

## SCHEDULE 2

Regulation 7(9) and (10)

Offences specified for the purposes of regulation 7(9) and (10)

### PART 1

#### Offences in England and Wales

**1.** Any of the following offences against an adult—

- (a) an offence of rape under section 1 of the Sexual Offences Act 2003 <sup>F1</sup>,
- (b) an offence of assault by penetration under section 2 of that Act,
- (c) an offence of causing a person to engage in sexual activity without consent under section 4 of that Act, if the activity fell within subsection (4) of that section,
- (d) an offence of sexual activity with a person with a mental disorder impeding choice under section 30 of that Act, if the touching fell within subsection (3) of that section,
- (e) an offence of causing or inciting a person with a mental disorder impeding choice to engage in sexual activity under section 31 of that Act, if the activity caused or incited fell within subsection (3) of that section,
- (f) an offence of inducement, threat or deception to procure sexual activity with a person with a mental disorder under section 34 of that Act, if the touching involved fell within subsection (2) of that section, and
- (g) an offence of causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception under section 35 of that Act, if the activity fell within subsection (2) of that section.

**F1** 2003 c. 42.

**[<sup>F2</sup>1A.** Any of the following offences—

- (a) an offence of virginity testing under section 136 of the Health and Care Act 2022,
- (b) an offence of offering to carry out virginity testing under section 137 of that Act,
- (c) an offence of aiding or abetting etc a person to carry out virginity testing under section 138 of that Act,
- (d) an offence of carrying out hymenoplasty under section 148 of that Act,
- (e) an offence of offering to carry out hymenoplasty under section 149 of that Act, and
- (f) an offence of aiding or abetting etc a person to carry out hymenoplasty under section 150 of that Act.]

**F2** Sch. 2 para. 1A inserted (1.7.2022) by *The Health and Care Act 2022 (Consequential and Related Amendments and Transitional Provisions) Regulations 2022* (S.I. 2022/634), regs. 1(2), **134(2)(a)**

#### Offences in Scotland

**2.** An offence under section 1 (rape) and 18 (rape of a young child) of the Sexual Offences (Scotland) Act 2009 <sup>F3</sup>.

**Changes to legislation:** There are currently no known outstanding effects for the *The Fostering Panels (Establishment and Functions) (Wales) Regulations 2018, SCHEDULE 2*. (See end of Document for details)

**F3** 2009 asp 9.

3. An offence specified in Schedule 1 to the Criminal Procedure (Scotland) Act 1995 <sup>F4</sup>, except in a case where the offender was under the age of 20 at the time the offence was committed.

**F4** 1995 c. 46. Schedule 1 was amended by paragraph 2(8)(a) and (b) of Schedule 5 to the Sexual Offences (Scotland) Act 2009, sections 7(1) and 8(2) of the [Prohibition of Female Genital Mutilation \(Scotland\) Act 2005 \(asp 8\)](#), **paragraph 2** of Schedule 1 to the [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#) and by section 41(2) of the [Criminal Justice Licensing \(Scotland\) Act 2010 \(asp 13\)](#).

4. An offence of plagium (theft of a child below the age of puberty).

5. An offence under section 52 or 52A of the Civic Government (Scotland) Act 1982 <sup>F5</sup> (indecent photographs of children).

**F5** 1982 c. 45. Section 52 was amended by section 84(6) of, and paragraph 17 of Schedule 9 to, the [Criminal Justice and Public Order Act 1994 \(c. 33\)](#) (“the 1994 Act”), paragraph 44(3) of Schedule 4 to the [Criminal Procedure \(Consequential Provisions\) \(Scotland\) Act 1995 \(c. 40\)](#) and paragraph 89 of Schedule 15 to the [Criminal Justice Act 1988 \(c. 33\)](#) (“the 1988 Act”). Section 52A was inserted by section 161 of the 1988 Act and was amended by section 84(7) of the 1994 Act.

6. An offence under section 3 of the Sexual Offences (Amendment) Act 2000 <sup>F6</sup> (abuse of trust).

**F6** 2000 c. 44. Section 3 was amended by paragraph 62 of Schedule 28 to the [Civil Partnership Act 2004 \(c. 33\)](#) and repealed by Schedule 6 of the Sexual Offences (Scotland) Act 2009 (not yet in force).

[<sup>F7</sup>6A. Any of the following offences—

- (a) an offence of virginity testing under section 140 of the Health and Care Act 2022,
- (b) an offence of offering to carry out virginity testing under section 141 of that Act,
- (c) an offence of aiding or abetting etc a person to carry out virginity testing under section 142 of that Act,
- (d) an offence of carrying out hymenoplasty under section 152 of that Act,
- (e) an offence of offering to carry out hymenoplasty under section 153 of that Act, and
- (f) an offence of aiding or abetting etc a person to carry out hymenoplasty under section 154 of that Act.]

**F7** Sch. 2 para. 6A inserted (1.7.2022) by [The Health and Care Act 2022 \(Consequential and Related Amendments and Transitional Provisions\) Regulations 2022 \(S.I. 2022/634\)](#), regs. 1(2), **134(2)(b)**

## Offences in Northern Ireland

7. An offence under Article 5 (rape) and Article 12 (rape of a child under 13) of the Sexual Offences (Northern Ireland) Order 2008 <sup>F8</sup>.

**F8** S.I. 2008/1769 (N.I. 2) (“the 2008 Order”).

8. An offence specified in Schedule 1 to the Children and Young Persons Act (Northern Ireland) 1968<sup>F9</sup>, except in the case where the offender was under the age of 20 at the time the offence was committed.

**F9** 1968 c. 34 (N.I.) Schedule 1 was amended by paragraph 7 of Schedule 10 to the [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [Article 7](#) of the Child Abduction (Northern Ireland) Order 1985 (N.I. 17), paragraph 54(b) of Schedule 9 to the Children (Northern Ireland) Order 1995 (N.I. 17), paragraph 6(a), (b) and (c) of Schedule 1 to the Criminal Justice (Northern Ireland) Order 2003 (N.I. 13), paragraph 18(3) of Schedule 6 to the [Sexual Offences Act 2003 \(c. 42\)](#), [paragraph 12\(4\)](#) of Schedule 1 to the 2008 Order and paragraph 57 of Schedule 21 to the [Corners and Justice Act 2009 \(c. 25\)](#).

9. An offence under Article 3 of the Protection of Children (Northern Ireland) Order 1978<sup>F10</sup> (indecent photographs).

**F10** [S.I. 1978/1047 \(N.I. 17\)](#). Article 3 was amended by section 84 of the 1994 Act and Article 42(4) of the 2008 Order.

10. An offence contrary to Article 15 of the Criminal Justice (Evidence, etc.) (Northern Ireland) Order 1988<sup>F11</sup> (possession of indecent photographs of children).

**F11** [S.I. 1988/1847 \(N.I. 17\)](#). Article 15 was amended by section 41(4) of the [Criminal Justice and Courts Services Act 2000 \(c. 43\)](#), [section 84\(11\)](#) of the 1994 Act, paragraph 25 of Schedule 26 to the Criminal Justice and Immigration Act 2008 and Article 42(7) of the 2008 Order.

[<sup>F12</sup>**10A.** Any of the following offences—

- (a) an offence of virginity testing under section 144 of the Health and Care Act 2022,
- (b) an offence of offering to carry out virginity testing under section 145 of that Act,
- (c) an offence of aiding or abetting etc a person to carry out virginity testing under section 146 of that Act,
- (d) an offence of carrying out hymenoplasty under section 156 of that Act,
- (e) an offence of offering to carry out hymenoplasty under section 157 of that Act, and
- (f) an offence of aiding or abetting etc a person to carry out hymenoplasty under section 158 of that Act.]

**F12** [Sch. 2 para. 10A](#) inserted (1.7.2022) by [The Health and Care Act 2022 \(Consequential and Related Amendments and Transitional Provisions\) Regulations 2022 \(S.I. 2022/634\)](#), regs. 1(2), [134\(2\)\(c\)](#)

## PART 2

11.—(1) An offence under any of the following sections of the Sexual Offences Act 1956<sup>F13</sup>—

- (a) section 1 (rape),
- (b) section 5 (intercourse with girl under 13),
- (c) subject to paragraph 14, section 6 (intercourse with girl between 13 and 16),
- (d) section 19 or 20 (abduction of girl under 18 or 16),

- (e) section 25 or 26 (permitting girl under 13, or between 13 and 16, to use premises for intercourse), and
  - (f) section 28 (causing or encouraging prostitution of, intercourse with, or indecent assault on, girl under 16).
- (2) An offence under section 1 of the Indecency with Children Act 1960 <sup>F14</sup> (indecent conduct towards young child).
- (3) An offence under section 54 of the Criminal Law Act 1977 <sup>F15</sup> (inciting girl under 16 to incest).
- (4) An offence under section 3 of the Sexual Offences (Amendment) Act 2000 <sup>F16</sup> (abuse of trust).

**F13** 1956 c. 69.

**F14** 1960 c. 33.

**F15** 1977 c. 45.

**F16** 2000 c. 44.

**12.** A person falls within this paragraph if the person has been convicted of any of the following offences against a child committed at the age of 18 or over or has been cautioned by a constable in respect of any such offence—

- (a) an offence under section 2 or 3 of the Sexual Offences Act 1956 (procurement of woman by threats or false pretences),
- (b) an offence under section 4 of that Act (administering drugs to obtain or facilitate intercourse),
- (c) an offence under section 14 or 15 of that Act (indecent assault),
- (d) an offence under section 16 of that Act (assault with intent to commit buggery),
- (e) an offence under section 17 of that Act (abduction of woman by force or for the sake of her property), and
- (f) an offence under section 24 of that Act (detention of woman in brothel or other premises).

**13.** A person falls within this paragraph if the person has been convicted of any of the following offences committed at the age of 18 or over or has been cautioned by a constable in respect of any such offence—

- (a) an offence under section 7 of the Sexual Offences Act 1956 (intercourse with defective) by having sexual intercourse with a child,
- (b) an offence under section 9 of that Act (procurement of defective) by procuring a child to have sexual intercourse,
- (c) an offence under section 10 of that Act (incest by a man) by having sexual intercourse with a child,
- (d) an offence under section 11 of that Act (incest by a woman) by allowing a child to have sexual intercourse with her,
- (e) subject to paragraph 14, an offence under section 12 of that Act by committing buggery with a child under the age of 16,
- (f) subject to paragraph 14, an offence under section 13 of that Act by committing an act of gross indecency with a child,
- (g) an offence under section 21 of that Act (abduction of defective from parent or guardian) by taking a child out of the possession of her parent or guardian,
- (h) an offence under section 22 of that Act (causing prostitution of women) in relation to a child,

- (i) an offence under section 23 of that Act (procurement of girl under 21) by procuring a child to have sexual intercourse with a third person,
- (j) an offence under section 27 of that Act (permitting defective to use premises for intercourse) by inducing or suffering a child to resort to or be on premises for the purpose of having sexual intercourse,
- (k) an offence under section 29 of that Act (causing or encouraging prostitution of defective) by causing or encouraging the prostitution of a child,
- (l) an offence under section 30 of that Act (man living on earnings of prostitution) in a case where the prostitute is a child,
- (m) an offence under section 31 of that Act (woman exercising control over prostitute) in a case where the prostitute is a child,
- (n) an offence under section 128 of the Mental Health Act 1959 <sup>F17</sup> (sexual intercourse with patients), notwithstanding that the provision has been repealed, by having sexual intercourse with a child,
- (o) an offence under section 4 of the Sexual Offences Act 1967 <sup>F18</sup> (procuring others to commit homosexual acts) (notwithstanding that the provision has been repealed) by—
  - (i) procuring a child to commit an act of buggery with any person, or
  - (ii) procuring any person to commit an act of buggery with a child,
- (p) an offence under section 5 of that Act (living on earnings of male prostitution) by living wholly or in part on the earnings of prostitution of a child, and
- (q) an offence under section 9(1)(a) of the Theft Act 1968 <sup>F19</sup> (burglary), by entering a building or part of a building with intent to rape a child.

**F17** 1959 c. 72.

**F18** 1967 c. 60.

**F19** 1968 c. 60.

**14.** Paragraphs 11(1)(c) and 13(e) and (f) do not include offences in a case where the offender was under the age of 20 at the time the offence was committed.

**Changes to legislation:**

There are currently no known outstanding effects for the The Fostering Panels (Establishment and Functions) (Wales) Regulations 2018, SCHEDULE 2.