposes of that Act; and
 - (b) a person shall be taken to have been under the age of 16 at any time if it appears from the evidence as a whole that he was under that age at that time.

Offences in Scotland

- 2 (1) This Part of this Act applies to the following sexual offences under the law of Scotland, namely—
- (a) the following offences—
 - (i) rape;
 - (ii) clandestine injury to women;
 - (iii) abduction of a woman or girl with intent to rape;
 - (iv) assault with intent to rape or ravish;
 - (v) indecent assault;
 - (vi) lewd, indecent or libidinous behaviour or practices;
 - (vii) shameless indecency; and
 - (viii) sodomy;
 - (b) an offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions);
 - (c) offences under—
 - (i) section 52 of the Civic Government (Scotland) Act 1982 (taking and distribution of indecent images of children); and
 - (ii) section 52A of that Act (possession of indecent images of children);
 - (d) offences under the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995—
 - (i) section 1 (incest);
 - (ii) section 2 (intercourse with a step-child);
 - (iii) section 3 (intercourse with child under 16 by person in position of trust);
 - (iv) section 5 (unlawful intercourse with girl under 16);
 - (v) section 6 (indecent behaviour towards girl between 12 and 16);
 - (vi) section 8 (abduction of girl under 18 for purposes of unlawful intercourse);
 - (vii) section 10 (person having parental responsibilities causing or encouraging sexual activity in relation to a girl under 16); and
 - (viii) subsection (5) of section 13 (homosexual offences).
- (2) In sub-paragraph (1) above—

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- (a) subject to sub-paragraph (3) below, paragraphs (a)(iii) to (v) and (vii) and (d)(i) and (ii) do not apply where every person involved in the offence other than the offender was 18 or over;
 - (b) paragraphs (a)(viii) and (d)(viii) above do not apply where every person involved in the offence, other than the offender, was 18 or over and was a willing participant;
 - (c) paragraph (b) does not apply where the prohibited goods did not include indecent photographs of persons who were under the age of 16;
 - (d) paragraph (a)(viii) does not apply where the offender was under 20 and every other person involved in the offence was a willing participant;
 - (e) paragraph (d)(iv) does not apply in the case of an offence in contravention of subsection (3) of section 5 (unlawful sexual intercourse with a girl over 13 but under 16) where the offender was under 20; and
 - (f) paragraph (d)(viii) does not apply where the offender was under 20 and—
 - (i) where the offence involved an act of sodomy contrary to subsection (5) of section 13, every other person involved in the offence was a willing participant; or
 - (ii) the offence involved an act of gross indecency or shameful indecency contrary to the said subsection (5).
- (3) Sub-paragraph (2)(a) above does not prevent the application of sub-paragraph (1)(a)(iii) to (v) above in any case where, in respect of the offence or finding, the offender—
- (a) is or has been sentenced to imprisonment for a term of 30 months or more; or
 - (b) is or has been admitted to a hospital subject to a restriction order.
- (4) For the purposes of sub-paragraph (2)(c) above—
- (a) subsections (2) to (2C) and (8) of section 52 of the Civic Government (Scotland) Act 1982 shall apply as they apply for the purposes of that section; and
 - (b) a person shall be taken to have been under the age of 16 at any time if it appears from the evidence as a whole that he was under that age at that time.

Offences in Northern Ireland

- 3 (1) This Part of this Act applies to the following sexual offences under the law of Northern Ireland, namely—
- (a) an offence of rape;
 - (b) offences under—
 - (i) section 52 of the Offences against the Person Act 1861 (indecent assault upon a female person);
 - (ii) section 61 of that Act (buggery); and
 - (iii) section 62 of that Act (assault with intent to commit buggery or indecent assault upon a male person);
 - (c) offences under—
 - (i) section 4 of the Criminal Law Amendment Act 1885 of unlawful carnal knowledge of a girl under 14; and
 - (ii) section 5 of that Act of unlawful carnal knowledge of a girl under 17;
 - (d) an offence under section 11 of that Act (committing, or being party to the commission of, or procuring or attempting to procure the commission of, any act of gross indecency with another male);

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- (e) an offence under section 1 of the Punishment of Incest Act 1908 (incest by males);
 - (f) offences under—
 - (i) section 21 of the Children and Young Persons Act (Northern Ireland) 1968 (causing or encouraging seduction or prostitution of a girl under 17); and
 - (ii) section 22 of that Act (indecent conduct towards a child);
 - (g) an offence under Article 3 of the Protection of Children (Northern Ireland) Order 1978 (indecent photographs of children);
 - (h) an offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions);
 - (i) an offence under Article 9 of the Criminal Justice (Northern Ireland) Order 1980 (inciting girl under 16 to have incestuous sexual intercourse); and
 - (j) an offence under Article 15 of the Criminal Justice (Evidence, etc.) (Northern Ireland) Order 1988 (possession of indecent photographs of children).
- (2) In sub-paragraph (1) above—
- (a) paragraphs (b)(ii), (c)(ii) and (d) do not apply where the offender was under 20;
 - (b) subject to sub-paragraph (3) below, paragraphs (b), (d) and (e) do not apply where the victim of or, as the case may be, the other party to the offence was 18 or over; and
 - (c) paragraph (h) does not apply where the prohibited goods did not include indecent photographs of persons who were under the age of 16.
- (3) Sub-paragraph (2)(b) above does not prevent the application of sub-paragraph (1)(b) (i), or sub-paragraph (b)(iii) above so far as relating to indecent assault on a male person, in any case where, in respect of the offence or finding, the offender—
- (a) is or has been sentenced to imprisonment for a term of 30 months or more; or
 - (b) is or has been admitted to a hospital subject to a restriction order.
- (4) For the purposes of sub-paragraph (2)(c) above—
- (a) Article 2(2) and (3)(b) of the Protection of Children (Northern Ireland) Order 1978 (interpretation) shall apply as it applies for the purposes of that Act; and
 - (b) a person shall be taken to have been under the age of 16 at any time if it appears from the evidence as a whole that he was under that age at that time.

Offences under service law

- 4 This Part of this Act applies to an offence under—
- (a) section 70 of the Army Act 1955;
 - (b) section 70 of the Air Force Act 1955; or
 - (c) section 42 of the Naval Discipline Act 1957,
- of which the corresponding civil offence (within the meaning of that Act) is a sexual offence to which this Part of this Act applies by virtue of paragraph 1 above.

General

- 5 (1) Any reference in paragraph 1(1), 2(1), 3(1) or 4 above to an offence includes—

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- (a) a reference to any attempt, conspiracy or incitement to commit that offence;
and
 - (b) except in the case of a reference in paragraph 2(1)(a) above, a reference to aiding and abetting, counselling or procuring the commission of that offence.
- (2) Any reference in paragraph 1(2), 2(2) or 3(2) above to a person's age is a reference to his age at the time of the offence.