



Health and Care Act 2022

2022 CHAPTER 31

PART 5

VIRGINITY TESTING AND HYMENOPLASTY OFFENCES

CHAPTER 1

VIRGINITY TESTING OFFENCES

Virginity testing offences: England and Wales

136 Offence of virginity testing: England and Wales

- (1) It is an offence under the law of England and Wales for a person to carry out virginity testing.
- (2) “Virginity testing” means the examination of female genitalia, with or without consent, for the purpose (or purported purpose) of determining virginity.
- (3) An offence is committed under subsection (1) only if the person—
 - (a) is in England and Wales, or
 - (b) is outside the United Kingdom, and is a United Kingdom national or habitually resident in England and Wales.
- (4) “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.
- (5) In subsection (2), “female genitalia” means a vagina or vulva.

Status: This is the original version (as it was originally enacted).

137 Offence of offering to carry out virginity testing: England and Wales

- (1) It is an offence under the law of England and Wales—
 - (a) for a person in England and Wales to offer to carry out virginity testing in the United Kingdom or virginity testing that has a sufficient jurisdictional connection, or
 - (b) for a person anywhere to offer to carry out virginity testing if the person is a United Kingdom national or habitually resident in England and Wales.
- (2) Virginity testing has a sufficient jurisdictional connection for the purposes of subsection (1)(a) if it is carried out in relation to a person who is—
 - (a) a United Kingdom national, or
 - (b) habitually resident in the United Kingdom.
- (3) In this section—

“United Kingdom national” has the meaning given by section 136(4);

“virginity testing” has the meaning given by section 136(2).

138 Offence of aiding or abetting etc a person to carry out virginity testing: England and Wales

- (1) It is an offence under the law of England and Wales for a person who is in England and Wales, or for a person who is outside England and Wales but who is a United Kingdom national or habitually resident in England and Wales, to aid, abet, counsel or procure the carrying out of virginity testing that has a sufficient jurisdictional connection.
- (2) Virginity testing has a sufficient jurisdictional connection for the purposes of subsection (1) if it is carried out in relation to a person who is—
 - (a) in the United Kingdom,
 - (b) a United Kingdom national, or
 - (c) habitually resident in the United Kingdom.
- (3) This section does not affect the application to an offence under section 136 of any rule of law relating to aiding, abetting, counselling or procuring.
- (4) In this section—

“United Kingdom national” has the meaning given by section 136(4);

“virginity testing” has the meaning given by section 136(2).

139 Virginity testing offences in England and Wales: penalties

- (1) A person who commits an offence under section 136, 137 or 138 is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).
- (2) In subsection (1)(a) “the maximum summary term for either-way offences” means—
 - (a) in relation to an offence committed before the time when paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months;
 - (b) in relation to an offence committed after that time, 12 months.

Virginity testing offences: Scotland

140 Offence of virginity testing: Scotland

- (1) It is an offence under the law of Scotland for a person to carry out virginity testing.
- (2) “Virginity testing” means the examination of female genitalia, with or without consent, for the purpose (or purported purpose) of determining virginity.
- (3) An offence is committed under subsection (1) only if the person—
 - (a) is in Scotland, or
 - (b) is outside the United Kingdom, and is a United Kingdom national or habitually resident in Scotland.
- (4) “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.
- (5) In subsection (2), “female genitalia” means a vagina or vulva.

141 Offence of offering to carry out virginity testing: Scotland

- (1) It is an offence under the law of Scotland—
 - (a) for a person in Scotland to offer to carry out virginity testing in the United Kingdom or virginity testing that has a sufficient jurisdictional connection, or
 - (b) for a person anywhere to offer to carry out virginity testing if the person is a United Kingdom national or habitually resident in Scotland.
- (2) Virginity testing has a sufficient jurisdictional connection for the purposes of subsection (1)(a) if it is carried out in relation to a person who is—
 - (a) a United Kingdom national, or
 - (b) habitually resident in the United Kingdom.
- (3) In this section—

“United Kingdom national” has the meaning given by section 140(4);
“virginity testing” has the meaning given by section 140(2).

142 Offence of aiding or abetting etc a person to carry out virginity testing: Scotland

- (1) It is an offence under the law of Scotland for a person who is in Scotland, or for a person who is outside Scotland but who is a United Kingdom national or habitually resident in Scotland, to aid, abet, counsel, procure or incite the carrying out of virginity testing that has a sufficient jurisdictional connection.
- (2) Virginity testing has a sufficient jurisdictional connection for the purposes of subsection (1) if it is carried out in relation to a person who is—
 - (a) in the United Kingdom,
 - (b) a United Kingdom national, or
 - (c) habitually resident in the United Kingdom.

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

- (3) This section does not affect the application to an offence under section 140 of any rule of law relating to aiding, abetting, counselling, procuring or inciting.
- (4) In this section—
 - “United Kingdom national” has the meaning given by section 140(4);
 - “virginity testing” has the meaning given by section 140(2).

143 Virginity testing offences in Scotland: penalties and supplementary

- (1) A person who commits an offence under section 140, 141 or 142 is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).
- (2) Where a person outside Scotland commits an offence under section 140, 142 or 143 the person may be prosecuted, tried and punished for the offence—
 - (a) in a sheriff court district in which the person is apprehended or in custody, or
 - (b) in a sheriff court district determined by the Lord Advocate,
 as if the offence had been committed in that district.
- (3) Where subsection (2) applies, the offence is, for all purposes incidental to or consequential on the trial and punishment, deemed to have been committed in that district.
- (4) In this section “sheriff court district” is to be construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995 (interpretation).

Virginity testing offences: Northern Ireland

144 Offence of virginity testing: Northern Ireland

- (1) It is an offence under the law of Northern Ireland for a person to carry out virginity testing.
- (2) “Virginity testing” means the examination of female genitalia, with or without consent, for the purpose (or purported purpose) of determining virginity.
- (3) An offence is committed under subsection (1) only if the person—
 - (a) is in Northern Ireland, or
 - (b) is outside the United Kingdom, and is a United Kingdom national or habitually resident in Northern Ireland.
- (4) “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.
- (5) In subsection (2), “female genitalia” means a vagina or vulva.

145 Offence of offering to carry out virginitv testing: Northern Ireland

- (1) It is an offence under the law of Northern Ireland—
 - (a) for a person in Northern Ireland to offer to carry out virginitv testing in the United Kingdom or virginitv testing that has a sufficient jurisdictional connection, or
 - (b) for a person anywhere to offer to carry out virginitv testing if the person is a United Kingdom national or habitually resident in Northern Ireland.
- (2) Virginitv testing has a sufficient jurisdictional connection for the purposes of subsection (1)(a) if it is carried out in relation to a person who is—
 - (a) a United Kingdom national, or
 - (b) habitually resident in the United Kingdom.
- (3) In this section—

“United Kingdom national” has the meaning given by section 144(4);
“virginitv testing” has the meaning given by section 144(2).

146 Offence of aiding or abetting etc a person to carry out virginitv testing: Northern Ireland

- (1) It is an offence under the law of Northern Ireland for a person who is in Northern Ireland, or for a person who is outside Northern Ireland but who is a United Kingdom national or habitually resident in Northern Ireland, to aid, abet, counsel or procure the carrying out of virginitv testing that has a sufficient jurisdictional connection.
- (2) Virginitv testing has a sufficient jurisdictional connection for the purposes of subsection (1) if it is carried out in relation to a person who is—
 - (a) in the United Kingdom,
 - (b) a United Kingdom national, or
 - (c) habitually resident in the United Kingdom.
- (3) This section does not affect the application to an offence under section 144 of any rule of law relating to aiding, abetting, counselling or procuring.
- (4) In this section—

“United Kingdom national” has the meaning given by section 144(4);
“virginitv testing” has the meaning given by section 144(2).

147 Virginitv testing offences in Northern Ireland: penalties

- A person who commits an offence under section 144, 145 or 146 is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).

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

CHAPTER 2

HYMENOPLASTY OFFENCES

Hymenoplasty offences: England and Wales

148 Offence of carrying out hymenoplasty: England and Wales

- (1) It is an offence under the law of England and Wales for a person to carry out hymenoplasty.
- (2) “Hymenoplasty” means the reconstruction of the hymen (with or without consent).
- (3) An offence is committed under subsection (1) only if the person—
 - (a) is in England and Wales, or
 - (b) is outside the United Kingdom, and is a United Kingdom national or habitually resident in England and Wales.
- (4) “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.

149 Offence of offering to carry out hymenoplasty: England and Wales

- (1) It is an offence under the law of England and Wales—
 - (a) for a person in England and Wales to offer to carry out hymenoplasty in the United Kingdom or hymenoplasty that has a sufficient jurisdictional connection, or
 - (b) for a person anywhere to offer to carry out hymenoplasty if the person is a United Kingdom national or habitually resident in England and Wales.
- (2) Hymenoplasty has a sufficient jurisdictional connection for the purposes of subsection (1)(a) if it is carried out in relation to a person who is—
 - (a) a United Kingdom national, or
 - (b) habitually resident in the United Kingdom.
- (3) In this section—

“United Kingdom national” has the meaning given by section 148(4);

“hymenoplasty” has the meaning given by section 148(2).

150 Offence of aiding or abetting etc a person to carry out hymenoplasty: England and Wales

- (1) It is an offence under the law of England and Wales for a person who is in England and Wales, or for a person who is outside England and Wales but who is a United Kingdom national or habitually resident in England and Wales, to aid, abet, counsel or procure the carrying out of hymenoplasty that has a sufficient jurisdictional connection.
- (2) Hymenoplasty has a sufficient jurisdictional connection for the purposes of subsection (1) if it is carried out in relation to a person who is—

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

- (a) in the United Kingdom,
 - (b) a United Kingdom national, or
 - (c) habitually resident in the United Kingdom.
- (3) This section does not affect the application to an offence under section 148 of any rule of law relating to aiding, abetting, counselling or procuring.
- (4) In this section—
 - “United Kingdom national” has the meaning given by section 148(4);
 - “hymenoplasty” has the meaning given by section 148(2).

151 Hymenoplasty offences in England and Wales: penalties

- (1) A person who commits an offence under section 148, 149 or 150 is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).
- (2) In subsection (1)(a) “the maximum summary term for either-way offences” means—
 - (a) in relation to an offence committed before the time when paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months;
 - (b) in relation to an offence committed after that time, 12 months.

Hymenoplasty offences: Scotland

152 Offence of carrying out hymenoplasty: Scotland

- (1) It is an offence under the law of Scotland for a person to carry out hymenoplasty.
- (2) “Hymenoplasty” means the reconstruction of the hymen (with or without consent).
- (3) An offence is committed under subsection (1) only if the person—
 - (a) is in Scotland, or
 - (b) is outside the United Kingdom, and is a United Kingdom national or habitually resident in Scotland.
- (4) “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.

153 Offence of offering to carry out hymenoplasty: Scotland

- (1) It is an offence under the law of Scotland—
 - (a) for a person in Scotland to offer to carry out hymenoplasty in the United Kingdom or hymenoplasty that has a sufficient jurisdictional connection, or
 - (b) for a person anywhere to offer to carry out hymenoplasty if the person is a United Kingdom national or habitually resident in Scotland.

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

- (2) Hymenoplasty has a sufficient jurisdictional connection for the purposes of subsection (1)(a) if it is carried out in relation to a person who is—
 - (a) a United Kingdom national, or
 - (b) habitually resident in the United Kingdom.
- (3) In this section—
 - “United Kingdom national” has the meaning given by section 152(4);
 - “hymenoplasty” has the meaning given by section 152(2).

154 Offence of aiding or abetting etc a person to carry out hymenoplasty: Scotland

- (1) It is an offence under the law of Scotland for a person who is in Scotland, or for a person who is outside Scotland but who is a United Kingdom national or habitually resident in Scotland, to aid, abet, counsel, procure or incite the carrying out of hymenoplasty that has a sufficient jurisdictional connection.
- (2) Hymenoplasty has a sufficient jurisdictional connection for the purposes of subsection (1) if it is carried out in relation to a person who is—
 - (a) in the United Kingdom,
 - (b) a United Kingdom national, or
 - (c) habitually resident in the United Kingdom.
- (3) This section does not affect the application to an offence under section 152 of any rule of law relating to aiding, abetting, counselling, procuring or inciting.
- (4) In this section—
 - “United Kingdom national” has the meaning given by section 152(4);
 - “hymenoplasty” has the meaning given by section 152(2).

155 Hymenoplasty offences in Scotland: penalties and supplementary

- (1) A person who commits an offence under section 152, 153 or 154 is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).
- (2) Where a person outside Scotland commits an offence under section 152, 153 or 154 the person may be prosecuted, tried and punished for the offence—
 - (a) in a sheriff court district in which the person is apprehended or in custody, or
 - (b) in a sheriff court district determined by the Lord Advocate,
 as if the offence had been committed in that district.
- (3) Where subsection (2) applies, the offence is, for all purposes incidental to or consequential on the trial and punishment, deemed to have been committed in that district.
- (4) In this section “sheriff court district” is to be construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995 (interpretation).

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

Hymenoplasty offences: Northern Ireland

156 Offence of carrying out hymenoplasty: Northern Ireland

- (1) It is an offence under the law of Northern Ireland for a person to carry out hymenoplasty.
- (2) “Hymenoplasty” means the reconstruction of the hymen (with or without consent).
- (3) An offence is committed under subsection (1) only if the person—
 - (a) is in Northern Ireland, or
 - (b) is outside the United Kingdom, and is a United Kingdom national or habitually resident in Northern Ireland.
- (4) “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.

157 Offence of offering to carry out hymenoplasty: Northern Ireland

- (1) It is an offence under the law of Northern Ireland—
 - (a) for a person in Northern Ireland to offer to carry out hymenoplasty in the United Kingdom or hymenoplasty that has a sufficient jurisdictional connection, or
 - (b) for a person anywhere to offer to carry out hymenoplasty if the person is a United Kingdom national or habitually resident in Northern Ireland.
- (2) Hymenoplasty has a sufficient jurisdictional connection for the purposes of subsection (1)(a) if it is carried out in relation to a person who is—
 - (a) a United Kingdom national, or
 - (b) habitually resident in the United Kingdom.
- (3) In this section—

“United Kingdom national” has the meaning given by section 156(4);

“hymenoplasty” has the meaning given by section 156(2).

158 Offence of aiding or abetting etc a person to carry out hymenoplasty: Northern Ireland

- (1) It is an offence under the law of Northern Ireland for a person who is in Northern Ireland, or for a person who is outside Northern Ireland but who is a United Kingdom national or habitually resident in Northern Ireland, to aid, abet, counsel or procure the carrying out of hymenoplasty that has a sufficient jurisdictional connection.
- (2) Hymenoplasty has a sufficient jurisdictional connection for the purposes of subsection (1) if it is carried out in relation to a person who is—
 - (a) in the United Kingdom,
 - (b) a United Kingdom national, or
 - (c) habitually resident in the United Kingdom.

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

(3) This section does not affect the application to an offence under section 156 of any rule of law relating to aiding, abetting, counselling or procuring.

(4) In this section—

“United Kingdom national” has the meaning given by section 156(4);

“hymenoplasty” has the meaning given by section 156(2).

159 Hymenoplasty offences in Northern Ireland: penalties

A person who commits an offence under section 156, 157 or 158 is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).

CHAPTER 3

CONSEQUENTIAL AMENDMENTS

160 Consequential amendments relating to Part 5

Schedule 16 contains consequential amendments.