Domestic Abuse Act 2021

2021 CHAPTER 17

PART 6

OFFENCES INVOLVING ABUSIVE OR VIOLENT BEHAVIOUR

Controlling or coercive behaviour

68 Controlling or coercive behaviour in an intimate or family relationship

(1) Section 76 of the Serious Crime Act 2015 (offence of controlling or coercive behaviour in an intimate or family relationship) is amended as follows.

(2) In subsection (1)(b), after "personally connected" insert " (see subsection (6)) ".

(3) Omit subsection (2).

(4) For subsection (6) substitute—

"(6) A and B are "personally connected" if any of the following applies—

(a) they are, or have been, married to each other;

(b) they are, or have been, civil partners of each other;

(c) they have agreed to marry one another (whether or not the agreement has been terminated);

(d) they have entered into a civil partnership agreement (whether or not the agreement has been terminated);

(e) they are, or have been, in an intimate personal relationship with each other;

(f) they each have, or there has been a time when they each have had, a parental relationship in relation to the same child (see subsection (6A));

(g) they are relatives.

(6A) For the purposes of subsection (6)(f) a person has a parental relationship in relation to a child if—

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(a) the person is a parent of the child, or
(b) the person has parental responsibility for the child."

(5) In subsection (7), for "subsection (6)" substitute " subsections (6) and (6A) ".

Commencement Information

I1 S. 68 in force at 5.4.2023 by S.I. 2023/406, **reg. 2(a)** (with reg. 3)

F1 …

Textual Amendments

F1 S. 69 and cross-heading omitted (31.1.2024) by virtue of Online Safety Act 2023 (c. 50), s. 240(1), **Sch. 14 para. 23(2)**; S.I. 2024/31, reg. 2

F1 69 Threats to disclose private sexual photographs and films with intent to cause distress

. . . . . .

Offences against the person

70 Strangulation or suffocation

(1) In Part 5 of the Serious Crime Act 2015 (protection of children and others), after section 75 insert—

"Strangulation or suffocation

75A Strangulation or suffocation

(1) A person ("A") commits an offence if—
(a) A intentionally strangles another person ("B"), or
(b) A does any other act to B that—
(i) affects B's ability to breathe, and
(ii) constitutes battery of B.

(2) It is a defence to an offence under this section for A to show that B consented to the strangulation or other act.

(3) But subsection (2) does not apply if—
(a) B suffers serious harm as a result of the strangulation or other act, and
(b) A either—
(i) intended to cause B serious harm, or
(ii) was reckless as to whether B would suffer serious harm.

(4) A is to be taken to have shown the fact mentioned in subsection (2) if—

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(a) sufficient evidence of the fact is adduced to raise an issue with respect to it, and

(b) the contrary is not proved beyond reasonable doubt.

(5) A person guilty of an offence under this section is liable—

(a) on summary conviction—

(i) to imprisonment for a term not exceeding 12 months (or 6 months, if the offence was committed before the coming into force of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020), or

(ii) to a fine,

or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or both.

(6) In this section "serious harm" means—

(a) grievous bodily harm, within the meaning of section 18 of the Offences Against the Person Act 1861,

(b) wounding, within the meaning of that section, or

(c) actual bodily harm, within the meaning of section 47 of that Act.

75B Offences under section 75A committed outside the United Kingdom

(1) If—

(a) a person does an act in a country outside the United Kingdom,

(b) the act, if done in England and Wales, would constitute an offence under section 75A, and

(c) the person is a United Kingdom national or is habitually resident in England and Wales,

the person is guilty in England and Wales of that offence.

(2) In this section—

"country" includes territory;

"United Kingdom national" means an individual who is—

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,

(b) a person who under the British Nationality Act 1981 is a British subject, or

(c) a British protected person within the meaning of that Act."

(2) Schedule 2 contains consequential amendments.

Commencement Information

I2 S. 70 in force at 7.6.2022 by S.I. 2022/553, regs. 1(2), **3(a)**

71 Consent to serious harm for sexual gratification not a defence

(1) This section applies for the purposes of determining whether a person ("D") who inflicts serious harm on another person ("V") is guilty of a relevant offence.

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(2) It is not a defence that V consented to the infliction of the serious harm for the purposes of obtaining sexual gratification (but see subsection (4)).

(3) In this section—

"relevant offence" means an offence under section 18, 20 or 47 of the Offences Against the Person Act 1861 ("the 1861 Act");

"serious harm" means—

(a) grievous bodily harm, within the meaning of section 18 of the 1861 Act,

(b) wounding, within the meaning of that section, or

(c) actual bodily harm, within the meaning of section 47 of the 1861 Act.

(4) Subsection (2) does not apply in the case of an offence under section 20 or 47 of the 1861 Act where—

(a) the serious harm consists of, or is a result of, the infection of V with a sexually transmitted infection in the course of sexual activity, and

(b) V consented to the sexual activity in the knowledge or belief that D had the sexually transmitted infection.

(5) For the purposes of this section it does not matter whether the harm was inflicted for the purposes of obtaining sexual gratification for D, V or some other person.

(6) Nothing in this section affects any enactment or rule of law relating to other circumstances in which a person's consent to the infliction of serious harm may, or may not, be a defence to a relevant offence.

Offences committed outside the UK

72 Offences against the person committed outside the UK: England and Wales

(1) If—

(a) a person who is a United Kingdom national or is habitually resident in England and Wales does an act in a country outside the United Kingdom,

(b) the act constitutes an offence under the law in force in that country, and

(c) the act, if done in England and Wales, would constitute an offence to which this subsection applies,

the person is guilty in England and Wales of that offence.

(2) The offences to which subsection (1) applies are—

(a) murder;

(b) manslaughter;

(c) an offence under section 18, 20 or 47 of the Offences Against the Person Act 1861 (offences relating to bodily harm or injury);

(d) an offence under section 23 or 24 of that Act (administering poison);

(e) an offence under section 1 of the Infant Life (Preservation) Act 1929 (child destruction).

(3) Subsection (1) does not apply where a person would, in the absence of that subsection, be guilty of an offence of murder or manslaughter under the law of England and Wales.

(4) An act punishable under the law in force in any country constitutes an offence under that law for the purposes of subsection (1)(b) however it is described in that law.

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(5) The condition in subsection (1)(b) is to be taken to be met unless, not later than rules of court may provide, the defendant serves on the prosecution a notice—
  (a) stating that, on the facts as alleged with respect to the act in question, the condition is not in the defendant's opinion met,
  (b) showing the grounds for that opinion, and
  (c) requiring the prosecution to prove that it is met.

(6) But the court, if it thinks fit, may permit the defendant to require the prosecution to prove that the condition is met without service of a notice under subsection (5).

(7) In the Crown Court the question whether the condition is met is to be decided by the judge alone.

(8) In this section—

"act" includes a failure to act;

"country" includes territory;

"United Kingdom national" means an individual who is—
  (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
  (b) a person who under the British Nationality Act 1981 is a British subject, or
  (c) a British protected person within the meaning of that Act.

73 Offences against the person committed outside the UK: Northern Ireland

(1) If—
  (a) a person who is a United Kingdom national or is habitually resident in Northern Ireland does an act in a country outside the United Kingdom,
  (b) the act constitutes an offence under the law in force in that country, and
  (c) the act, if done in Northern Ireland, would constitute an offence to which this subsection applies,

the person is guilty in Northern Ireland of that offence.

(2) The offences to which subsection (1) applies are—
  (a) murder;
  (b) manslaughter;
  (c) an offence under section 18, 20 or 47 of the Offences Against the Person Act 1861 (offences relating to bodily harm or injury);
  (d) an offence under section 23 or 24 of that Act (administering poison);
  (e) an offence under section 25 of the Criminal Justice Act (Northern Ireland) 1945 (child destruction).

(3) Subsection (1) does not apply where a person would, in the absence of that subsection, be guilty of an offence of murder or manslaughter under the law of Northern Ireland.

(4) An act punishable under the law in force in any country constitutes an offence under that law for the purposes of subsection (1)(b) however it is described in that law.

(5) The condition in subsection (1)(b) is to be taken to be met unless, not later than rules of court may provide, the defendant serves on the prosecution a notice—

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(a) stating that, on the facts as alleged with respect to the act in question, the condition is not in the defendant's opinion met,
(b) showing the grounds for that opinion, and
(c) requiring the prosecution to prove that it is met.

(6) But the court, if it thinks fit, may permit the defendant to require the prosecution to prove that the condition is met without service of a notice under subsection (5).

(7) In the Crown Court the question whether the condition is met is to be decided by the judge alone.

(8) In this section—

"act" includes a failure to act;

"country" includes territory;

"rules of court" means—

(a) in relation to proceedings in a magistrates' court, magistrates' court rules;
(b) in relation to proceedings in the Crown Court, Crown Court rules;

"United Kingdom national" means an individual who is—

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
(b) a person who under the British Nationality Act 1981 is a British subject, or
(c) a British protected person within the meaning of that Act.

(9) The Interpretation Act (Northern Ireland) 1954 applies for the purposes of this section as it applies to an Act of the Northern Ireland Assembly.

Commencement Information

I3 S. 73 in force at 21.2.2022 by S.R. 2022/52, **art. 2(a)**

74 Amendments relating to offences committed outside the UK

(1) Part 1 of Schedule 3 contains amendments to provide for extra-territorial jurisdiction over certain other offences under the law of England and Wales.

(2) Part 2 of Schedule 3 contains amendments to provide for extra-territorial jurisdiction over certain offences under the law of Scotland.

(3) Part 3 of Schedule 3 contains amendments to provide for extra-territorial jurisdiction over certain other offences under the law of Northern Ireland.

Commencement Information

I4 S. 74(1) in force at 29.6.2021, see s. 90

I5 S. 74(3) in force at 21.2.2022 by S.R. 2022/52, **art. 2(b)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 49A49B and cross-heading inserted by 2024 c. 21 s. 20(2)
- s. 56(4)(c) inserted by 2024 c. 21 s. 20(4)
- s. 87(6)(aa) inserted by 2024 c. 21 s. 20(5)