

SCHEDULES

SCHEDULE 3

Section 80

SEXUAL OFFENCES FOR PURPOSES OF PART 2

England and Wales

- 1 An offence under section 1 of the Sexual Offences Act 1956 (c. 69) (rape).
- 2 An offence under section 5 of that Act (intercourse with girl under 13).
- 3 An offence under section 6 of that Act (intercourse with girl under 16), if the offender was 20 or over.
- 4 An offence under section 10 of that Act (incest by a man), if the victim or (as the case may be) other party was under 18.
- 5 An offence under section 12 of that Act (buggery) if—
 - (a) the offender was 20 or over, and
 - (b) the victim or (as the case may be) other party was under 18.
- 6 An offence under section 13 of that Act (indecentcy between men) if—
 - (a) the offender was 20 or over, and
 - (b) the victim or (as the case may be) other party was under 18.
- 7 An offence under section 14 of that Act (indecent assault on a woman) if—
 - (a) the victim or (as the case may be) other party was under 18, or
 - (b) the offender, in respect of the offence or finding, is or has been—
 - (i) sentenced to imprisonment for a term of at least 30 months; or
 - (ii) admitted to a hospital subject to a restriction order.
- 8 An offence under section 15 of that Act (indecent assault on a man) if—
 - (a) the victim or (as the case may be) other party was under 18, or
 - (b) the offender, in respect of the offence or finding, is or has been—
 - (i) sentenced to imprisonment for a term of at least 30 months; or
 - (ii) admitted to a hospital subject to a restriction order.
- 9 An offence under section 16 of that Act (assault with intent to commit buggery), if the victim or (as the case may be) other party was under 18.
- 10 An offence under section 28 of that Act (causing or encouraging the prostitution of, intercourse with or indecent assault on girl under 16).
- 11 An offence under section 1 of the Indecency with Children Act 1960 (c. 33) (indecent conduct towards young child).
- 12 An offence under section 54 of the Criminal Law Act 1977 (c. 45) (inciting girl under 16 to have incestuous sexual intercourse).

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- 13 An offence under section 1 of the Protection of Children Act 1978 (c. 37) (indecent photographs of children), if the indecent photographs or pseudo-photographs showed persons under 16 and—
 - (a) the conviction, finding or caution was before the commencement of this Part, or
 - (b) the offender—
 - (i) was 18 or over, or
 - (ii) is sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 14 An offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) (penalty for fraudulent evasion of duty etc.) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (c. 36) (indecent or obscene articles), if the prohibited goods included indecent photographs of persons under 16 and—
 - (a) the conviction, finding or caution was before the commencement of this Part, or
 - (b) the offender—
 - (i) was 18 or over, or
 - (ii) is sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 15 An offence under section 160 of the Criminal Justice Act 1988 (c. 33) (possession of indecent photograph of a child), if the indecent photographs or pseudo-photographs showed persons under 16 and—
 - (a) the conviction, finding or caution was before the commencement of this Part, or
 - (b) the offender—
 - (i) was 18 or over, or
 - (ii) is sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 16 An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (c. 44) (abuse of position of trust), if the offender was 20 or over.
- 17 An offence under section 1 or 2 of this Act (rape, assault by penetration).
- 18 An offence under section 3 of this Act (sexual assault) if—
 - (a) where the offender was under 18, he is or has been sentenced, in respect of the offence, to imprisonment for a term of at least 12 months;
 - (b) in any other case—
 - (i) the victim was under 18, or
 - (ii) the offender, in respect of the offence or finding, is or has been—
 - (a) sentenced to a term of imprisonment,
 - (b) detained in a hospital, or
 - (c) made the subject of a community sentence of at least 12 months.
- 19 An offence under any of sections 4 to 6 of this Act (causing sexual activity without consent, rape of a child under 13, assault of a child under 13 by penetration).
- 20 An offence under section 7 of this Act (sexual assault of a child under 13) if the offender—

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- (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 21 An offence under any of sections 8 to 12 of this Act (causing or inciting a child under 13 to engage in sexual activity, child sex offences committed by adults).
- 22 An offence under section 13 of this Act (child sex offences committed by children or young persons), if the offender is or has been sentenced, in respect of the offence, to imprisonment for a term of at least 12 months.
- 23 An offence under section 14 of this Act (arranging or facilitating the commission of a child sex offence) if the offender—
 - (a) was 18 or over, or
 - (b) is or has been sentenced, in respect of the offence, to imprisonment for a term of at least 12 months.
- 24 An offence under section 15 of this Act (meeting a child following sexual grooming etc).
- 25 An offence under any of sections 16 to 19 of this Act (abuse of a position of trust) if the offender, in respect of the offence, is or has been—
 - (a) sentenced to a term of imprisonment,
 - (b) detained in a hospital, or
 - (c) made the subject of a community sentence of at least 12 months.
- 26 An offence under section 25 or 26 of this Act (familial child sex offences) if the offender—
 - (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 27 An offence under any of sections 30 to 37 of this Act (offences against persons with a mental disorder impeding choice, inducements etc. to persons with mental disorder).
- 28 An offence under any of sections 38 to 41 of this Act (care workers for persons with mental disorder) if —
 - (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
 - (b) in any other case, the offender, in respect of the offence or finding, is or has been—
 - (i) sentenced to a term of imprisonment,
 - (ii) detained in a hospital, or
 - (iii) made the subject of a community sentence of at least 12 months.
- 29 An offence under section 47 of this Act (paying for sexual services of a child) if the victim or (as the case may be) other party was under 16, and the offender—
 - (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 30 An offence under section 61 of this Act (administering a substance with intent).
- 31 An offence under section 62 or 63 of this Act (committing an offence or trespassing, with intent to commit a sexual offence) if—

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- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
 - (b) in any other case—
 - (i) the intended offence was an offence against a person under 18, or
 - (ii) the offender, in respect of the offence or finding, is or has been—
 - (a) sentenced to a term of imprisonment,
 - (b) detained in a hospital, or
 - (c) made the subject of a community sentence of at least 12 months.
- 32 An offence under section 64 or 65 of this Act (sex with an adult relative) if —
 - (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
 - (b) in any other case, the offender, in respect of the offence or finding, is or has been—
 - (i) sentenced to a term of imprisonment, or
 - (ii) detained in a hospital.
- 33 An offence under section 66 of this Act (exposure) if—
 - (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
 - (b) in any other case—
 - (i) the victim was under 18, or
 - (ii) the offender, in respect of the offence or finding, is or has been—
 - (a) sentenced to a term of imprisonment,
 - (b) detained in a hospital, or
 - (c) made the subject of a community sentence of at least 12 months.
- 34 An offence under section 67 of this Act (voyeurism) if—
 - (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
 - (b) in any other case—
 - (i) the victim was under 18, or
 - (ii) the offender, in respect of the offence or finding, is or has been—
 - (a) sentenced to a term of imprisonment,
 - (b) detained in a hospital, or
 - (c) made the subject of a community sentence of at least 12 months.
- 35 An offence under section 69 or 70 of this Act (intercourse with an animal, sexual penetration of a corpse) if —
 - (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
 - (b) in any other case, the offender, in respect of the offence or finding, is or has been—
 - (i) sentenced to a term of imprisonment, or
 - (ii) detained in a hospital.

Scotland

- 36 Rape.
- 37 Clandestine injury to women.
- 38 Abduction of woman or girl with intent to rape.
- 39 Assault with intent to rape or ravish.
- 40 Indecent assault.
- 41 Lewd, indecent or libidinous behaviour or practices.
- 42 Shameless indecency, if a person (other than the offender) involved in the offence was under 18.
- 43 Sodomy, unless every person involved in the offence was 16 or over and was a willing participant.
- 44 An offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) (penalty for fraudulent evasion of duty etc.) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (c. 36) (indecent or obscene articles), if the prohibited goods included indecent photographs of persons under 16.
- 45 An offence under section 52 of the Civic Government (Scotland) Act 1982 (c. 45) (taking and distribution of indecent images of children).
- 46 An offence under section 52A of that Act (possession of indecent images of children).
- 47 An offence under section 106 of the Mental Health (Scotland) Act 1984 (c. 36) (protection of mentally handicapped females).
- 48 An offence under section 107 of that Act (protection of patients).
- 49 An offence under section 1 of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) (incest), if a person (other than the offender) involved in the offence was under 18.
- 50 An offence under section 2 of that Act (intercourse with a stepchild), if a person (other than the offender) involved in the offence was under 18.
- 51 An offence under section 3 of that Act (intercourse with child under 16 by person in position of trust).
- 52 An offence under section 5 of that Act (unlawful intercourse with girl under 16), save in the case of an offence in contravention of subsection (3) of that section where the offender was under 20.
- 53 An offence under section 6 of that Act (indecent behaviour towards girl between 12 and 16).
- 54 An offence under section 8 of that Act (abduction of girl under 18 for purposes of unlawful intercourse).
- 55 An offence under section 10 of that Act (person having parental responsibilities causing or encouraging sexual activity in relation to a girl under 16).
- 56 An offence under section 13(5) of that Act (homosexual offences) unless every person involved (whether in the offence or in the homosexual act) was 16 or over and was a willing participant.

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- 57 An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (c. 44) (abuse of position of trust), where the offender was 20 or over.
- 58 An offence under section 311(1) of the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#) (non-consensual sexual acts).
- 59 An offence under section 313(1) of that Act (persons providing care services: sexual offences).
- 60 An offence in Scotland other than is mentioned in paragraphs 36 to 59 if the court, in imposing sentence or otherwise disposing of the case, determines for the purposes of this paragraph that there was a significant sexual aspect to the offender's behaviour in committing the offence.

Northern Ireland

- 61 Rape.
- 62 An offence under section 52 of the Offences against the Person Act 1861 (c. 100) (indecent assault upon a female) if—
- (a) where the offender was under 18, he is or has been sentenced, in respect of the offence, to imprisonment for a term of at least 12 months;
 - (b) in any other case—
 - (i) the victim was under 18, or
 - (ii) the offender, in respect of the offence or finding, is or has been—
 - (a) sentenced to a term of imprisonment,
 - (b) detained in a hospital, or
 - (c) made the subject of a community sentence of at least 12 months.
- 63 An offence under section 53 or 54 of that Act (abduction of woman by force for unlawful sexual intercourse) if the offender—
- (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 64 An offence under section 61 of that Act (buggery) if—
- (a) the offender was 20 or over, and
 - (b) the victim or (as the case may be) other party was under 18.
- 65 An offence under section 62 of that Act of assault with intent to commit buggery if the victim or (as the case may be) other party was under 18, and the offender —
- (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 66 An offence under section 62 of that Act of indecent assault upon a male person if—
- (a) where the offender was under 18, he is or has been sentenced, in respect of the offence, to imprisonment for a term of at least 12 months;
 - (b) in any other case—
 - (i) the victim was under 18, or
 - (ii) the offender, in respect of the offence or finding, is or has been—
 - (a) sentenced to a term of imprisonment,
 - (b) detained in a hospital, or

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- (c) made the subject of a community sentence of at least 12 months.
- 67 An offence under section 2 of the Criminal Law Amendment Act 1885 (c. 69) (procuration) if the offender—
- (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 68 An offence under section 3 of that Act (procuring defilement of woman by threats or fraud, etc.) if the offender—
- (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 69 An offence under section 4 of that Act of unlawful carnal knowledge of a girl under 14 if the offender—
- (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 70 An offence under section 5 of that Act of unlawful carnal knowledge of a girl under 17, if the offender was 20 or over.
- 71 An offence under section 7 of that Act (abduction of girl under 18) if the offender—
- (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 72 An offence under section 11 of that Act (homosexual offences) if—
- (a) the offender was 20 or over, and
 - (b) the victim or (as the case may be) other party was under 18.
- 73 An offence under section 1 of the Punishment of Incest Act 1908 (c. 45) (incest by males), if —
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
 - (b) in any other case—
 - (i) the victim or (as the case may be) other party was under 18, or
 - (ii) the offender, in respect of the offence or finding, is or has been—
 - (a) sentenced to a term of imprisonment, or
 - (b) detained in a hospital.
- 74 An offence under section 2 of that Act (incest by females), if—
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
 - (b) in any other case—
 - (i) the victim or (as the case may be) other party was under 18, or
 - (ii) the offender, in respect of the offence or finding, is or has been—
 - (a) sentenced to a term of imprisonment, or
 - (b) detained in a hospital.

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- 75 An offence under section 21 of the Children and Young Persons Act (Northern Ireland) 1968 (c. 34) (causing or encouraging seduction or prostitution of a girl under 17) if the offender—
- (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 76 An offence under section 22 of that Act (indecent conduct towards a child) if the offender—
- (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 77 An offence under Article 3 of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) (indecent photographs of children) if the offender—
- (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 78 An offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) (penalty for fraudulent evasion of duty etc.) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (c. 36) (indecent or obscene articles), if the prohibited goods included indecent photographs of persons under 16, and the offender—
- (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 79 An offence under Article 9 of the Criminal Justice (Northern Ireland) Order 1980 (S.I. 1980/704 (N.I. 6)) (inciting girl under 16 to have incestuous sexual intercourse) if the offender—
- (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 80 An offence under Article 122 of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)) (offences against women suffering from severe mental handicap).
- 81 An offence under Article 123 of that Order (offences against patients) if—
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
 - (b) in any other case, the offender, in respect of the offence or finding, is or has been—
 - (i) sentenced to a term of imprisonment,
 - (ii) detained in a hospital, or
 - (iii) made the subject of a community sentence of at least 12 months.
- 82 An offence under Article 15 of the Criminal Justice (Evidence, etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17)) (possession of indecent photographs of children) if the offender—
- (a) was 18 or over, or

- (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 83 An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (c. 44) (abuse of position of trust), if the offender, in respect of the offence or finding, is or has been—
 - (a) sentenced to a term of imprisonment,
 - (b) detained in a hospital, or
 - (c) made the subject of a community sentence of at least 12 months.
- 84 An offence under Article 19 of the Criminal Justice (Northern Ireland) Order 2003 (S.I. 2003/1247 (N.I. 13)) (buggery) if—
 - (a) the offender was 20 or over, and
 - (b) the victim or (as the case may be) other party was under 17.
- 85 An offence under Article 20 of that Order (assault with intent to commit buggery) if the victim was under 18 and the offender—
 - (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 86 An offence under Article 21 of that Order (indecent assault upon a male) if—
 - (a) where the offender was under 18, he is or has been sentenced, in respect of the offence, to imprisonment for a term of at least 12 months;
 - (b) in any other case—
 - (i) the victim was under 18, or
 - (ii) the offender, in respect of the offence or finding, is or has been—
 - (a) sentenced to a term of imprisonment,
 - (b) detained in a hospital, or
 - (c) made the subject of a community sentence of at least 12 months.
- 87 An offence under section 15 of this Act (meeting a child following sexual grooming etc.).
- 88 An offence under any of sections 16 to 19 of this Act (abuse of trust) if the offender, in respect of the offence or finding, is or has been—
 - (a) sentenced to a term of imprisonment,
 - (b) detained in a hospital, or
 - (c) made the subject of a community sentence of at least 12 months.
- 89 An offence under section 47 of this Act (paying for sexual services of a child) if the victim or (as the case may be) other party was under 17 and the offender—
 - (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to a term of imprisonment of at least 12 months.
- 90 An offence under section 66 of this Act (exposure) if—
 - (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
 - (b) in any other case—
 - (i) the victim was under 18, or
 - (ii) the offender, in respect of the offence or finding, is or has been—

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- (a) sentenced to a term of imprisonment,
- (b) detained in a hospital, or
- (c) made the subject of a community sentence of at least 12 months.

- 91 An offence under section 67 of this Act (voyeurism) if—
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
 - (b) in any other case—
 - (i) the victim was under 18, or
 - (ii) the offender, in respect of the offence or finding, is or has been—
 - (a) sentenced to a term of imprisonment,
 - (b) detained in a hospital, or
 - (c) made the subject of a community sentence of at least 12 months.
- 92 An offence under section 69 or 70 of this Act (intercourse with an animal, sexual penetration of a corpse) if —
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
 - (b) in any other case, the offender, in respect of the offence or finding, is or has been—
 - (i) sentenced to a term of imprisonment, or
 - (ii) detained in a hospital.

Service offences

- 93 (1) An offence under—
- (a) section 70 of the Army Act 1955 (3 & 4 Eliz. 2 c. 18),
 - (b) section 70 of the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19), or
 - (c) section 42 of the Naval Discipline Act 1957 (c. 53),
- of which the corresponding civil offence (within the meaning of that Act) is an offence listed in any of paragraphs 1 to 35.
- (2) A reference in any of those paragraphs to being made the subject of a community sentence of at least 12 months is to be read, in relation to an offence under an enactment referred to in sub-paragraph (1), as a reference to being sentenced to a term of service detention of at least 112 days.

General

- 94 A reference in a preceding paragraph to an offence includes—
- (a) a reference to an attempt, conspiracy or incitement to commit that offence, and
 - (b) except in paragraphs 36 to 43, a reference to aiding, abetting, counselling or procuring the commission of that offence.
- 95 A reference in a preceding paragraph to a person's age is—
- (a) in the case of an indecent photograph, a reference to the person's age when the photograph was taken;
 - (b) in any other case, a reference to his age at the time of the offence.

- 96 In this Schedule “community sentence” has—
- (a) in relation to England and Wales, the same meaning as in the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), and
 - (b) in relation to Northern Ireland, the same meaning as in the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)).
- 97 For the purposes of paragraphs 14, 44 and 78—
- (a) a person is to be taken to have been under 16 at any time if it appears from the evidence as a whole that he was under that age at that time;
 - (b) section 7 of the Protection of Children Act 1978 (c. 37) (interpretation), subsections (2) to (2C) and (8) of section 52 of the Civic Government (Scotland) Act 1982 (c. 45), and Article 2(2) and (3) of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) (interpretation) (respectively) apply as each provision applies for the purposes of the Act or Order of which it forms part.
- 98 A determination under paragraph 60 constitutes part of a person’s sentence, within the meaning of the Criminal Procedure (Scotland) Act 1995 (c. 46), for the purposes of any appeal or review.