



2022 CHAPTER 19

PART 1

Sexual offences

CHAPTER 2

Anonymity and privacy

*Anonymity of victims*

**Extended anonymity of victims**

**8.**—(1) Section 1 of the Sexual Offences (Amendment) Act 1992 (anonymity of victims of certain offences) is amended as follows.

(2) In subsection (1), for “shall during that person’s lifetime be included” substitute “shall—

- “(a) during that person’s lifetime, or
- (b) during the period of 25 years beginning with the date of that person’s death,

be included”.

(3) In subsection (2), for “shall during the complainant’s lifetime be included” substitute “shall—

- “(a) during the complainant’s lifetime, or
- (b) during the period of 25 years beginning with the date of the complainant’s death,

be included”.

**Disapplication of anonymity of victim after death**

9.—(1) The Sexual Offences (Amendment) Act 1992 is amended as follows.

(2) In section 1(3)(b) (anonymity of victims of certain offences), at the end insert “and

“(c) has effect subject to any order made under section 3A.”.

(3) After section 3 insert—

**“3A Disapplication of section 1 after victim’s death**

(1) Subsection (2) applies where matters relating to a person (“A”) are prohibited from publication by virtue of section 1(1) or (2).

(2) An interested party may after A’s death apply to a magistrates’ court for an order—

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

section 1(1) or (2) in relation to A.

(3) For the avoidance of doubt, the modifications that may be made under subsection (2)(b) include increasing or decreasing the period mentioned in section 1(1)(b) or (2)(b) (the period during which publication is prohibited).

(4) In this section, “interested party” means—

- (a) a person who was a family member of A at the time of A’s death;
- (b) a personal representative of A;
- (c) a person interested in publishing matters relating to A which are prohibited from publication by virtue of section 1(1) or (2).

(5) On an application under subsection (2), the court must make an order under that subsection if the court 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 an interested party 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 1 at any time before the order was made.

(8) In this section, “a family member of A” means—

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- (a) a person who at the time of A's death was—
    - (i) married to A;
    - (ii) in a civil partnership with A;
    - (iii) living with A as if a spouse;
  - (b) a relative of A.
- (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 5(1) (persons by whom an offence relating to publishing may be committed).
- (11) In subsections (1) and (4)(c), 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 1(1) or (2) in relation to A.

### **3B Rules of Court**

- (1) Rules of Court may make such provision relating to orders under section 3A as appears to the authority making them to be necessary or expedient for the purposes of that section.
- (2) Rules of Court 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 3A.
- (3) Nothing in subsections (1) and (2) is to be taken to affect the generality of any enactment conferring power to make Rules of Court; and no particular provision of those subsections prejudices any general provision of them.”

### **Increase in penalty for breach of anonymity**

**10.—**(1) Section 5 of the Sexual Offences (Amendment) Act 1992 (offences) is amended as follows.

(2) In subsection (1) omit the words from “and liable” to “standard scale”.

(3) After subsection (1) insert—

“(1A) 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.”.

### **Special rules for providers of information society services**

**11.—**(1) In section 5 of the Sexual Offences (Amendment) Act 1992 (offences), at the end insert—

“(9) The Schedule contains special rules relating to providers of information society services.”.

(2) After section 8 of the Sexual Offences (Amendment) Act 1992 insert—

“SCHEDULE

Section 5(9).

#### OFFENCE OF BREACH OF ANONYMITY: PROVIDERS OF INFORMATION SOCIETY SERVICES

##### *Exceptions for mere conduits*

(1) A service provider does not commit an offence under section 5 by providing access to a communication network or by transmitting, in a communication network, information provided by a recipient of the service, if the service provider does not—

- (a) initiate the transmission,
- (b) select the recipient of the transmission, or
- (c) select or modify the information contained in the transmission.

(2) For the purposes of sub-paragraph (1)—

- (a) providing access to a communication network, and
- (b) transmitting information in a communication network,

include the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.

(3) Sub-paragraph (2) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

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### *Exception for caching*

- (1) A service provider does not commit an offence under section 5 by storing information provided by a recipient of the service for transmission in a communication network if the first and second conditions are met.
- (2) The first condition is that the storage of the information—
  - (a) is automatic, intermediate and temporary, and
  - (b) is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request.
- (3) The second condition is that the service provider—
  - (a) does not modify the information,
  - (b) complies with any conditions attached to having access to the information, and
  - (c) if sub-paragraph (4) applies, promptly removes the information or disables access to it.
- (4) This sub-paragraph applies if the service provider obtains actual knowledge that—
  - (a) the information at the initial source of the transmission has been removed from the network,
  - (b) access to it has been disabled, or
  - (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information.

### *Exception for hosting*

- (1) A service provider does not commit an offence under section 5 by storing information provided by a recipient of the service if—
  - (a) the service provider had no actual knowledge when the information was provided that its provision constituted an offence under section 5, or
  - (b) on obtaining actual knowledge that the information constituted such an offence, the service provider promptly removed the information or disabled access to it.
- (2) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

### *Interpretation*

4. In this Schedule—

“information society service” means any service normally provided—

  - (a) for remuneration,

- (b) at a distance (namely, the service is provided without the parties being simultaneously present),
- (c) by electronic means (namely, the service is—
  - (i) sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and
  - (ii) entirely transmitted, conveyed and received by wire, radio, optical means or other electromagnetic means), and
- (d) at the individual request of a recipient of services (namely, the service is provided through the transmission of data on individual request);

“recipient”, in relation to a service, means a person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible;

“service provider” means a person providing an information society service.”.

#### *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);
- (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”.

#### *Exclusion from proceedings*

### **Serious sexual offences: exclusion of public from court**

**19.—(1)** The Criminal Evidence (Northern Ireland) Order 1999 is amended as follows.

(2) Before Article 28 (but after the heading “Protection of complainants in proceedings for sexual offences”) insert—

#### *“Serious sexual offences: exclusion of public from court*

### **Exclusion of public from trial**

**27A.—(1)** Where a person is to be tried on indictment for a serious sexual offence, the court must give an exclusion direction before the beginning of the trial (but this is subject to paragraph (4)).

(2) An “exclusion direction” is a direction providing for the exclusion from the court, during the time the direction has effect, of all persons with the exception of—

- (a) members and officers of the court;
- (b) persons directly involved in the proceedings and, where the complainant is not such a person, the complainant;
- (c) any relative or friend of the complainant nominated by the complainant and specified in the direction;

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- (d) any relative or friend of the accused nominated by the accused and specified in the direction;
- (e) bona fide representatives of news gathering or reporting organisations;
- (f) any other person specified in the direction as a person excepted from the exclusion.

(3) Paragraph (1) applies whether or not the trial relates to other offences as well as a serious sexual offence.

(4) Paragraph (1) does not apply if the time at which the exclusion direction would fall to be given (in the absence of this paragraph) is not within the lifetime of the complainant.

(5) Where an exclusion direction is given under this Article, the direction has effect from the beginning of the trial and continues to have effect until, in respect of each serious sexual offence to which the trial relates, the proceedings have been either—

- (a) determined (by acquittal, conviction or otherwise), or
- (b) abandoned,

in relation to the accused or (if there is more than one) in relation to each of the accused; but this is subject to paragraph (6).

(6) The exclusion direction does not have effect during any time when a verdict is being delivered in the proceedings, and “verdict” here includes any finding which constitutes the determination of the proceedings in relation to an accused and an offence.

(7) In this Article and Articles 27B to 27D—

“complainant” means any person who is the complainant (within the meaning of Article 2(2)) in respect of a serious sexual offence to which the trial relates;

“effect”, in relation to a direction, means binding effect;

“persons directly involved in the proceedings” includes—

- (a) the accused;
- (b) legal representatives acting in the proceedings;
- (c) any witness while giving evidence in the proceedings;
- (d) any person acting in the capacity of an interpreter or other person appointed to assist a witness or an accused; and
- (e) members of the jury;

“serious sexual offence” means an offence against the law of Northern Ireland mentioned in section 2(3) of the Sexual Offences (Amendment) Act 1992.

**Nomination etc of persons to be excepted from exclusion**

**27B.**—(1) Only one person may be nominated by the complainant under Article 27A(2)(c), and only one person may be nominated by the accused under Article 27A(2)(d), but—

- (a) if more than one person is a complainant, a nomination may be made by each of the complainants, and
- (b) if more than one person is an accused in relation to the proceedings, a nomination may be made by each of the accused.

(2) Paragraph (1) has effect subject to Article 27C(1) (replacement nominated persons).

(3) The court may refuse to specify under Article 27A(2)(c) or (d) a person who has been nominated under that provision, but only where it appears to the court to be in the interests of justice to do so.

(4) Crown Court rules may make provision about nominations under Article 27A(2)(c) and (d), including provision—

- (a) for notice of intended nominations to be given to such persons as may be prescribed by the rules;
- (b) for a nomination to be withdrawn or substituted before a person is specified under Article 27A(2)(c) or (d).

(5) The court may specify a person under Article 27A(2)(f) only where it appears to the court to be in the interests of justice to do so.

(6) The court may exercise its power of refusal under paragraph (3), or specify a person under Article 27A(2)(f), either—

- (a) on an application made by a party to the proceedings or the complainant, or
- (b) of its own motion.

**Variation of exclusion directions given under Article 27A**

**27C.**—(1) Where a person has been specified under Article 27A(2)(c) or (d) in an exclusion direction, the court may vary the exclusion direction by revoking the specification of that person, and if it does so—

- (a) the person who nominated that person may nominate under Article 27A(2)(c) or (d) (as the case may be) one other person instead,
- (b) Article 27B(3) applies accordingly, and
- (c) where the person nominated by virtue of this paragraph is specified under Article 27A(2)(c) or (d), this paragraph applies in relation to that person.

(2) The court may vary an exclusion direction given under Article 27A so as to—

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- (a) specify under paragraph (2)(f) of that Article a person not already specified in the direction, or
  - (b) revoke any specification of a person made under paragraph (2)(f) of that Article.
- (3) The court may vary an exclusion direction under paragraph (1) or (2) only where it appears to the court to be in the interests of justice to do so, and may do so either—
- (a) on an application made by a party to the proceedings or the complainant, if there has been a material change of circumstances since the relevant time, or
  - (b) of its own motion.
- (4) In paragraph (3) “the relevant time” means—
- (a) the time when the exclusion direction was given, or
  - (b) if a previous application was made for a variation under this Article, the time when the application (or last application) was made.

**Exclusion directions under Article 27A: general**

- 27D.**—(1) The court must state in open court its reasons for—
- (a) specifying a person under Article 27A(2)(f),
  - (b) refusing under Article 27B(3) to specify a person,
  - (c) refusing an application made under Article 27B(6),
  - (d) varying an exclusion direction under Article 27C(1) or (2), or
  - (e) refusing an application made under Article 27C(3).
- (2) Where a statement is made by the court in proceedings from which persons are excluded by an exclusion direction, the fact that it is so made does not prevent the statement from being regarded as made “in open court”.
- (3) Any proceedings from which persons are excluded by an exclusion direction shall nevertheless be taken to be held in public for the purposes of any privilege or exemption from liability available in respect of fair, accurate and contemporaneous reports of legal proceedings held in public.
- (4) An exclusion direction has effect subject to—
- (a) Article 21 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (court to be cleared while child is giving evidence in certain cases);
  - (b) any power of the court to hear proceedings in private;
  - (c) any power of the court to exclude a witness until that witness’s evidence is required;
  - (d) any other power of the court to exclude a person from the court.

- (5) Crown Court rules may make provision—
- (a) for uncontested applications under Article 27B(6) or 27C(3) to be determined by the court without a hearing;
  - (b) for preventing the renewal of an unsuccessful application under either of those provisions except where there has been a material change of circumstances;
  - (c) for expert evidence to be given in connection with such an application;
  - (d) for the manner in which confidential or sensitive information is to be treated in connection with such an application and in particular as to its being disclosed to, or withheld from, a party to the proceedings or the complainant.

#### **Exclusion of public from appeal hearing**

**27E.**—(1) Paragraph (2) applies where a hearing is to be held by the Court of Appeal of any one or more of the following—

- (a) an application for leave to appeal against a conviction or sentence (or both) in respect of a serious sexual offence;
- (b) an appeal against a conviction or sentence (or both) in respect of a serious sexual offence;
- (c) an application for leave to refer a sentence in respect of a serious sexual offence to the Court of Appeal under section 36 of the Criminal Justice Act 1988 (reviews of sentencing);
- (d) a reference under that section of a sentence in respect of a serious sexual offence;
- (e) an application for leave to appeal under section 12 or 13A of the Criminal Appeal (Northern Ireland) Act 1980 (appeals against findings of not guilty on ground of insanity and unfitness to be tried) in respect of a serious sexual offence;
- (f) an appeal under either of those sections in respect of a serious sexual offence.

(2) The court must give an exclusion direction before the beginning of the hearing (but this is subject to paragraph (4)).

(3) Paragraph (2) applies whether or not the hearing relates to other offences as well as a serious sexual offence.

(4) Paragraph (2) does not apply if the time at which the exclusion direction would fall to be given (in the absence of this paragraph) is not within the lifetime of the complainant.



(5) Where an exclusion direction is given under this Article in relation to a hearing, the direction—

- (a) has effect from the beginning of the hearing, and
- (b) subject to paragraph (7), continues to have effect until, in respect of each relevant application or appeal to which the hearing relates, either—
  - (i) a decision has been made on the application or appeal, or
  - (ii) the application or appeal has been abandoned.

(6) In paragraph (5) a “relevant application or appeal” means any application, appeal or reference mentioned in paragraph (1).

(7) The exclusion direction does not have effect during any time when any of the following decisions is being pronounced by the court—

- (a) a decision to grant or refuse leave to appeal;
- (b) a decision on an appeal;
- (c) a decision to grant or refuse leave to make a reference under section 36 of the Criminal Justice Act 1988;
- (d) a decision on such a reference.

(8) In this Article—

“complainant” has the meaning given by Article 27A(7), reading the reference in Article 27A(7) to the trial as a reference to the hearing;

“effect” has the same meaning as in Article 27A (see Article 27A(7));

“exclusion direction” is to be read in accordance with Article 27F(1);

“sentence” has the same meaning as in Part 1 of the Criminal Appeal (Northern Ireland) Act 1980;

“serious sexual offence” has the same meaning as in Article 27A (see Article 27A(7)).

(9) A reference in this Article to a hearing is not to be taken to include any proceedings on an application for leave to appeal, or on an application for leave to refer a sentence, that are of a kind which (ignoring this Article) are not held in open court.

### **Exclusion from appeal hearings: further provision**

**27F.—**(1) Subject to paragraph (5), in Article 27E and this Article “exclusion direction” has the meaning given by Article 27A(2).

(2) The following provisions apply in relation to exclusion directions given under Article 27E as they apply in relation to exclusion directions given under Article 27A—

- (a) Article 27B(1) to (3), (5) and (6);

(b) Article 27C; and

(c) Article 27D(1) to (4).

(3) As well as being subject as mentioned in Article 27D(4), an exclusion direction given under Article 27E has effect subject to section 24 of the Criminal Appeal (Northern Ireland) Act 1980 (right of accused to be present at hearing of appeal and limitations on that right).

(4) Rules made under section 55 of the Judicature (Northern Ireland) Act 1978 may make provision about any matter mentioned in paragraph (4) of Article 27B or paragraph (5) of Article 27D (reading the references in those paragraphs to Article 27A(2)(c) and (d), Article 27B(6) and Article 27C(3) as references to those provisions as applied by this Article).

(5) In their application by virtue of this Article, Article 27A(2) and the provisions mentioned in paragraph (2)(a) to (c) are to be read as if—

(a) in the definition of “the complainant” in Article 27A(7), the reference to the trial were a reference to the hearing, and

(b) in the definition of “persons directly involved in the proceedings” in Article 27A(7), sub-paragraph (e) were omitted.

*Sexual offences: restriction on certain evidence and questions”.*