

EXPLANATORY MEMORANDUM TO
THE CIVIL LEGAL AID (PROCEDURE) REGULATIONS 2012

2012 No. 3098

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Civil Legal Aid (Procedure) Regulations 2012 (“the Regulations”) make provision about the making and withdrawal of determinations that an individual qualifies for civil legal services under sections 9 and 10 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (“the Act”). They establish procedures for applying for the different forms of civil legal services which are grouped into different categories: Gateway Work (broadly legal help in the areas of special educational needs, debt and discrimination); Controlled Work (where decisions are generally made by legal aid providers); Licensed Work (where decisions are generally made by the Director of Legal Aid Casework or civil servants acting on the Director’s behalf); and services which require special procedures (such as Special Case Work, emergency representation, family mediation and exceptional cases).

2.2 The Regulations make provision for applications from legal persons (such as companies); for the supporting documents to be provided with applications for particular services; for the withdrawal of determinations; and for the review of, and appeals against, determinations and withdrawals. The procedures are necessary in order for the new legal aid scheme to operate effectively when Part 1 of the Act comes into force.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 This is one of a number of statutory instruments which implement Part 1 of the Act. These instruments will be laid in time for Part 1 of the Act to come into force on 1 April 2013.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Act gives effect to the Government's policy position on Legal Aid. The Government believes that legal aid has expanded far beyond its original intentions and is available for a wide range of issues, many of which need not be resolved through the courts. Irrespective of the current economic situation, a wide ranging programme of reform is required to ensure that legal aid is targeted to those who need it most, for the most serious cases in which legal advice and representation is justified.

7.3 Part 2 of the Regulations provides for applications for Gateway Work. Gateway Work is legal help in certain areas of law (broadly special educational needs, debt and discrimination). The Gateway is a specific access point through which an application for Gateway Work must be made unless the applicant is an exempted person. Exempted persons are children under 18 years of age; those deprived of their liberty; and those who have received Gateway Work from a face-to-face provider within the previous twelve months and who are seeking further help to resolve a linked problem from the same face-to-face provider. Exempted persons may apply either to the Gateway or to face-to-face providers. Gateway Work will be provided by specialist telephone providers and, for exempted persons and others whose circumstances require it (such as where there is no reasonable adjustment available that will make provision telephone advice viable), face-to-face providers.

7.4 Part 3 of the Regulations establishes the procedure for making and withdrawing determinations about Controlled Work. Controlled Work means the provision of legal help, help with family mediation, help at court, family help (lower) and legal representation before certain tribunals. Applications for Controlled Work are to be made directly (generally in person) to the providers of civil legal services. The power to make the determination is given to the Director of Legal Aid Casework ('the Director') in the Regulations but will in fact generally be delegated to the providers of the civil legal services, following authorisation by the Director.

7.5 Part 4 of the Regulations makes provision about making and withdrawing determinations about Licensed Work. Licensed Work means the provision of family help (higher); legal representation that is not Controlled Work or Special Case Work; and other legal services. These applications are generally to be made to the Director, or his staff, either by the individual or provider. The power to make the determination is given to the Director in regulations but will generally be made by civil servants assisting the Director (see section 4(2) of the Act). Determinations about authorised representation may be delegated to providers authorised by the Director.

7.6 Civil legal services are generally not available under the Act for private family law cases. An exception is made for services in relation to (a) matters arising out of a family relationship in which there has been, or is a risk of, domestic violence or (b) orders and procedures listed in paragraph 13 of Part 1 of Schedule 1 to the Act where the child who is or would be the subject of the order is at risk of abuse. The acceptable forms of evidence required, to demonstrate that these circumstances exist, are listed in regulations 33 and 34 of these Regulations. The acceptable forms of evidence include convictions, cautions or ongoing proceedings in relation to a domestic violence offence or child abuse offence. These offences are listed in a document to be published by the Lord Chancellor for that purpose (as described in the Regulations) and attached as Annex 1 to this Memorandum. Only one form of evidence is required to be provided. The applicant will still need to satisfy the usual means and merits tests.

7.7 Part 4 includes provision for the review of, and appeals against, determinations and the amendment and withdrawal of determinations.

7.8 Part 4 also describes the circumstances in which determinations may be revoked (and not merely withdrawn). Revocation is withdrawal which has the following particular consequences (described in regulations to be made under section 23 and 26 of the Act):

- the client is liable to pay back the cost of the services paid or payable, less any amount paid by way of contribution;
- the provider has the right to recover the difference between the amount paid or payable to the provider for the services and the full amount of the provider's costs assessed on the indemnity basis;
- the usual rule that, when a certificate is withdrawn, the costs of any assessment proceedings (under Part 47 of the Civil Procedure Rules or in the Supreme Court Costs Office) are not included in calculating the cost of the services does not apply; and
- the legally aided party's cost protection is disapplied in respect of costs incurred by the other party at any time, whether before or after the date of revocation.

7.9 Part 5 of the Regulations applies the Part 4 procedures to emergency representation with adjustments. The main differences are that determinations concerning emergency representation must be time limited (regulation 52(1)) and must be conditional on the provision of information and documents that would have been required had the application not been urgent (regulation 52(2)).

7.10 Part 6 of the Regulations concerns Special Case Work (principally high costs cases and multi-party actions). The Part 4 procedures are applied to Special Case Work with adjustments.

7.11 The main differences are that providers of Special Case Work must enter into an individual case contract with the Director and submit a costed case plan to the Director (regulation 55); special procedures apply to multi-party actions (regulation 57); and

Special Case Work may be subject to special controls which means principally that appeals are to the Special Controls Review Panel (regulation 58).

7.12 Part 7 of the Regulations makes provision about making and withdrawing determinations about family mediation. Applications for family mediation are to be made directly (generally in person) to the providers of family mediation services. The power to make the determination is given to the Director in the Regulations but will in fact generally be delegated to providers of the family mediation services which are the subject of the application, following authorisation by the Director. The Regulations include provision for the review of determinations and withdrawals.

7.13 Part 8 of the Regulations establishes the procedure for making and withdrawing determinations in relation to civil legal services which are not described in Part 1 of Schedule 1 to the Act (i.e. exceptional cases). Determinations concerning exceptional cases must be made by the Director or civil servants acting on the Director's behalf (and can be backdated).

8. Consultation outcome

8.1 The consultation 'Proposals for the reform of legal aid in England and Wales' was published on 15 November 2010 and closed on 14 February 2011. Over 5,000 responses were received from representative bodies, practitioner and other organisations, individual members of the judiciary, members of the House of Commons and Lords, individual solicitors and barristers and members of the public.

8.2 The majority of responses did not support the Government's original proposals for reform, although there was some support for particular measures. Some of the original proposals were modified in light of the comments received from consultees. Most changes widened access to legal aid for certain types of case compared to the original proposals, for example an expansion of the criteria to qualify for legal aid in a private family law case involving domestic violence.

8.3 However, other changes further limited access to legal aid, such as removing funding for certain immigration and asylum judicial reviews where there has been an appeal or judicial review to a tribunal or court on the same issue or a substantially similar issue within a period of one year.

8.4 A detailed Government response to the consultation exercise is available on the MoJ Website at www.justice.gov.uk/consultations/legal-aid-reform

8.5 We have not consulted on the Civil Legal Aid (Procedure) Regulations 2012.

9. Guidance

9.1 A programme of training and guidance is being prepared by the Legal Services Commission to support the transition to the new arrangements. This will be made

available to legal aid providers ahead of the commencement of the Act on 1 April 2013. Guidance will also be available (in relation to applications for services described in paragraphs 12 and 13 of Part 1 of Schedule 1 to the Act) for providers, applicants and those who supply evidence demonstrating domestic violence or child abuse.

10. Impact

10.1 The impacts of the Government's programme of legal aid reform are set out in an Impact Assessment, which was updated following the Act receiving Royal Assent. This is available at

<http://www.justice.gov.uk/legislation/bills-and-acts/acts/legal-aid-and-sentencing-act/laspo-background-information>.

10.2 An assessment of the impacts resulting from the evidential requirements relating to applications for civil legal services under paragraphs 12 and 13 of Part 1 of Schedule 1 to the Act (where there has been, or is a risk of, domestic violence or child abuse) has been carried out. The assessment notes that, although there is likely to be a charge for some of the acceptable forms evidence, there is no data available to suggest the likely volumes of applications relying on each form of evidence. There will be an impact on applicants where organisations charge for evidence and an impact on those organisations providing evidence (where the cost is not recovered through a charge). We are unable to monetise these impacts at this time.

10.3 These evidential requirements are intended to ensure civil legal services in private family matters are made available only where a genuine risk of domestic violence or child abuse exists. This Impact Assessment is attached at Annex 2 to this Memorandum.

10.4 Other than those outlined in the Impact Assessment, there are no additional impacts on business, charities or voluntary bodies arising from this legislation.

10.5 There is no impact on the public sector arising from this instrument beyond those accounted for in the Royal Assent IA and the Private Family Legal Aid & Evidence requirements for Domestic Violence victims IA (at Annex 2).

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Ministry of Justice will conduct a post-implementation review of the Act between three to five years after implementation.

12.2 We will monitor the operation of the Gateway Work (as set out in section 2) from day one of its implementation. We will also undertake a review of the Gateway's implementation and operation, and publish a report of the review within two years of the gateway's implementation.

13. Contact

David Stokes at the Ministry of Justice (Tel: 020 3334 4281 or email: David.Stokes@justice.gsi.gov.uk) can answer any queries regarding the instrument.

Domestic Violence & Child Abuse Offences: The Civil Legal Aid (Procedure) Regulations 2012

This document is published by the Lord Chancellor for the purpose of setting out the meaning, in the Civil Legal Aid (Procedure) Regulations 2012, of:

- (a) “domestic violence offence”; and
- (b) “child abuse offence”.

The document is published and maintained on the website of the Legal Aid Agency at www.justice.gov.uk/legal-aid.

Domestic violence offence

For the purpose of regulation 33 of the Civil Legal Aid (Procedure) Regulations 2012, “domestic violence offence” means:

- (a) the offences listed in Table A below; and
- (b) an equivalent offence committed in a jurisdiction outside of England and Wales, Scotland or Northern Ireland.

TABLE A

<u>Domestic violence offence (England & Wales)</u>	<u>Statutory provision or common law (England & Wales)</u>
Threats to kill	Offences against the Person Act 1861 s16
Shooting or attempting to shoot, or wounding, with intent to do grievous bodily harm	Offences against the Person Act 1861 s18
Inflicting bodily injury with or without weapon	Offences against the Person Act 1861 s20
Attempting to choke, etc. in order to commit any indictable offence	Offences against the Person Act 1861 s21
Maliciously administering poison, etc. so as to endanger life or inflict grievous bodily harm	Offences against the Person Act 1861 s23
Maliciously administering poison, etc. with intent to injure, aggrieve, or annoy any other	Offences Against the Person Act 1861 s24
Causing gunpowder to explode, or sending to any person an explosive substance, or throwing corrosive fluid on a person, with intent to do grievous bodily harm	Offences against the Person Act 1861 s29
Assault occasioning bodily harm - common assault	Offences against the Person Act 1861 s47
Child destruction	Infant Life (Preservation) Act 1929 s1
Cruelty to persons under sixteen	Children and Young Persons Act 1933 s1
Rape	Sexual Offences Act 1956 s1
Procurement of woman by threats	Sexual Offences Act 1956 s2
Administering drugs to obtain or facilitate intercourse	Sexual Offences Act 1956 s4
Indecent assault on a woman	Sexual Offences Act 1956 s14
Indecent assault on a man	Sexual Offences Act 1956 s15
Procuring a miscarriage	Abortion Act 1967 s5(2)

Theft	Thft Act 1968 s7
Blackmail	Thft Act 1968 s21
Destroying or damaging property	Criminal Damage Act 1971 s1
Threats to destroy or damage property	Criminal Damage Act 1971 s2
Violence for securing entry	Criminal Law Act 1977 s6
Abduction of child by parent	Child Abduction Act 1984 s1
Abduction of child by other persons (not parent)	Child Abduction Act 1984 s2
Affray	Public Order Act 1986 s3
Fear or provocation of violence	Public Order Act 1986 s4
Intentional harassment, alarm or distress	Public Order Act 1986 s4A
Harassment, alarm or distress	Public Order Act 1986 s5
Offence of sending letters etc. with intent to cause distress or anxiety	Malicious Communications Act 1988 s1
Common assault and battery	Criminal Justice Act 1988 s39
Intimidation etc. of witnesses, jurors and others	Criminal Justice and Public Order Act 1994 s51
Breaching non-molestation order	Family Law Act 1996 s42A
Harassment	Protection from Harassment Act 1997 s2
Stalking	Protection from Harassment Act 1997 s2A
Putting people in fear of violence	Protection from Harassment Act 1997 s4
Stalking involving fear of violence or serious alarm or distress	Protection from Harassment Act 1997 s4A
Racially or religiously aggravated assault	Crime & Disorder Act 1998 s29
Racially or religiously aggravated criminal damage	Crime & Disorder Act 1998 s30
Racially or religiously aggravated public order offences	Crime & Disorder Act 1998 s31
Racially or religiously aggravated harassment etc	Crime & Disorder Act 1998 s32
Rape	Sexual Offences Act 2003 s1
Assault by penetration	Sexual Offences Act 2003 s2
Sexual assault	Sexual Offences Act 2003 s3
Causing a person to engage in sexual activity without consent	Sexual Offences Act 2003 s4
Causing or inciting prostitution for gain	Sexual Offences Act 2003 s52
Controlling prostitution for gain	Sexual Offences Act 2003 s53
Trafficking into the UK for sexual exploitation	Sexual Offences Act 2003 s57
Trafficking within the UK for sexual exploitation	Sexual Offences Act 2003 s58
Trafficking out of the UK for sexual exploitation	Sexual Offences Act 2003 s59
Administering a substance with intent to commit a sexual offence	Sexual Offences Act 2003 s61
Committing an offence with intent to commit a sexual offence	Sexual Offences Act 2003 s62
Trespass with intent to commit a sexual offence	Sexual Offences Act 2003 s63
Improper use of public electronic communications network	Communications Act 2003 s127
Breach of non-molestation order	Domestic Violence, Crime & Victims Act 2004 s1
Trafficking people for exploitation	Asylum and Immigration (Treatment of Claimants, etc) Act 2004 s4
Kidnapping	Common law

False imprisonment	Common law
Perverting the course of public justice	Common law
Aiding, abetting, counselling, or procuring the commission of: (a) any indictable offence listed in this table and (b) the offence of murder	Accessories and Abettors Act 1861 s8
The offence of conspiracy in relation to: (a) indictable offences listed in this table and (b) the offence of murder	Criminal Law Act 1977 s1
Attempting to commit an offence in relation to: (a) indictable offences listed in this table and (b) the offence of murder	Criminal Attempts Act 1981 s1
Encouraging or assisting an offence (inchoate offences) in relation to: (a) indictable offences listed in this table and (b) the offence of murder	Serious Crime Act 2007 ss44-46
Incitement (pre 2008) in relation to: (a) indictable offences listed in this table and (b) the offence of murder	Common law

<u>Domestic violence offence (Scotland)</u>	<u>Statutory provision or common law (Scotland)</u>
Cruelty to persons under sixteen	Children and Young Persons (Scotland) Act 1937 s12
Procuring a miscarriage	Abortion Act 1967 s5(2)
Offence in Scotland of parent, etc. taking or sending child out of United Kingdom	Child Abduction Act 1984 s6
Procuring	Criminal Law (Consolidation) Scotland Act 1995 s7
Abduction & unlawful detention	Criminal Law (Consolidation) Scotland Act 1995 s8
Trading in prostitution and brothel-keeping	Criminal Law (Consolidation) Scotland Act 1995 s11
Racially aggravated harassment	Criminal Law (Consolidation) Scotland Act 1995 s50A
Vandalism	Criminal Law (Consolidation) Scotland Act 1995 s52
Breach of non-harassment order	Protection from Harassment Act 1997 s9
Traffic in prostitution etc	Criminal Justice (Scotland) Act 2003 s22
Improper use of public electronic communications network	Communications Act 2003 s127
Trafficking people for exploitation	Asylum and Immigration (Treatment of Claimants, etc) Act 2004 s4
Rape	Sexual Offences (Scotland) Act 2009 s1
Assault by penetration	Sexual Offences (Scotland) Act 2009 s2
Sexual assault	Sexual Offences (Scotland) Act 2009 s3

Sexual coercion	Sexual Offences (Scotland) Act 2009 s4
Administering a substance for sexual purposes	Sexual Offences (Scotland) Act 2009 s11
Threatening or abusive behaviour	Criminal Justice and Licensing (Scotland) Act 2010 s38
Offense of Stalking	Criminal Justice and Licensing (Scotland) Act 2010 s39
Rape	Common law
Theft	Common law
Extortion	Common law
Malicious mischief	Common law
Threats to destroy or damage property	Common law
Threats to kill	Common law
Common assault (and aggravated assault)	Common law
Indecent assault	Common law
Theft of child under the age of puberty (plagium)	Common law
Breach of the peace	Common law
Attempt to pervert the course of justice	Common law
Clandestine injury to women	Common law
Abduction	Common law
Perverting the course of public justice	Common law
Statutory offences: art or part and aiding and abetting in relation to: (a) indictable offences listed in this table and (b) the offence of murder	Criminal Procedure (Scotland) Act 1995 s293
Attempt at crime in relation to: (a) indictable offences listed in this table and (b) the offence of murder	Criminal Procedure (Scotland) Act 1995 s294
Offences racially aggravated in relation to: (a) indictable offences listed in this table and (b) the offence of murder	Crime and Disorder Act 1998 s96
Offences aggravated by religious prejudice in relation to: (a) indictable offences listed in this table and (b) the offence of murder	Criminal Justice (Scotland) Act 2003 s74
The offence of conspiracy in relation to: (a) indictable offences listed in this table and (b) the offence of murder	Common law

<u>Domestic violence offence (Northern Ireland)</u>	
Threats to kill	Offences against the Person Act 1861 s16
Shooting or attempting to shoot, or wounding, with intent to do grievous bodily harm	Offences against the Person Act 1861 s18

Statutory provision or common law (Northern Ireland)

Inflicting bodily injury with or without weapon	Offences against the Person Act 1861 s20
Attempting to choke, etc. in order to commit any indictable offence	Offences against the Person Act 1861 s21
Maliciously administering poison, etc. so as to endanger life or inflict grievous bodily harm	Offences against the Person Act 1861 s23
Maliciously administering poison, etc. with intent to injure, aggrieve, or annoy any other person	Offences against the Person Act 1861 s24
Causing gunpowder to explode, or sending to any person an explosive substance, or throwing corrosive fluid on a person, with intent to do grievous bodily harm	Offences against the Person Act 1861 s29
Common assault and battery	Offences against the Person Act 1861 s42
Assault occasioning bodily harm - common assault	Offences against the Person Act 1861 s47
Rape	Offences against the Person Act 1861 s48
Indecent assault on a woman (pre-2009)	Offences against the Person Act 1861 s52
Indecent assault on a man	Offences against the Person Act 1861 s62
Procurement of woman by threats (pre-2008)	Criminal Law Amendment Act 1885 s3
Administering drugs to obtain or facilitate intercourse	Criminal Law Amendment Act 1885 s3
Child destruction	Criminal Justice Act (Northern Ireland) 1945 s25
Indecent assault with intent to commit rape (pre-2009)	Attempted Rape, etc. Act (Northern Ireland) 1960 s2
Cruelty to persons under sixteen	Children and Young Persons Act (Northern Ireland) 1968 s20
Theft	Theft Act (Northern Ireland) 1969 s7
Blackmail	Theft Act (Northern Ireland) 1969 s20
Destroying or damaging property	Criminal Damage (Northern Ireland) Order 1977 article 3
Threats to destroy or damage property	Criminal Damage (Northern Ireland) Order 1977 article 4
Abduction of child by parent	Child Abduction (Northern Ireland) Order 1985 article 3
Abduction of child by other persons	Child Abduction (Northern Ireland) Order 1985 article 4
Affray	Public Order (Northern Ireland) Order 1987 article 3
Offence of sending letters etc. with intent to cause distress or anxiety	Malicious Communications (Northern Ireland) Order 1988 article 3
Intimidation etc. of witnesses, jurors and others	Criminal Justice (Northern Ireland) Order 1996 article 47
Harassment	Protection from Harassment (Northern Ireland) Order 1997 article 4
Putting people in fear of violence	Protection from Harassment (Northern Ireland) Order 1997 article 6
Offences [relates to breach of non-molestation order]	Family Homes and Domestic Violence (Northern Ireland) Order 1998 article 25
Rape	Criminal Justice (Northern Ireland) Order 2003 article 18 (extended definition of rape to include that by one man to another man)
Indecent assault on a man	Criminal Justice (Northern Ireland) Order 2003 article 21
Improper use of public electronic communications network	Communications Act 2003 s127
Trafficking into the UK for sexual exploitation	Sexual Offences Act 2003 s57
Trafficking within the UK for sexual exploitation	Sexual Offences Act 2003 s58
Trafficking out of the UK for sexual exploitation	Sexual Offences Act 2003 s59
Trafficking people for exploitation	Asylum and Immigration (Treatment of Claimants etc.) Act 2004 s4

Rape	Sexual Offences (Northern Ireland) Order 2008 article 5
Assault by penetration	Sexual Offences (Northern Ireland) Order 2008 article 6
Sexual assault	Sexual Offences (Northern Ireland) Order 2008 article 7
Causing a person to engage in sexual activity without consent	Sexual Offences (Northern Ireland) Order 2008 article 8
Causing or inciting prostitution for gain	Sexual Offences (Northern Ireland) Order 2008 article 62
Controlling prostitution for gain	Sexual Offences (Northern Ireland) Order 2008 article 63
Administering a substance with intent to commit a sexual offence	Sexual Offences (Northern Ireland) Order 2008 article 65
Committing an offence with intent to commit a sexual offence	Sexual Offences (Northern Ireland) Order 2008 article 66
Trespass with intent to commit a sexual offence	Sexual Offences (Northern Ireland) Order 2008 article 67
Rape (pre-2008)	Common law
Violence for securing entry	Seizing premises by menaces, force and arms – Common law
Affray	Common law
Common assault	Common law
Kidnapping	Common law
False imprisonment	Common law
Perverting the course of public justice	Common law
Aiding, abetting, counselling, or procuring the commission of: (a) indictable offences listed in this table and (b) the offence of murder	Accessories and Abettors Act 1861 s8 in conjunction with s9 of the Criminal Law Act (Northern Ireland) 1967
Attempting to commit an offence in relation to: (a) indictable offences listed in this table and (b) the offence of murder	Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 article 3
The offence of conspiracy in relation to: (a) indictable offences listed in this table and (b) the offence of murder	Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 article 9
Encouraging or assisting an offence (inchoate offences) in relation to: (a) indictable offences listed in this table and (b) the offence of murder	Serious Crime Act 2007 ss44-46

Child Abuse Offences

For the purpose of regulation 34 of the Civil Legal Aid (Procedure) Regulations 2012 “child abuse offence” means:

- (a) the domestic violence offences listed in Table A above when committed against a child (an individual under the age of 18);
- (b) the offences listed in Table B below; and
- (c) an equivalent offence committed in a jurisdiction outside of England and Wales, Scotland or Northern Ireland.

TABLE B

<u>Child abuse offence (England & Wales)</u>	<u>Statutory provision or common law (England & Wales)</u>
Exposing child whereby life is endangered or health permanently injured	Offences against the Person Act 1861 s27
Allowing persons under sixteen to be in brothels	Children & Young Person Act 1933 s3
Causing or allowing persons under sixteen to be used for begging	Children & Young Person Act 1933 s4
Giving intoxicating liquor to children under five	Children & Young Person Act 1933 s5
Intercourse with girl under 13	Sexual Offences Act 1956 s5
Intercourse with girl between 13 and 16	Sexual Offences Act 1956 s6
Buggery	Sexual Offences Act 1956 s12
Indecent conduct towards young child	Indecency with Children Act 1960 s1
Inciting girl under sixteen to have incestuous sexual intercourse (pre-2004)	Criminal Law Act 1977 s54
Indecent photos of children	Protection of Children Act 1978 s1
Possession of indecent photos of child	Criminal Justice Act 1988 s160
Abduction of children in care etc	Children Act 1989 s49
Rape of a child under 13	Sexual Offences Act 2003 s5
Assault of a child under 13 by penetration	Sexual Offences Act 2003 s6
Sexual assault of a child under 13	Sexual Offences Act 2003 s7
Causing or inciting a child under 13 to engage in sexual activity	Sexual Offences Act 2003 s8
Sexual activity with a child	Sexual Offences Act 2003 s9
Causing or inciting a child to engage in sexual activity	Sexual Offences Act 2003 s10
Engaging in sexual activity in the presence of a child	Sexual Offences Act 2003 s11
Causing a child to watch a sexual act	Sexual Offences Act 2003 s12
Child sex offences committed by children or young persons	Sexual Offences Act 2003 s13
Arranging or facilitating commission of a child sex offence	Sexual Offences Act 2003 s14
Meeting a child following sexual grooming etc	Sexual Offences Act 2003 s15
Abuse of position of trust: sexual activity with child	Sexual Offences Act 2003 s16
Abuse of position of trust: causing or inciting a child to engage in sexual activity	Sexual Offences Act 2003 s17
Abuse of position of trust: sexual activity in the presence of a child	Sexual Offences Act 2003 s18

Abuse of position of trust: causing a child to watch a sexual act	Sexual Offences Act 2003 s19
Sexual activity with a child family member	Sexual Offences Act 2003 s25
Inciting a child family to engage sexual activity	Sexual Offences Act 2003 s26
Paying for sexual services of a child	Sexual Offences Act 2003 s47
Causing or inciting child prostitution or pornography	Sexual Offences Act 2003 s48
Controlling a child prostitute or a child involved in pornography	Sexual Offences Act 2003 s49
Arranging or facilitating child pornography	Sexual Offences Act 2003 s50
Female genital mutilation	Female Genital Mutilation Act 2003 s1
Assisting girl to mutilate own genitalia	Female Genital Mutilation Act 2003 s2
Assisting a non-UK person to mutilate overseas a girl's genitalia	Female Genital Mutilation Act 2003 s3
Causing or allowing child or vulnerable adult to suffer serious physical harm or death	Domestic Violence, Crime and Victims Act 2004 s5
Possession of prohibited images of children	Coroners & Justice Act 2009 s62
Murder/manslaughter (of a child)	Common law

<u>Child abuse offence (Scotland)</u>	<u>Statutory provision or common law (Scotland)</u>
Causing or allowing persons under sixteen to be used for begging	Children and Young Persons (Scotland) Act 1937 s15
Giving exciseable liquor to children under five	Children and Young Persons (Scotland) Act 1937 s16
Exposing children under 7 to risk of burning	Children and Young Person (Scotland) Act 1937 s22
Possession of prohibited images of children	Civic Government (Scotland) Act 1982 s52
Possession of indecent photos of child	Civic Government (Scotland) Act 1982 s52A
Incest (if the offence is in relation to child family members)	Criminal Law (Consolidation) Scotland Act 1995 s1
Intercourse with step-child	Criminal Law (Consolidation) Scotland Act 1995 s2
Intercourse of person in position of trust with child under 16 (pre 2010)	Criminal Law (Consolidation) Scotland Act 1995 s3
Intercourse with girl under 16 (pre-2010)	Criminal Law (Consolidation) Scotland Act 1995 s5
Indecent behaviour towards girl between 12 and 16 (pre-2010)	Criminal Law (Consolidation) Scotland Act 1995 s6
Allowing child to be in brothel	Criminal Law (Consolidation) Scotland Act 1995 s12
Meeting a child following certain preliminary contact	Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 s1
Paying for sexual services of a child	Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 s9
Causing or inciting child prostitution or pornography	Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 s10

Controlling a child prostitute or a child involved in pornography	Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 s11
Arranging or facilitating child pornography	Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 s12
Female genital mutilation	Prohibition of Female Genital Mutilation (Scotland) Act 2005 s1
Assisting girl to mutilate own genitalia	Prohibition of Female Genital Mutilation (Scotland) Act 2005 s2
Aiding & abetting female genital mutilation	Prohibition of Female Genital Mutilation (Scotland) Act 2005 s3
Rape of a young child	Sexual Offences (Scotland) Act 2009 s18
Sexual assault on a young child by penetration	Sexual Offences (Scotland) Act 2009 s19
Sexual assault on a young child	Sexual Offences (Scotland) Act 2009 s20
Causing a young child to participate in sexual activity	Sexual Offences (Scotland) Act 2009 s21
Causing a young child to be present during a sexual activity	Sexual Offences (Scotland) Act 2009 s22
Causing a young child to look at a sexual image	Sexual Offences (Scotland) Act 2009 s23
Communicating indecently with a young child etc.	Sexual Offences (Scotland) Act 2009 s24
Sexual exposure to a young child	Sexual Offences (Scotland) Act 2009 s25
Voyeurism towards a young child	Sexual Offences (Scotland) Act 2009 s26
Having intercourse with an older child	Sexual Offences (Scotland) Act 2009 s28
Engaging in penetrative sexual activity with or towards an older child	Sexual Offences (Scotland) Act 2009 s29
Engaging in sexual activity with or towards an older child	Sexual Offences (Scotland) Act 2009 s30
Causing an older child to participate in sexual activity	Sexual Offences (Scotland) Act 2009 s31
Causing an older child to be present during a sexual activity	Sexual Offences (Scotland) Act 2009 s32
Causing an older child to look at a sexual image	Sexual Offences (Scotland) Act 2009 s33
Communicating indecently with an older child etc	Sexual Offences (Scotland) Act 2009 s34
Sexual exposure to an older child	Sexual Offences (Scotland) Act 2009 s35
Voyeurism towards an older child	Sexual Offences (Scotland) Act 2009 s36
Older children engaging in sexual activity with each other	Sexual Offences (Scotland) Act 2009 s37
Sexual abuse of trust	Sexual Offences (Scotland) Act 2009 s42
Cruel and unusual treatment if the offence is in relation to a child	Common law
Murder/manslaughter (of a child)	Common law
Sodomy (of a child)	Common law
Lewd, indecent or libidinous practice or behaviour (towards a child)	Common law

<u>Child abuse offence (Northern Ireland)</u>	<u>Statutory provision or common law (Northern Ireland)</u>
Exposing children whereby life is endangered	Offences Against the Persons Act 1861 s27
Buggery	Offences against the Persons Act 1861 s61
Intercourse with girl under 13	Criminal Law Amendment Act 1885 s4
Intercourse with girl between 13 and 16	Criminal Law Amendment Act 1885 s5
Allowing persons under 16 to be in brothels	Children & Young Persons Act (Northern Ireland) 1968 s3 Children & Young Persons Act (Northern Ireland) 1950 s14
Causing or allowing persons under sixteen to be used for begging	Children & Young Persons Act (Northern Ireland) 1968 s24 Children & Young Persons Act (Northern Ireland) 1950 s15
Giving intoxicating liquor to children under five	Children & Young Persons Act (Northern Ireland) 1968 s25 Children & Young Persons Act (Northern Ireland) 1950 s16
Indecent conduct towards young child	Children & Young Persons Act (Northern Ireland) 1968 s22
Indecent photos of children	Protection of Children (Northern Ireland) Order 1978 article 3
Inciting girl under sixteen to have incestuous sexual intercourse	Criminal Justice (Northern Ireland) Order 1980 article 9
Possession of indecent photos of child	Criminal Justice (Evidence, Etc) (Northern Ireland) Order 1995 article 15
Abduction of children in care etc	Children (Northern Ireland) Order 1995 article 68
Buggery	Criminal Justice (Northern Ireland) Order 2003 article 19
Female genital mutilation	Female Genital Mutilation Act 2003 s1
Assisting girl to mutilate own genitalia	Female Genital Mutilation Act 2003 s2
Assisting a non-UK person to mutilate overseas a girl's genitalia	Female Genital Mutilation Act 2003 s3
Causing or allowing child or vulnerable adult to die	Domestic Violence Crime and Victims Act 2004 s7
Rape of a child under 13	Sexual Offences (Northern Ireland) Order 2008 article 12
Assault of a child under 13 by penetration	Sexual Offences (Northern Ireland) Order 2008 article 13
Sexual assault of a child under 13	Sexual Offences (Northern Ireland) Order 2008 article 14
Causing or inciting a child under 13 to engage in sexual activity	Sexual Offences (Northern Ireland) Order 2008 article 15
Sexual activity with a child	Sexual Offences (Northern Ireland) Order 2008 article 16
Causing or inciting a child to engage in sexual activity	Sexual Offences (Northern Ireland) Order 2008 article 17
Engaging in sexual activity in the presence of a child	Sexual Offences (Northern Ireland) Order 2008 article 18
Causing a child to watch a sexual act	Sexual Offences (Northern Ireland) Order 2008 article 19
Child sex offences committed by children or young persons	Sexual Offences (Northern Ireland) Order 2008 article 20
Arranging or facilitating commission of a child sex offence	Sexual Offences (Northern Ireland) Order 2008 article 21
Meeting a child following sexual grooming etc	Sexual Offences (Northern Ireland) Order 2008 article 22
Abuse of position of trust: sexual activity with child	Sexual Offences (Northern Ireland) Order 2008 article 23
Abuse of position of trust: causing or inciting a child to engage in sexual activity	Sexual Offences (Northern Ireland) Order 2008 article 24
Abuse of position of trust: sexual activity in the presence of a child	Sexual Offences (Northern Ireland) Order 2008 article 25
Abuse of position of trust: causing a child to watch a sexual act	Sexual Offences (Northern Ireland) Order 2008 article 26
Sexual activity with a child family member	Sexual Offences (Northern Ireland) Order 2008 article 32
Inciting a child of the family to engage sexual activity	Sexual Offences (Northern Ireland) Order 2008 article 33

Paying for sexual services of a child	Sexual Offences (Northern Ireland) Order 2008 article 37
Causing or inciting child prostitution or pornography	Sexual Offences (Northern Ireland) Order 2008 article 38
Controlling a child prostitute or a child involved in pornography	Sexual Offences (Northern Ireland) Order 2008 article 39
Arranging or facilitating child pornography	Sexual Offences (Northern Ireland) Order 2008 article 40
Possession of prohibited images of children	Coroners & Justice Act 2009 s62
Murder/manslaughter (of a child)	Common law