

*Status: Point in time view as at 01/12/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Sexual Offences (Scotland) Act 2009, SCHEDULE 1. (See end of Document for details)*

## SCHEDULE 1

*(introduced by section 39(5)(a))*

### RELEVANT SEXUAL OFFENCES

#### PART 1

##### OFFENCES THAT MAY CURRENTLY BE COMMITTED

- 1 Any of the following offences under this Act—
  - (a) an offence under Part 1 against a person under the age of 16,
  - (b) an offence under Part 4 (but not an offence of engaging while an older child in sexual conduct with or towards another older child (section 37(1)) or engaging while an older child in consensual sexual conduct with another older child (section 37(4)),
  - (c) sexual abuse of trust (section 42) of a person under the age of 16,
  - (d) sexual abuse of trust of a mentally disordered person (section 46) of a person under the age of 16.
  
- 2 An offence under any of the following provisions of the Sexual Offences (Northern Ireland) Order 2008 (SINo. 1769 (N.I. 2)) against a person under the age of 16—
  - (a) article 5 (rape),
  - (b) article 6 (assault by penetration),
  - (c) article 7 (sexual assault),
  - (d) article 8 (causing a person to engage in sexual activity without consent),
  - (e) article 23 (abuse of position of trust: sexual activity with a child under 18),
  - (f) article 24 (abuse of position of trust: causing or inciting a child under 18 to engage in sexual activity),
  - (g) article 25 (abuse of position of trust: sexual activity in the presence of a child under 18),
  - (h) article 26 (abuse of position of trust: causing a child under 18 to watch a sexual act),
  - (i) article 32 (sexual activity with an under 18 child family member),
  - (j) article 33 (inciting an under 18 child family member to engage in sexual activity),
  - (k) article 37 (paying for sexual services of a child under 18),
  - (l) article 38 (causing or inciting a child under 18 to become a prostitute or to be involved in pornography),
  - (m) article 39 (controlling the activities of a child under 18 in relation to prostitution or involvement in pornography),
  - (n) article 40 (arranging or facilitating the prostitution or involvement in pornography of a child under 18),
  - (o) article 51 (care workers: sexual activity with a person with a mental disorder),
  - (p) article 52 (care workers: causing or inciting a person with a mental disorder to engage in sexual activity),
  - (q) article 53 (care workers: sexual activity in the presence of a person with a mental disorder),
  - (r) article 54 (care workers: causing a person with a mental disorder to watch a sexual act),

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- (s) article 65 (administering a substance with intention of stupefying etc. for sexual activity),
  - (t) article 70 (exposure of genitals),
  - (u) article 71 (voyeurism).
- 3 An offence under any of the following provisions of that order—
- (a) article 12 (rape of a child under 13),
  - (b) article 13 (assault of a child under 13 by penetration),
  - (c) article 14 (sexual assault of a child under 13),
  - (d) article 15 (causing or inciting a child under 13 to engage in sexual activity),
  - (e) article 16 (sexual activity with a child under 16),
  - (f) article 17 (causing or inciting a child under 16 to engage in sexual activity),
  - (g) article 18 (engaging in sexual activity in the presence of a child under 16),
  - (h) article 19 (causing a child under 16 to watch a sexual act),
  - (i) article 20 (offences under articles 16 to 19 by a person under 18),
  - (j) article 21 (arranging or facilitating commission of an offence under articles 16 to 20),
  - (k) article 22 (meeting a child under 16 following sexual grooming etc.).
- 4 An offence under any of the following provisions of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9) against a person under the age of 16—
- (a) section 1 (meeting a person following certain preliminary contact with intention of engaging in unlawful sexual activity),
  - (b) section 9 (paying a person for sexual services),
  - (c) section 10 (causing or inciting provision by a person of sexual services or pornography),
  - (d) section 11 (controlling a person providing sexual services or involved in pornography),
  - (e) section 12 (arranging or facilitating provision by a person of sexual services or pornography).
- 5 An offence under any of the following provisions of the Sexual Offences Act 2003 (c. 42) against a person under the age of 16—
- (a) section 1 (rape),
  - (b) section 2 (assault by penetration),
  - (c) section 3 (sexual assault),
  - (d) section 4 (causing a person to engage in sexual activity without consent),
  - (e) section 16 (abuse of position of trust: sexual activity with a child under 18),
  - (f) section 17 (abuse of position of trust: causing or inciting a child under 18 to engage in sexual activity),
  - (g) section 18 (abuse of position of trust: sexual activity in the presence of a child under 18),
  - (h) section 19 (abuse of position of trust: causing a child under 18 to watch a sexual act),
  - (i) section 25 (sexual activity with a family member under 18),
  - (j) section 26 (inciting a family member under 18 to engage in sexual activity),
  - (k) section 38 (care workers: sexual activity with a person with a mental disorder),

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- (l) section 39 (care workers: causing or inciting a person with a mental disorder to engage in sexual activity),
  - (m) section 40 (care workers: sexual activity in the presence of a person with a mental disorder),
  - (n) section 41 (care workers: causing a person with a mental disorder to watch a sexual act),
  - (o) section 47 (paying for sexual services of a person under 18),
  - (p) section 48 (causing or inciting a child under 18 to become a prostitute or to be involved in pornography),
  - (q) section 49 (controlling the activities of a child under 18 in relation to prostitution or involvement in pornography),
  - (r) section 50 (arranging or facilitating the prostitution or involvement in pornography of a child under 18),
  - (s) section 61 (administering a substance with intention of stupefying etc. for sexual activity),
  - (t) section 66 (exposure of genitals),
  - (u) section 67 (voyeurism).
- 6 An offence under any of the following provisions of that Act—
- (a) section 5 (rape of a child under 13),
  - (b) section 6 (assault of a child under 13 by penetration),
  - (c) section 7 (sexual assault of a child under 13),
  - (d) section 8 (causing or inciting a child under 13 to engage in sexual activity),
  - (e) section 9 (sexual activity with a child under 16),
  - (f) section 10 (causing or inciting a child under 16 to engage in sexual activity),
  - (g) section 11 (engaging in sexual activity in the presence of a child under 16),
  - (h) section 12 (causing a child under 16 to watch a sexual act),
  - (i) section 13 (sex offences against a child under 16 committed by children or young persons),
  - (j) section 14 (arranging or facilitating commission of a sex offence against a child under 16),
  - (k) section 15 (meeting a child under 16 following sexual grooming etc.).
- 7 Any of the following offences under the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)—
- (a) an offence under section 1 (incest) or 2 (intercourse with a step-child) against a child under the age of 16,
  - (b) an offence under section 3 (intercourse of person in position of trust with a child under 16),
  - (c) an offence under section 8 against a girl under the age of 16 (abduction of a woman or girl for purposes of unlawful sexual intercourse),
  - (d) an offence under section 9 (permitting a girl under 16 to use premises for intercourse),
  - (e) an offence under section 10 (person having parental responsibilities causing or encouraging sexual activity in relation to a girl under 16).
- 8 An offence under section 160 of the Criminal Justice Act 1988 (c. 33) against a person under the age of 16 (possession of indecent photographs of a person under 18).

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- 9 An offence under article 15 of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (SI No. 1847 (N.I. 17)) (possession of indecent photographs of a person under 16).
- 10 An offence under the following provisions of the Civic Government (Scotland) Act 1982 (c. 45) against a person under the age of 16—  
 (a) section 52 (taking and distribution of indecent images of a person under 18),  
 (b) section 52A (possession of indecent images of a person under 18).
- 11 An offence under section 1 of the Protection of Children Act 1978 (c. 37) against a person under the age of 16 (taking or distribution of indecent images of a person under 18).
- 12 An offence under article 3 of the Protection of Children (Northern Ireland) Order 1978 (SI 1978 No. 1047 (N.I. 17) (taking or distribution of indecent images of a person under 16).
- 13 An attempt, conspiracy or incitement to commit an offence in Part 1 of this schedule.
- 14 An offence under section 293(2) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (aiding and abetting etc. the commission of a statutory offence) relating to an offence in paragraphs 1, 4, 7 or 10 of that Part.

## PART 2

### OFFENCES REPLACED BY AN OFFENCE IN PART 1 OR THIS PART

- 15 The following common law offences against a person under the age of 16 years—  
 (a) rape,  
 (b) clandestine injury to women,  
 (c) sexual assault,  
 (d) lewd, indecent or libidinous practice or behaviour,  
 (e) sodomy.
- 16 Rape under the common law of Northern Ireland of a person under the age of 17.
- 17 Any of the following offences under the Sexual Offences Act 2003, in its application to Northern Ireland—  
 (a) an offence under section 15,  
 (b) an offence under section 16, 17, 18, 19, 47, 48, 49, 50, 66 or 67 against a child under the age of 17.
- 18 An offence under article 18, 19, 20 or 21 of the Criminal Justice (Northern Ireland) Order 2003 (SI No. 1247 (N.I. 13)) against a person under the age of 17.
- 19 An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (c. 44) against a person under the age of 16.
- 20 An offence under section 3, 5, 6 or 13(5)(c) of the Criminal Law (Consolidation) (Scotland) Act 1995.
- 21 An offence under article 123 of the Mental Health (Northern Ireland) Order 1986 (SI No. 595 (N.I. 4)) against a person under the age of 17.
- 22 An offence under article 9 of the Criminal Justice (Northern Ireland) Order 1980 (SI No. 704 (N.I. 6)).

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- 23 An offence under section 54 of the Criminal Law Act 1977 (c. 45).
- 24 Any of the following offences under the Sexual Offences (Scotland) Act 1976 (c. 67)—
- (a) an offence under section 2A or 2B against a person under the age of 16,
  - (b) an offence under section 2C, 3, 4, 5 or 10(1).
- 25 An offence under section 21 or 22 of the Children and Young Persons Act (Northern Ireland) 1968 (c. 34).
- 26 An offence under section 1 of the Indecency with Children Act 1960 (c. 33).
- 27 An offence under section 2 of the Attempted Rape, etc., Act 1960 (Northern Ireland) (c.3) against a person under the age of 17.
- 28 An offence under section 1, 10, 11, 12, 14, 15 or 16 of the Sexual Offences Act 1956 (c. 69) against a person under the age of 16.
- 29 An offence under section 5, 6 or 28 of that Act.
- 30 An offence under section 1 of the Punishment of Incest Act 1908 (c. 45)—
- (a) in its application to England and Wales, against a girl under the age of 16,
  - (b) in its application to Northern Ireland, against a girl under the age of 17.
- 31 Any of the following offences under the Criminal Law Amendment Act 1885 (48 & 49 Vict.) (c.69)—
- (a) an offence under section 2, 3, 5, 7 or 8—
    - (i) in its application to Scotland or England and Wales, against a girl under the age of 16,
    - (ii) in its application to Northern Ireland, against a girl under the age of 17,
  - (b) an offence under section 4 or 6.
- 32 Any of the following offences under the Offences Against the Person Act 1861 (24 & 25 Vict.) (c.100)—
- (a) an offence under section 52, 53 or 54—
    - (i) in its application to England and Wales, against a person under the age of 16,
    - (ii) in its application to Northern Ireland, against a person under the age of 17,
  - (b) an offence under section 61 or 62.
- 33 An attempt, conspiracy or incitement to commit an offence in Part 2 of this schedule.
- 34 An offence under section 293(2) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (aiding and abetting etc. the commission of a statutory offence) relating to any of the following offences—
- (a) an offence against a person under the age of 16 under section 3 of the Sexual Offences (Amendment) Act 2000 in its application to Scotland (see paragraph 19),
  - (b) an offence in paragraph 20 or 24,
  - (c) an offence against a girl under the age of 16 under section 2, 3, 5, 7 or 8 of the Criminal Law Amendment Act 1885 in its application to Scotland.

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