



2022 CHAPTER 19

PART 1

Sexual offences

CHAPTER 2

Anonymity and privacy

Anonymity of suspects

Restriction on reports as to suspects of sexual offences

12.—(1) Subsection (2) applies where—

- (a) an allegation that a particular person has committed a sexual offence has been made to the police, or
- (b) the police have taken any step to investigate whether a particular person has committed a sexual offence (but an allegation within paragraph (a) has not been made in respect of the offence),

and references in this section and sections 14 and 16 to “the suspect” are to the person mentioned in paragraph (a) or (b).

(2) No matter relating to the suspect is to be included in any publication if it is likely to lead members of the public to identify the suspect as a person who is alleged to have, or is suspected of having, committed the offence.

(3) Subsection (2) does not apply after the earliest time (if any) when any of the following events occurs—

- (a) a summons or warrant is issued under Article 20 of the Magistrates’ Courts (Northern Ireland) Order 1981 against the suspect in respect of the offence;

- (b) the suspect is charged with the offence after being taken into custody without a warrant;
- (c) an indictment charging the suspect with the offence is presented under section 2(2)(c) or (e) of the Grand Jury (Abolition) Act (Northern Ireland) 1969;
- (d) a magistrates' court commits the suspect to the Crown Court for trial on a new charge alleging the offence.

(4) If none of those events occurs, then subsection (2) does not apply after the end of 25 years beginning with the date of the suspect's death.

(5) The matters relating to a suspect in relation to which the restriction imposed by subsection (2) applies (if their inclusion in any publication is likely to have the result mentioned in that subsection) include in particular—

- (a) the suspect's name;
- (b) the suspect's address;
- (c) the identity of any school or other educational establishment attended by the suspect;
- (d) the identity of any place of work;
- (e) any still or moving picture of the suspect.

(6) For the avoidance of doubt, for the purposes of subsection (1) it does not matter whether the allegation is made, or the step is taken, before or after this section comes into operation.

Meaning of sexual offence in section 12

13.—(1) In section 12, "sexual offence" means any of the following offences against the law of Northern Ireland—

- (a) an offence under section 61 or 62 of the Offences against the Person Act 1861 (buggery, attempt to commit buggery, assault with intent to commit buggery or indecent assault on a male);
- (b) an offence under section 2 of the Attempted Rape, etc., Act (Northern Ireland) 1960 (assault with intent to commit rape);
- (c) an offence under section 3 of the Sexual Offences (Amendment) Act 2000 (abuse of position of trust);
- (d) an offence under Article 19 of the Criminal Justice (Northern Ireland) Order 2003 (buggery);
- (e) an offence under any provision of the Sexual Offences (Northern Ireland) Order 2008;
- (f) an offence under section 63 of the Criminal Justice and Immigration Act 2008 (possession of extreme pornographic images);

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

- (g) an offence under section 69 of the Serious Crime Act 2015 (possession of a paedophile manual);
- (h) any attempt to commit any of the offences mentioned in paragraphs (a) to (g);
- (i) any conspiracy to commit any of those offences;
- (j) any incitement of another to commit any of those offences;
- (k) aiding, abetting, counselling or procuring the commission of any of those offences;
- (l) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to any of those offences;
- (m) an offence (not falling within any other paragraph of this subsection) specified in Part 2 of Schedule 2 to the Criminal Justice (Northern Ireland) Order 2008.

(2) The Department of Justice may by regulations amend this section so as to alter the meaning of “sexual offence” for the purposes of section 12.

(3) Regulations under subsection (2) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

Power to disapply reporting restriction

14.—(1) Subsection (2) applies where matters relating to a suspect are prohibited from publication by virtue of section 12(2).

(2) A relevant person may apply to a magistrates’ court for an order—

- (a) disapplying, or
- (b) modifying the application of,

section 12(2) in relation to the suspect.

(3) The modifications that may be made under subsection (2)(b) include increasing or decreasing the period mentioned in section 12(4), but do not include the disapplication or modification of section 12(3).

(4) In this section, “relevant person” means—

- (a) during the suspect’s lifetime—
 - (i) the suspect;
 - (ii) the Chief Constable;
- (b) after the suspect’s death—
 - (i) a person who was a family member of the suspect at the time of the suspect’s death;
 - (ii) a personal representative of the suspect;

(iii) a person interested in publishing matters relating to the suspect which are prohibited from publication by virtue of section 12(2).

(5) On an application under subsection (2) the court must make an order under that subsection if it is satisfied that it would be—

- (a) in the interests of justice, or
- (b) otherwise in the public interest,

to make such an order.

(6) An order made under subsection (2) may be varied or revoked by order of a magistrates' court on the application of a relevant person where the court is satisfied that it would be—

- (a) in the interests of justice, or
- (b) otherwise in the public interest,

to make such a variation or revocation.

(7) An order made under this section does not affect the operation of section 12(2) at any time before the order is made.

(8) In this section, "a family member of the suspect" means—

- (a) a person who at the time of the suspect's death was—
 - (i) married to the suspect;
 - (ii) in a civil partnership with the suspect;
 - (iii) living with the suspect as if a spouse;
- (b) a relative of the suspect.

(9) For the purposes of this section—

- (a) "relative" means parent, child, grandparent, great-grandparent, grandchild, great-grandchild, brother, sister, uncle, great-uncle, aunt, great-aunt, nephew, great-nephew, niece or great-niece;
- (b) a relationship of the half-blood or by affinity is to be treated as a relationship of the whole blood;
- (c) the stepchild of a person is to be treated as that person's child.

(10) In this section, "a person interested in publishing matters" means a person who—

- (a) wishes the matters to be included in a publication, and
- (b) in relation to the publication, is a person mentioned in section 16(1) (persons by whom an offence relating to publishing may be committed).

(11) In subsections (1) and (4)(b)(iii), a reference to matters being prohibited from publication includes matters being partially prohibited from publication following the making of an order under this section modifying the application of section 12(2) in relation to the suspect.

Magistrates' courts rules

15.—(1) Magistrates' courts rules may make such provision relating to orders under section 14 as appears to the authority making them to be necessary or expedient for the purposes of that section.

(2) Magistrates' courts rules may, in particular, make provision—

- (a) for notice of applications to be given to such persons as may be prescribed by the rules;
- (b) for applications to be heard in private;
- (c) as to the matters to be taken into consideration by a court in determining whether it is in the interests of justice, or the public interest, to make, vary or revoke an order under section 14.

(3) Nothing in subsections (1) and (2) is to be taken to affect the generality of any statutory provision conferring power to make magistrates' courts rules; and no particular provision of those subsections prejudices any general provision of them.

Offence relating to reporting

16.—(1) If any matter is included in a publication in contravention of section 12(2), the following persons are guilty of an offence—

- (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.

(2) Where a person is charged with an offence under this section in respect of the inclusion of any matter in a publication, it is a defence, subject to subsection (3), to prove any of the following—

- (a) that the suspect included matter of that description in a publication;
- (b) that the publication in which the matter appeared was one in respect of which the suspect had given written consent to the appearance of matter of that description;
- (c) that at the time of the alleged offence under this section the person was not aware, and neither suspected nor had reason to suspect, that the publication included the matter in question;
- (d) that at the time of the alleged offence under this section the person was not aware, and neither suspected nor had reason to suspect—

- (i) that the allegation mentioned in section 12(1)(a) had been made to the police, or
 - (ii) that any step mentioned in section 12(1)(b) had been taken by the police.
- (3) Written consent is not a defence under subsection (2)(b) if it is proved that—
 - (a) any person interfered unreasonably with the peace or comfort of the suspect, with intent to obtain it, or
 - (b) the suspect was under the age of 16 at the time when it was given.
- (4) If a person charged with an offence under this section relies on a defence in subsection (2)(c) or (d), and evidence is adduced that is sufficient to raise an issue with respect to that defence, the court must assume that the defence is satisfied unless the contrary is proved beyond reasonable doubt.
- (5) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both.
- (6) Proceedings in respect of an offence under this section may be brought only by, or with the consent of, the Director of Public Prosecutions for Northern Ireland.
- (7) Where an offence under this section is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
 - (a) any director, manager, secretary or other similar officer of the body corporate, or
 - (b) a person who was purporting to act in any such capacity,that person (as well as the body corporate) commits the offence and is liable to be proceeded against and punished accordingly.
- (8) In relation to a body corporate whose affairs are managed by its members “director”, in subsection (7), means a member of the body corporate.
- (9) Section 20(2) of the Interpretation Act (Northern Ireland) 1954 (offences committed by a body corporate) does not apply to offences under this section.
- (10) 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, that partner (as well as the partnership) is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (11) Schedule 3 contains special rules relating to providers of information society services.

Interpretation of sections 12 to 16

17.—(1) In this section and sections 12 to 16—

“picture” includes a likeness however produced;

“publication” has the same meaning as in the Sexual Offences (Amendment) Act 1992 (see section 6(1) of that Act);

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

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“suspect” is to be read in accordance with section 12(1).

(2) Nothing in section 12, 14 or 16 or Schedule 3 affects any prohibition or restriction imposed by virtue of any other statutory provision upon a publication or upon matter included in a relevant programme.

Consequential amendment

18. In section 44(4)(a) of the Youth Justice and Criminal Evidence Act 1999 (restrictions on reporting alleged offences involving persons under 18), after “committed” insert “except a person in relation to whom section 12(2) of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 applies in connection with the offence”.