Sexual Offences Act 2003

2003 CHAPTER 42

PART 1

SEXUAL OFFENCES

Sex with an adult relative

65 Sex with an adult relative: consenting to penetration

(1) A person aged 16 or over (A) **[**[F1](subject to subsection (3A))**]** commits an offence if—

(a) another person (B) penetrates A's vagina or anus with a part of B's body or anything else, or penetrates A's mouth with B's penis,

(b) A consents to the penetration,

(c) the penetration is sexual,

(d) B is aged 18 or over,

(e) A is related to B in a way mentioned in subsection (2), and

(f) A knows or could reasonably be expected to know that he is related to B in that way.

(2) The ways that A may be related to B are as parent, grandparent, child, grandchild, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece.

(3) In subsection (2)—

[[F2](za) "parent" includes an adoptive parent;

(zb) "child" includes an adopted person within the meaning of Chapter 4 of Part 1 of the Adoption and Children Act 2002;**]**

(a) "uncle" means the brother of a person's parent, and "aunt" has a corresponding meaning;

(b) "nephew" means the child of a person's brother or sister, and "niece" has a corresponding meaning.

Changes to legislation: *Sexual Offences Act 2003, Section 65 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[[F3](3A) Where subsection (1) applies in a case where A is related to B as B's child by virtue of subsection (3)(zb), A does not commit an offence under this section unless A is 18 or over.**]**

(4) Where in proceedings for an offence under this section it is proved that the defendant was related to the other person in any of those ways, it is to be taken that the defendant knew or could reasonably have been expected to know that he was related in that way unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know that he was.

(5) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.

[[F4](6) Nothing in—

(a) section 47 of the Adoption Act 1976 (which disapplies the status provisions in section 39 of that Act for the purposes of this section in relation to adoptions before 30 December 2005), or

(b) section 74 of the Adoption and Children Act 2002 (which disapplies the status provisions in section 67 of that Act for those purposes in relation to adoptions on or after that date),

is to be read as preventing the application of section 39 of the Adoption Act 1976 or section 67 of the Adoption and Children Act 2002 for the purposes of subsection (3)(za) and (zb) above.**]**

Textual Amendments

F1 Words in s. 65(1) inserted (8.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 73, 153(2)(e), **Sch. 15 para. 6(2)**

F2 S. 65(3)(za)(zb) inserted (8.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 73, 153(2)(e), **Sch. 15 para. 6(3)**

F3 S. 65(3A) inserted (8.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 73, 153(2)(e), **Sch. 15 para. 6(4)**

F4 S. 65(6) inserted (8.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 73, 153(2)(e), **Sch. 15 para. 6(5)**

Modifications etc. (not altering text)

C1 S. 65 modified (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), **reg. 5**, Sch. 4

C2 S. 65 modified (21.12.2018) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2018 (S.I. 2018/1412), reg. 1(2), **Sch. 4 para. 20**

Changes to legislation:
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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 60B(5)(i) substituted for s. 60B(5)(i)(ii) by 2015 c. 9 (N.I.) Sch. 1 para. 123(1)Sch. 9 Pt. 1 (This amendment not applied to legislation.gov.uk. S. 60B already repealed (N.I.) (14.1.2015) by 2015 c. 2 (N.I.), s. 28(2), Sch. 5; and omitted (E.W.) (31.7.2015) by virtue of 2015 c. 30, Sch. 5 para. 5(2); S.I. 2015/1476, reg. 2(j))
- s. 103C(4B) inserted by 2022 c. 32 s. 178(7)(b)
- s. 103E(5C)(5D) inserted by 2022 c. 32 s. 178(8)
- s. 103F(3B) inserted by 2022 c. 32 s. 178(9)(a)
- s. 103FA103FB inserted by 2022 c. 32 s. 178(10)
- s. 108(9) inserted by 2011 c. 18 s. 17(2)
- s. 122A(8A) inserted by 2022 c. 32 s. 178(11)(a)
- s. 122A(9B) inserted by 2022 c. 32 s. 178(11)(b)
- s. 122D(4C)(4D) inserted by 2022 c. 32 s. 178(12)
- s. 122E(3B) inserted by 2022 c. 32 s. 178(13)(a)
- s. 122EA122EB inserted by 2022 c. 32 s. 178(14)
- s. 136ZA(3) inserted by 2022 c. 32 s. 178(15)