

United Kingdom

National Child Protection Legislation

National Legislation

- Age of child – **Under the age of 18 years**
[Children and Young Persons Act 2008](#)
Art. 7
(6) “children” means persons under the age of 18.

- Age of consent – **16 years old**
[Sexual Offences Act of 2003](#)
Art. 9 – Causing or inciting a child under 13 to engage in sexual activity
(1) A person aged 18 or over (A) commits an offence if—
 - (a) he intentionally touches another person (B),
 - (b) the touching is sexual, and
 - (c) either—
 - (i) B is under 16 and A does not reasonably believe that B is 16 or over, or
 - (ii) B is under 13.
(2) A person guilty of an offence under this section, if the touching involved—
 - (a) penetration of B’s anus or vagina with a part of A’s body or anything else,
 - (b) penetration of B’s mouth with A’s penis,
 - (c) penetration of A’s anus or vagina with a part of B’s body, or
 - (d) penetration of A’s mouth with B’s penis,is liable, on conviction on indictment, to imprisonment for a term not exceeding 14 years.
(3) Unless subsection (2) applies, a person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

- **Art. 23 – Sections 16 to 19: [exception for spouses and civil partners]**
(1) Conduct by a person (A) which would otherwise be an offence under any of sections 16 to 19 against another person (B) is not an offence under that section if at the time —
 - (a) B is 16 or over, and
 - (b) A and B are lawfully married [or civil partners of each other].
(2) In proceedings for such an offence it is for the defendant to prove that A and B were at the time lawfully married or civil partners of each other.

- Age of Marriage – **16 years old**
[Marriage Act 1949](#)
Art. 2 – Marriages of persons under sixteen
A marriage solemnized between persons either of whom is under the age of sixteen shall be void.

- Age of Criminal Responsibility – **10 years old**
[Children and Young Persons Act 1933](#)
Sec. 50 – Age of Criminal Responsibility
It shall be conclusively presumed that no child under the age of ten years can be guilty of any offence.

- **Extraterritoriality**

[Sexual Offences Act of 2003](#)

Art. 72 – Offences outside the United Kingdom

- (1) Subject to subsection (2), any act done by a person in a country or territory outside the United Kingdom which—
 - (a) constituted an offence under the law in force in that country or territory, and
 - (b) would constitute a sexual offence to which this section applies if it had been done in England and Wales or in Northern Ireland, constitutes that sexual offence under the law of that part of the United Kingdom.
- (2) Proceedings by virtue of this section may be brought only against a person who was on 1st September 1997, or has since become, a British citizen or resident in the United Kingdom.
- (3) An act punishable under the law in force in any country or territory constitutes an offence under that law for the purposes of this section, however it is described in that law.
- (4) Subject to subsection (5), the condition in subsection (1)(a) 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 his opinion met,
 - (b) showing his grounds for that opinion, and
 - (c) requiring the prosecution to prove that it is met.
- (5) 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 (4).
- (6) In the Crown Court the question whether the condition is met is to be decided by the judge alone.

Schedule 2 – Sexual Offences to which Section 72 Applies

Art 1.

In relation to England and Wales, the following are sexual offences to which section 72 applies—

- (a) an offence under any of sections 5 to 19, 25 and 26 and 47 to 50;
- (b) an offence under any of sections 1 to 4, 30 to 41 and 61 where the victim of the offence was under 18 at the time of the offence;
- (c) an offence under section 62 or 63 where the intended offence was an offence against a person under;
- (d) an offence under—
 - (i) section 1 of the Protection of Children Act 1978 (c. 37) (indecent photographs of children), or
 - (ii) section 160 of the Criminal Justice Act 1988 (c. 33) (possession of indecent photograph of child).

- **Dual Criminality**

[Criminal Justice Act 2003](#)

Art. 103 – “Matter in issue between the defendant and the prosecution”

- (7) Where—
 - (a) a defendant has been convicted of an offence under the law of any country outside England and Wales (“the previous offence”), and

(b) the previous offence would constitute an offence under the law of England and Wales (“the corresponding offence”) if it were done in England and Wales at the time of the trial for the offence with which the defendant is now charged (“the current offence”), subsection (8) applies for the purpose of determining if the previous offence and the current offence are of the same description or category.

[Sexual Offences Act 2003](#)

Art. 20 - Abuse of position of trust: acts done in Scotland

Anything which, if done in England and Wales or Northern Ireland, would constitute an offence under any of sections 16 to 19 also constitutes that offence if done in Scotland.

▪ **Mandatory reporting requirements**

[Criminal Justice Act 2003](#)

Art. 327(A) – Disclosure of information about convictions etc. of child sex offenders to members of the public

- (1) The responsible authority for each area must, in the course of discharging its functions under arrangements established by it under section 325, consider whether to disclose information in its possession about the relevant previous convictions of any child sex offender managed by it to any particular member of the public.
- (2) In the case mentioned in subsection (3) there is a presumption that the responsible authority should disclose information in its possession about the relevant previous convictions of the offender to the particular member of the public.
- (3) The case is where the responsible authority for the area has reasonable cause to believe that—
 - (a) a child sex offender managed by it poses a risk in that or any other area of causing serious harm to any particular child or children or to children of any particular description, and
 - (b) the disclosure of information about the relevant previous convictions of the offender to the particular member of the public is necessary for the purpose of protecting the particular child or children, or the children of that description, from serious harm caused by the offender.
- (4) The presumption under subsection (2) arises whether or not the person to whom the information is disclosed requests the disclosure.
- (5) Where the responsible authority makes a disclosure under this section—
 - (a) it may disclose such information about the relevant previous convictions of the offender as it considers appropriate to disclose to the member of the public concerned, and
 - (b) it may impose conditions for preventing the member of the public concerned from disclosing the information to any other person.
- (6) Any disclosure under this section must be made as soon as is reasonably practicable having regard to all the circumstances.
- (7) The responsible authority for each area must compile and maintain a record about the decisions it makes in relation to the discharge of its functions under this section.
- (8) The record must include the following information—
 - (a) the reasons for making a decision to disclose information under this section,
 - (b) the reasons for making a decision not to disclose information under this section, and
 - (c) the information which is disclosed under this section, any conditions imposed in relation to its further disclosure and the name and address of the person to whom it is disclosed.

- (9) Nothing in this section requires or authorises the making of a disclosure which contravenes the Data Protection Act 1998.
- (10) This section is not to be taken as affecting any power of any person to disclose any information about a child sex offender.

Children Act 1989

Schedule 2 – Support for Children and Families Provided by Local Authorities in England

Art. 4 – Prevention of neglect and abuse

- (1) Every local authority shall take reasonable steps, through the provision of services under Part III of this Act, to prevent children within their area suffering ill-treatment or neglect.
- (2) Where a local authority believes that a child who is at any time within their area—
 - (a) is likely to suffer harm; but
 - (b) lives or proposes to live in the area of another local authority or in the area of a local authority in Wales they shall inform that other local authority or the local authority in Wales, as the case may be.
- (3) When informing that other local authority [or the local authority in Wales] they shall specify—
 - (a) the harm that they believe he is likely to suffer; and
 - (b) (if they can) where the child lives or proposes to live.

Female Genital Mutilation Act 2003

Art. 5B – Duty to notify police of female genital mutilation

- (1) A person who works in a regulated profession in England and Wales must make a notification under this section (an “FGM notification”) if, in the course of his or her work in the profession, the person discovers that an act of female genital mutilation appears to have been carried out on a girl who is aged under 18.
- (2) For the purposes of this section—
 - (a) a person works in a “regulated profession” if the person is—
 - (i) a healthcare professional,
 - (ii) a teacher, or
 - (iii) a social care worker in Wales;
 - (b) a person “discovers” that an act of female genital mutilation appears to have been carried out on a girl in either of the following two cases.
- (3) The first case is where the girl informs the person that an act of female genital mutilation (however described) has been carried out on her.
- (4) The second case is where—
 - (a) the person observes physical signs on the girl appearing to show that an act of female genital mutilation has been carried out on her, and
 - (b) the person has no reason to believe that the act was, or was part of, a surgical operation within section 1(2)(a) or (b).
- (5) An FGM notification—
 - (a) is to be made to the chief officer of police for the area in which the girl resides;
 - (b) must identify the girl and explain why the notification is made;
 - (c) must be made before the end of one month from the time when the person making the notification first discovers that an act of female genital mutilation appears to have been carried out on the girl;
 - (d) may be made orally or in writing.
- (6) The duty of a person working in a particular regulated profession to make an FGM notification does not apply if the person has reason to believe that another person working in that profession has previously made an FGM notification in connection with the same

- act of female genital mutilation. For this purpose, all persons falling within subsection (2)(a)(i) are to be treated as working in the same regulated profession.
- (7) A disclosure made in an FGM notification does not breach—
- (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information.

▪ **Obligations of Educational Institutions**

[Criminal Justice Act 2003](#)

Art. 325 – Arrangements for assessing risks posed by certain offenders

- (1) In this section—
- “relevant sexual or violent offender” has the meaning given by section 327;
 - “responsible authority”, in relation to any area, means the chief officer of police, the local probation board for that area or (if there is no local probation board for that area) a relevant provider of probation services and the Minister of the Crown exercising functions in relation to prisons, acting jointly.
- (2) The responsible authority for each area must establish arrangements for the purpose of assessing and managing the risks posed in that area by—
- (a) relevant sexual and violent offenders, and
 - (b) other persons who, by reason of offences committed by them (wherever committed), are considered by the responsible authority to be persons who may cause serious harm to the public.
- (3) In establishing those arrangements, the responsible authority must act in co-operation with the persons specified in subsection (6); and it is the duty of those persons to co-operate in the establishment by the responsible authority of those arrangements, to the extent that such co-operation is compatible with the exercise by those persons of their relevant functions.
- (4) Co-operation under subsection (3) may include the exchange of information.
- (5) The responsible authority for each area (“the relevant area”) and the persons specified in subsection (6) must together draw up a memorandum setting out the ways in which they are to co-operate.
- (6) The persons referred to in subsections (3) and (5) are—
- (a) every youth offending team established for an area any part of which falls within the relevant area,
 - (b) the Ministers of the Crown exercising functions in relation to social security, child support, war pensions, employment and training,
 - (c) every local authority acting in the exercise of its relevant functions any part of whose area falls within the relevant area,
 - (d) every local housing authority...any part of whose area falls within the relevant area,
 - (e) every private registered provider of social housing or registered social landlord which provides or manages residential accommodation in the relevant area in which persons falling within subsection (2)(a) or (b) reside or may reside,
 - (f) every Health Authority or Strategic Health Authority any part of whose area falls within the relevant area,
 - (g) every Primary Care Trust or Local Health Board any part of whose area falls within the relevant area,
 - (h) every NHS trust any part of whose area falls within the relevant area...
 - (i) every person who is designated by the Secretary of State by order for the purposes of this paragraph as a provider of electronic monitoring services, and

- (j) the persons listed in section 48(1A) (a) to (e) of the UK Borders Act 2007 and any person acting pursuant to arrangements relating to the discharge of a function within section 48(1A) of that Act (persons exercising functions as the UK Border Agency).
- (7) The Secretary of State may by order amend subsection (6) by adding or removing any person or description of person.
- (8) The Secretary of State may issue guidance to responsible authorities on the discharge of the functions conferred by this section and [sections 326 and 327A].
- (8A) Responsible authorities must have regard to any guidance issued under subsection (8) in discharging those functions.

▪ **Prohibition to hold certain positions**

[Protection of Children Act 1999](#)

Art. 5 – Additional Grounds for Prohibiting or Restricting Employment

- (1) In subsection (6) of section 218 (provision for prohibiting or restricting employment of teachers etc.) of the [Education Reform Act 1988](#) (“the 1988 Act”), for the words from “on medical grounds” to the end there shall be substituted the words “on the grounds mentioned in subsection (6ZA) below.”
- (2) After that subsection there shall be inserted the following subsection—
“(6ZA) The grounds are—
 - (a) medical grounds;
 - (b) the grounds of misconduct;
 - (c) the grounds that the persons concerned are not fit and proper persons to be employed as teachers or in such work as is mentioned in subsection (5)(c) above;
 - (d) the grounds that the persons concerned are included (otherwise than provisionally) in the list kept by the Secretary of State under section 1 of the Protection of Children Act 1999 (list of individuals considered unsuitable to work with children); and
 - (e) as respects employment or further employment as teachers, educational grounds.”
- (3) In subsection (6A) of that section, for the words “on medical grounds, or in cases of misconduct,” there shall be substituted the words “on the grounds mentioned in subsection (6ZA) (a) to (d) above.”
- (4) In section 15 of the [Teaching and Higher Education Act 1998](#) (supply of information relating to the dismissal or resignation of teachers), after the words “on the grounds of misconduct or incompetence” there shall be inserted the words, “on the grounds mentioned in section 218(6ZA)(c) of that Act.”

[Safeguarding Vulnerable Groups Act 2006](#)

Schedule 3 – Barred Lists

Part 1 – Children’s Barred List

Art. 3 – Behaviour

- (1) This paragraph applies to a person if—
 - (a) it appears that the person
 - (i) has (at any time) engaged in relevant conduct, and
 - (ii) is or has been, or might in future be, engaged in regulated activity relating to children, and
 - (b) proposes to include him in the children's barred list.
- (2) must give the person the opportunity to make representations as to why he should not be included in the children's barred list.
- (3) must include the person in the children's barred list if—
 - (a) it is satisfied that the person has engaged in relevant conduct,

- (aa) it has reason to believe that the person is or has been, or might in future be, engaged in regulated activity relating to children, and
- (b) it is satisfied that it is appropriate to include the person in the list.
- (4) This paragraph does not apply to a person if the relevant conduct consists only of an offence committed against a child before the commencement of section 2 and the court, having considered whether to make a disqualification order, decided not to.
- (5) In sub-paragraph (4)—
 - (a) the reference to an offence committed against a child must be construed in accordance with Part 2 of the Criminal Justice and Court Services Act 2000 (c. 43);
 - (b) a disqualification order is an order under section 28, 29 or 29A of that Act.

Art. 4 – Appeals

- (1) For the purposes of paragraph 3 relevant conduct is—
 - (a) conduct which endangers a child or is likely to endanger a child;
 - (b) conduct which, if repeated against or in relation to a child, would endanger that child or would be likely to endanger him;
 - (c) conduct involving sexual material relating to children (including possession of such material);
 - (d) conduct involving sexually explicit images depicting violence against human beings (including possession of such images), if it appears that the conduct is inappropriate;
 - (e) conduct of a sexual nature involving a child, if it appears that the conduct is inappropriate.
- (2) A person's conduct endangers a child if he—
 - (a) harms a child,
 - (b) causes a child to be harmed,
 - (c) puts a child at risk of harm,
 - (d) attempts to harm a child, or
 - (e) incites another to harm a child.
- (3) “Sexual material relating to children” means—
 - (a) indecent images of children, or
 - (b) material (in whatever form) which portrays children involved in sexual activity and which is produced for the purposes of giving sexual gratification.
- (4) “Image” means an image produced by any means, whether of a real or imaginary subject.
- (5) A person does not engage in relevant conduct merely by committing an offence prescribed for the purposes of this sub-paragraph.
- (6) For the purposes of sub-paragraph (1)(d) and (e), must have regard to guidance issued by the Secretary of State as to conduct which is inappropriate.

Art. 5 – Risk of harm

- (1) This paragraph applies to a person if—
 - (a) it appears that the person
 - (i) falls within sub-paragraph (4), and
 - (ii) is or has been, or might in future be, engaged in regulated activity relating to children and
 - (b) proposes to include him in the children's barred list.
- (2) must give the person the opportunity to make representations as to why he should not be included in the children's barred list.
- (3) must include the person in the children's barred list if—
 - (a) it is satisfied that the person falls within sub-paragraph (4),
it has reason to believe that the person is or has been, or might in future be, engaged in regulated activity relating to children,] and

- (b) it is satisfied that it is appropriate to include the person in the list.
- (4) A person falls within this sub-paragraph if he may—
 - (a) harm a child,
 - (b) cause a child to be harmed,
 - (c) put a child at risk of harm,
 - (d) attempt to harm a child, or
 - (e) incite another to harm a child.

▪ **Employment Law**

[Employment Rights Act 1996](#)

Part IX – Termination of employment

Minimum period of notice

Art. 86 – Rights of employer and employee to minimum notice

- (1) The notice required to be given by an employer to terminate the contract of employment of a person who has been continuously employed for one month or more—
 - (a) is not less than one week's notice if his period of continuous employment is less than two years,
 - (b) is not less than one week's notice for each year of continuous employment if his period of continuous employment is two years or more but less than twelve years, and
 - (c) is not less than twelve weeks' notice if his period of continuous employment is twelve years or more.
- (2) The notice required to be given by an employee who has been continuously employed for one month or more to terminate his contract of employment is not less than one week.
- (3) Any provision for shorter notice in any contract of employment with a person who has been continuously employed for one month or more has effect subject to subsections (1) and (2); but this section does not prevent either party from waiving his right to notice on any occasion or from accepting a payment in lieu of notice.
- (4) Any contract of employment of a person who has been continuously employed for three months or more which is a contract for a term certain of one month or less shall have effect as if it were for an indefinite period; and, accordingly, subsections (1) and (2) apply to the contract.
- (5) omitted
- (6) This section does not affect any right of either party to a contract of employment to treat the contract as terminable without notice by reason of the conduct of the other party.

Written statement of reasons for dismissal

Art. 92 – Right to written statement of reasons for dismissal

- (1) An employee is entitled to be provided by his employer with a written statement giving particulars of the reasons for the employee's dismissal—
 - (a) if the employee is given by the employer notice of termination of his contract of employment,
 - (b) if the employee's contract of employment is terminated by the employer without notice, or
 - (c) if the employee is employed under a limited-term contract and the contract terminates by virtue of the limiting event without being renewed under the same contract.]
- (2) Subject to [subsections (4) and (4A)] , an employee is entitled to a written statement under this section only if he makes a request for one; and a statement shall be provided within fourteen days of such a request.
- (3) Subject to [subsections (4) and (4A)] , an employee is not entitled to a written statement under this section unless on the effective date of termination he has been, or will have

- been, continuously employed for a period of not less than [F21two years] ending with that date.
- (4) An employee is entitled to a written statement under this section without having to request it and irrespective of whether she has been continuously employed for any period if she is dismissed—
- (a) at any time while she is pregnant, or
 - (b) after childbirth in circumstances in which her [ordinary or additional maternity leave period] ends by reason of the dismissal.
- (4A) An employee who is dismissed while absent from work during an ordinary or additional adoption leave period is entitled to a written statement under this section without having to request it and irrespective of whether he has been continuously employed for any period if he is dismissed in circumstances in which that period ends by reason of the dismissal.]
- (5) A written statement under this section is admissible in evidence in any proceedings.
- (6) Subject to subsection (7), in this section “the effective date of termination”—
- (a) in relation to an employee whose contract of employment is terminated by notice, means the date on which the notice expires,
 - (b) in relation to an employee whose contract of employment is terminated without notice, means the date on which the termination takes effect, and
 - (c) in relation to an employee who is employed under a limited-term contract which terminates by virtue of the limiting event without being renewed under the same contract, means the date on which the termination takes effect.]
- (7) Where—
- (a) the contract of employment is terminated by the employer, and
 - (b) the notice required by section 86 to be given by an employer would, if duly given on the material date, expire on a date later than the effective date of termination (as defined by subsection (6)), the later date is the effective date of termination.
- (8) In subsection (7)(b) “the material date” means—
- (a) the date when notice of termination was given by the employer, or
 - (b) where no notice was given, the date when the contract of employment was terminated by the employer.

Part X – Unfair Dismissal

Chapter I – Right Not to be Unfairly Dismissed

The right

Art. 94 – The right

- (1) An employee has the right not to be unfairly dismissed by his employer
- (2) Subsection (1) has effect subject to the following provisions of this Part (in particular sections 108 to 110) and to the provisions of the Trade Union and Labour Relations (Consolidation) Act 1992 (in particular sections 237 to 239)

Art. 95 – Circumstances in which an employee is dismissed

- (1) For the purposes of this Part an employee is dismissed by his employer if (and, subject to subsection (2). . . , only if)—
 - (a) the contract under which he is employed is terminated by the employer (whether with or without notice),
 - (b) he is employed under a limited-term contract and that contract terminates by virtue of the limiting event without being renewed under the same contract, or]
 - (c) the employee terminates the contract under which he is employed (with or without notice) in circumstances in which he is entitled to terminate it without notice by reason of the employer’s conduct.

- (2) An employee shall be taken to be dismissed by his employer for the purposes of this Part if—
- (a) the employer gives notice to the employee to terminate his contract of employment, and
 - (b) at a time within the period of that notice the employee gives notice to the employer to terminate the contract of employment on a date earlier than the date on which the employer's notice is due to expire; and the reason for the dismissal is to be taken to be the reason for which the employer's notice is given.

Fairness

Art. 98 – General

- (1) In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show—
- (a) the reason (or, if more than one, the principal reason) for the dismissal, and
 - (b) that it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.
- (2) A reason falls within this subsection if it—
- (a) relates to the capability or qualifications of the employee for performing work of the kind which he was employed by the employer to do,
 - (b) relates to the conduct of the employee...

▪ **Criminal Law - Defamation**

[Defamation Act of 2013](#)

Art. 1 – Serious harm

- (1) A statement is not defamatory unless its publication has caused or is likely to cause serious harm to the reputation of the claimant.
- (2) For the purposes of this section, harm to the reputation of a body that trades for profit is not “serious harm” unless it has caused or is likely to cause the body serious financial loss.

Art. 2 – Truth

- (1) It is a defence to an action for defamation for the defendant to show that the imputation conveyed by the statement complained of is substantially true.
- (2) Subsection (3) applies in an action for defamation if the statement complained of conveys two or more distinct imputations.
- (3) If one or more of the imputations is not shown to be substantially true, the defence under this section does not fail if, having regard to the imputations which are shown to be substantially true, the imputations which are not shown to be substantially true do not seriously harm the claimant's reputation.
- (4) The common law defence of justification is abolished and, accordingly, section 5 of the Defamation Act 1952 (justification) is repealed.

Art. 3 – Honest opinion

- (1) It is a defence to an action for defamation for the defendant to show that the following conditions are met.
- (2) The first condition is that the statement complained of was a statement of opinion.
- (3) The second condition is that the statement complained of indicated, whether in general or specific terms, the basis of the opinion.
- (4) The third condition is that an honest person could have held the opinion on the basis of—

- (a) any fact which existed at the time the statement complained of was published;
 - (b) anything asserted to be a fact in a privileged statement published before the statement complained of.
- (5) The defence is defeated if the claimant shows that the defendant did not hold the opinion.
- (6) Subsection (5) does not apply in a case where the statement complained of was published by the defendant but made by another person (“the author”); and in such a case the defence is defeated if the claimant shows that the defendant knew or ought to have known that the author did not hold the opinion.

Art. 9 – Action against a person not domiciled in the UK or a Member State

- (1) This section applies to an action for defamation against a person who is not domiciled—
- (a) in the United Kingdom; (b) in another Member State; or (c) in a state which is for the time being a contracting party to the Lugano Convention.
- (2) A court does not have jurisdiction to hear and determine an action to which this section applies unless the court is satisfied that, of all the places in which the statement complained of has been published, England and Wales is clearly the most appropriate place in which to bring an action in respect of the statement.
- (3) The references in subsection (2) to the statement complained of include references to any statement which conveys the same, or substantially the same, imputation as the statement complained of.
- (4) For the purposes of this section—
- (a) a person is domiciled in the United Kingdom or in another Member State if the person is domiciled there for the purposes of the Brussels Regulation;
 - (b) a person is domiciled in a state which is a contracting party to the Lugano Convention if the person is domiciled in the state for the purposes of that Convention.

▪ **Private fostering/orphanage volunteerism**

[Children Act 1989](#)

Art. 68 – Persons disqualified from being private foster parents

- (1) Unless he has disclosed the fact to the appropriate local authority and obtained their written consent, a person shall not foster a child privately if he is disqualified from doing so by regulations made by the Secretary of State for the purposes of this section.
- (2) The regulations may, in particular, provide for a person to be so disqualified where—
- (a) an order of a kind specified in the regulations has been made at any time with respect to him;
 - (b) an order of a kind so specified has been made at any time with respect to any child who has been in his care;
 - (c) a requirement of a kind so specified has been imposed at any time with respect to any such child, under or by virtue of any enactment;
 - (d) he has been convicted of any offence of a kind so specified, or...discharged absolutely or conditionally for any such offence;
 - (e) a prohibition has been imposed on him at any time under section 69 or under any other specified enactment;
 - (f) his rights and powers with respect to a child have at any time been vested in a specified authority under a specified enactment.
- (2A) A conviction in respect of which a probation order was made before 1st October 1992 (which would not otherwise be treated as a conviction) is to be treated as a conviction for the purposes of subsection (2)(d).

- (3) Unless he has disclosed the fact to the appropriate local authority and obtained their written consent, a person shall not foster a child privately if—
 - (a) he lives in the same household as a person who is himself prevented from fostering a child by subsection (1); or
 - (b) he lives in a household at which any such person is employed.
- (3A) A person shall not foster a child privately if—
 - (a) he is barred from regulated activity relating to children (within the meaning of section 3(2) of the Safeguarding Vulnerable Groups Act 2006); or
 - (b) he lives in the same household as a person who is barred from such activity.]
- (4) Where an authority refuses to give their consent under this section, they shall inform the applicant by a written notice which states—
 - (a) the reason for the refusal;
 - (b) the applicant's right under paragraph 8 of Schedule 8 to appeal against the refusal; and
 - (c) the time within which he may do so.
- (5) In this section—

“the appropriate authority” means the local authority within whose area it is proposed to foster the child in question; and

“enactment” means any enactment having effect, at any time, in any part of the United Kingdom.

Art. 69 – Power to prohibit private fostering

- (1) This section applies where a person—
 - (a) proposes to foster a child privately; or
 - (b) is fostering a child privately.
- (2) Where the local authority for the area within which the child is proposed to be, or is being, fostered are of the opinion that—
 - (a) he is not a suitable person to foster a child;
 - (b) the premises in which the child will be, or is being, accommodated are not suitable; or
 - (c) it would be prejudicial to the welfare of the child for him to be, or continue to be accommodated by that person in those premises, the authority may impose a prohibition on him under subsection (3).
- (3) A prohibition imposed on any person under this subsection may prohibit him from fostering privately—
 - (a) any child in any premises within the area of the local authority; or
 - (b) any child in premises specified in the prohibition.
 - (c) a child identified in the prohibition, in premises specified in the prohibition.
- (4) A local authority who have imposed a prohibition on any person under subsection (3) may, if they think fit, cancel the prohibition—
 - (a) of their own motion; or
 - (b) on an application made by that person, if they are satisfied that the prohibition is no longer justified.
- (5) Where a local authority imposes a requirement on any person under paragraph 6 of Schedule 8, they may also impose a prohibition on him under subsection (3).
- (6) Any prohibition imposed by virtue of subsection (5) shall not have effect unless—
 - (a) the time specified for compliance with the requirement has expired; and
 - (b) the requirement has not been complied with.
- (7) A prohibition imposed under this section shall be imposed by notice in writing addressed to the person on whom it is imposed and informing him of—
 - (a) the reason for imposing the prohibition;
 - (b) his right under paragraph 8 of Schedule 8 to appeal against the prohibition; and

- (c) the time within which he may do so.

Schedule 5 – Privately Fostered Children

Extension of Part IX to certain school children during holidays

Art. 9

(1) Where a child under sixteen who is a pupil at a school...lives at the school during school holidays for a period of more than two weeks, Part IX shall apply in relation to the child as if—

- (a) while living at the school, he was a privately fostered child; and
- (b) paragraphs [(1)(c) and (d)] and 6 were omitted.

But this sub-paragraph does not apply to a school which is [a children's home in respect of which a person is registered under Part 2 of the Care Standards Act 2000].

- (2) Sub-paragraph (3) applies to any person who proposes to care for and accommodate one or more children at a school in circumstances in which some or all of them will be treated as private foster children by virtue of this paragraph.
- (3) That person shall, not less than two weeks before the first of those children is treated as a private foster child by virtue of this paragraph during the holiday in question, give written notice of his proposal to the local authority within whose area the child is ordinarily resident ("the appropriate authority"), stating the estimated number of the children.
- (4) A local authority may exempt any person from the duty of giving notice under sub-paragraph (3).
- (5) Any such exemption may be granted for a special period or indefinitely and may be revoked at any time by notice in writing given to the person exempted.
- (6) Where a child who is treated as a private foster child by virtue of this paragraph dies, the person caring for him at the school shall, not later than 48 hours after the death, give written notice of it—
 - (a) to the appropriate local authority; and
 - (b) where reasonably practicable, to each parent of the child and to every person who is not a parent of his but who has parental responsibility for him.
- (7) Where a child who is treated as a foster child by virtue of this paragraph ceases for any other reason to be such a child, the person caring for him at the school shall give written notice of the fact to the appropriate local authority.

[Care Standards Act](#)

Art. 48 - Regulation of the exercise of relevant fostering functions

- (1) Regulations may make provision about the exercise by local authorities of relevant fostering functions, and may in particular make provision—
 - (a) as to the persons who are fit to work for local authorities in connection with the exercise of such functions;
 - (b) as to the fitness of premises to be used by local authorities in their exercise of such functions;
 - (c) as to the management and control of the operations of local authorities in their exercise of such functions;
 - (d) as to the numbers of persons, or persons of any particular type, working for local authorities in connection with the exercise of such functions;
 - (e) as to the management and training of such persons; as to the fees or expenses which may be paid to persons assisting local authorities in making decisions in the exercise of such functions.
- (2) Regulations under subsection (1)(a) may, in particular, make provision for prohibiting persons from working for local authorities in such positions as may be prescribed unless

they are registered in, or in a particular part of, one of the registers maintained under section 56(1)

Schedule 9A – Child Minding and Day Care for Young Children

- 4 (1) Regulations may provide for a person to be disqualified for registration for child minding or providing day care.
- (2) The regulations may, in particular, provide for a person to be disqualified where—
- (a) he is included in the list kept under section 1 of the Protection of Children Act 1999;
 - (b) he is included on the grounds mentioned in subsection (6ZA) (c) of section 218 of the Education Reform Act 1988 in the list kept for the purposes of regulations made under subsection (6) of that section;
 - (c) an order of a prescribed kind has been made at any time with respect to him;
 - (d) an order of a prescribed kind has been made at any time with respect to any child who has been in his care;
 - (e) a requirement of a prescribed kind has been imposed at any time with respect to such a child, under or by virtue of any enactment;
 - (f) he has at any time been refused registration under Part X or Part XA or any prescribed enactment or had any such registration cancelled;
 - (g) he has been convicted of any offence of a prescribed kind, or has been placed on probation or discharged absolutely or conditionally for any such offence;
 - (h) he has at any time been disqualified from fostering a child privately;
 - (j) a prohibition has been imposed on him at any time under section 69, section 10 of the Foster Children (Scotland) Act 1984 or any prescribed enactment;
 - (k) his rights and powers with respect to a child have at any time been vested in a prescribed authority under a prescribed enactment.
- (3) Regulations may provide for a person who lives—
- (a) in the same household as a person who is himself disqualified for registration for child minding or providing day care; or
 - (b) in a household at which any such person is employed, to be disqualified for registration for child minding or providing day care.
- (4) A person who is disqualified for registration for providing day care shall not provide day care, or be concerned in the management of, or have any financial interest in, any provision of day care.
- (5) No person shall employ, in connection with the provision of day care, a person who is disqualified for registration for providing day care.
- (6) In this paragraph “enactment” means any enactment having effect, at any time, in any part of the United Kingdom.
- 5 (1) If any person—
- (a) acts as a child minder at any time when he is disqualified for registration for child minding; or
 - (b) contravenes any of sub-paragraphs (3) to (5) of paragraph 4, he shall be guilty of an offence.
- (2) Where a person contravenes sub-paragraph (3) of paragraph 4, he shall not be guilty of an offence under this paragraph if he proves that he did not know, and had no reasonable grounds for believing, that the person in question was living or employed in the household.
- (3) Where a person contravenes sub-paragraph (5) of paragraph 4, he shall not be guilty of an offence under this paragraph if he proves that he did not know, and had no reasonable grounds for believing, that the person whom he was employing was disqualified.

- (4) A person guilty of an offence under this paragraph shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.

Sexual Offences Against Children

[Sexual Offences Act of 2003](#)

Art. 1 – Rape

- (1) A person (A) commits an offence if—
- (a) he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis,
 - (b) B does not consent to the penetration, and
 - (c) A does not reasonably believe that B consents.
- (2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.
- (3) Sections 75 and 76 apply to an offence under this section.
- (4) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for life.

Art. 2 – Assault by penetration

- (1) A person (A) commits an offence if—
- (a) he intentionally penetrates the vagina or anus of another person (B) with a part of his body or anything else,
 - (b) the penetration is sexual,
 - (c) B does not consent to the penetration, and
 - (d) A does not reasonably believe that B consents.
- (2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.
- (3) Sections 75 and 76 apply to an offence under this section.
- (4) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for life.

Art. 3 – Sexual assault

- (1) A person (A) commits an offence if—
- (a) he intentionally touches another person (B),
 - (b) the touching is sexual,
 - (c) B does not consent to the touching, and
 - (d) A does not reasonably believe that B consents.
- (2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.
- (3) Sections 75 and 76 apply to an offence under this section.
- (4) A person guilty of an offence under this section 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 10 years.

Art. 4 – Causing a person to engage in sexual activity without consent

- (1) A person (A) commits an offence if—
- (a) he intentionally causes another person (B) to engage in an activity,
 - (b) the activity is sexual,
 - (c) B does not consent to engaging in the activity, and

- (d) A does not reasonably believe that B consents.
- (2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.
- (3) Sections 75 and 76 apply to an offence under this section.
- (4) A person guilty of an offence under this section, if the activity caused involved—
 - (a) penetration of B’s anus or vagina,
 - (b) penetration of B’s mouth with a person’s penis,
 - (c) penetration of a person’s anus or vagina with a part of B’s body or by B with anything else, or
 - (d) penetration of a person’s mouth with B’s penis, is liable, on conviction on indictment, to imprisonment for life.
- (5) Unless subsection (4) applies, a person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years.

Art. 5 – Rape of a child under 13

- (1) A person commits an offence if —
 - (a) he intentionally penetrates the vagina, anus or mouth of another person with his penis, and
 - (b) the other person is under 13.
- (2) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for life.

Art. 6 – Assault of a child under 13 by penetration

- (1) A person commits an offence if—
 - (a) he intentionally penetrates the vagina or anus of another person with a part of his body or anything else,
 - (b) the penetration is sexual, and
 - (c) the other person is under 13.
- (2) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for life.

Art. 7 – Sexual assault of a child under 13

- (1) A person commits an offence if—
 - (a) he intentionally touches another person,
 - (b) the touching is sexual, and
 - (c) the other person is under 13.
- (2) A person guilty of an offence under this section 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 14 years.

Art. 8 – Causing or inciting a child under 13 to engage in sexual activity

- (1) A person commits an offence if—
 - (a) he intentionally causes or incites another person (B) to engage in an activity,
 - (b) the activity is sexual, and
 - (c) B is under 13.
- (2) A person guilty of an offence under this section, if the activity caused or incited involved—
 - (a) penetration of B’s anus or vagina,
 - (b) penetration of B’s mouth with a person’s penis,
 - (c) penetration of a person’s anus or vagina with a part of B’s body or by B with anything else, or

- (d) penetration of a person's mouth with B's penis, is liable, on conviction on indictment, to imprisonment for life.
- (3) Unless subsection (2) applies, a person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

Art. 9 – Sexual activity with a child

- (1) A person aged 18 or over (A) commits an offence if—
 - (a) he intentionally touches another person (B),
 - (b) the touching is sexual, and
 - (c) either—
 - (i) B is under 16 and A does not reasonably believe that B is 16 or over, or
 - (ii) B is under 13.
- (2) A person guilty of an offence under this section, if the touching involved—
 - (a) penetration of B's anus or vagina with a part of A's body or anything else,
 - (b) penetration of B's mouth with A's penis,
 - (c) penetration of A's anus or vagina with a part of B's body, or
 - (d) penetration of A's mouth with B's penis,is liable, on conviction on indictment, to imprisonment for a term not exceeding 14 years.
- (3) Unless subsection (2) applies, a person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

Art. 10 – Causing or inciting a child to engage in sexual activity

- (1) A person aged 18 or over (A) commits an offence if—
 - (a) he intentionally causes or incites another person (B) to engage in an activity,
 - (b) the activity is sexual, and
 - (c) either—
 - (i) B is under 16 and A does not reasonably believe that B is 16 or over, or
 - (ii) B is under 13.
- (2) A person guilty of an offence under this section, if the activity caused or incited involved—
 - (a) penetration of B's anus or vagina,
 - (b) penetration of B's mouth with a person's penis,
 - (c) penetration of a person's anus or vagina with a part of B's body or by B with anything else, or
 - (d) penetration of a person's mouth with B's penis,is liable, on conviction on indictment, to imprisonment for a term not exceeding 14 years.
- (3) Unless subsection (2) applies, a person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

Art. 11 – Engaging in sexual activity in the presence of a child

- (1) A person aged 18 or over (A) commits an offence if—
 - (a) he intentionally engages in an activity,
 - (b) the activity is sexual,
 - (c) for the purpose of obtaining sexual gratification, he engages in it—
 - (i) when another person (B) is present or is in a place from which A can be observed, and
 - (ii) knowing or believing that B is aware, or intending that B should be aware, that he is engaging in it, and

- (d) either—
 - (i) B is under 16 and A does not reasonably believe that B is 16 or over, or
 - (ii) B is under 13.
- (2) A person guilty of an offence under this section 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 10 years.

Art. 12 – Causing a child to watch a sexual act

- (1) A person aged 18 or over (A) commits an offence if—
 - (a) for the purpose of obtaining sexual gratification, he intentionally causes another person (B) to watch a third person engaging in an activity, or to look at an image of any person engaging in an activity,
 - (b) the activity is sexual, and
 - (c) either—
 - (i) B is under 16 and A does not reasonably believe that B is 16 or over, or
 - (ii) B is under 13.
- (2) A person guilty of an offence under this section 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 10 years.

Art. 13 – Child sex offences committed by children or young persons

- (1) A person under 18 commits an offence if he does anything which would be an offence under any of sections 9 to 12 if he were aged 18.
- (2) A person guilty of an offence under this section 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.

Art. 14 – Arranging or facilitating commission of a child sex offence

- (1) A person commits an offence if—
 - (a) he intentionally arranges or facilitates something that he intends to do, intends another person to do, or believes that another person will do, in any part of the world, and
 - (b) doing it will involve the commission of an offence under any of sections 9 to 13.
- (2) A person does not commit an offence under this section if—
 - (a) he arranges or facilitates something that he believes another person will do, but that he does not intend to do or intend another person to do, and
 - (b) any offence within subsection (1)(b) would be an offence against a child for whose protection he acts.
- (3) For the purposes of subsection (2), a person acts for the protection of a child if he acts for the purpose of—
 - (a) protecting the child from sexually transmitted infection,
 - (b) protecting the physical safety of the child,
 - (c) preventing the child from becoming pregnant, or
 - (d) promoting the child's emotional well-being by the giving of advice, and not for the purpose of obtaining sexual gratification or for the purpose of causing or encouraging the activity constituting the offence within subsection (1)(b) or the child's participation in it.
- (4) A person guilty of an offence under this section 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 14 years.

Art. 15 – Meeting a child following sexual grooming etc.

- (1) A person aged 18 or over (A) commits an offence if—
 - (a) having met or communicated with another person (B) on at least two earlier occasions, he—
 - (i) intentionally meets B, or
 - (ii) travels with the intention of meeting B in any part of the world,
 - (b) at the time, he intends to do anything to or in respect of B, during or after the meeting and in any part of the world, which if done will involve the commission by A of a relevant offence,
 - (c) B is under 16, and
 - (d) A does not reasonably believe that B is 16 or over.
- (2) In subsection (1)—
 - (a) the reference to A having met or communicated with B is a reference to A having met B in any part of the world or having communicated with B by any means from, to or in any part of the world;
 - (b) “relevant offence” means—
 - (i) an offence under this Part,
 - (ii) an offence within any of paragraphs 61 to 92 of Schedule 3, or
 - (iii) anything done outside England and Wales and Northern Ireland which is not an offence within sub-paragraph (i) or (ii) but would be an offence within sub-paragraph (i) if done in England and Wales.
- (3) In this section as it applies to Northern Ireland—
 - (a) subsection (1) has effect with the substitution of “17” for “16” in both places;
 - (b) subsection (2)(b)(iii) has effect with the substitution of “sub-paragraph (ii) if done in Northern Ireland” for “sub-paragraph (i) if done in England and Wales”.
- (4) A person guilty of an offence under this section 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 10 years.

Art. 15A – Sexual communication with a child

- (1) A person aged 18 or over (A) commits an offence if—
 - (a) for the purpose of obtaining sexual gratification, A intentionally communicates with another person (B),
 - (b) the communication is sexual or is intended to encourage B to make (whether to A or to another) a communication that is sexual, and
 - (c) B is under 16 and A does not reasonably believe that B is 16 or over.
- (2) For the purposes of this section, a communication is sexual if—
 - (a) any part of it relates to sexual activity, or
 - (b) a reasonable person would, in all the circumstances but regardless of any person's purpose, consider any part of the communication to be sexual; and in paragraph (a) “sexual activity” means an activity that a reasonable person would, in all the circumstances but regardless of any person's purpose, consider to be sexual.
- (3) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.

Art. 16 – Abuse of position of trust: sexual activity with a child

- (1) A person aged 18 or over (A) commits an offence if—
 - (a) he intentionally touches another person (B),
 - (b) the touching is sexual,

- (c) A is in a position of trust in relation to B,
 - (d) where subsection (2) applies, A knows or could reasonably be expected to know of the circumstances by virtue of which he is in a position of trust in relation to B, and
 - (e) either—
 - (i) B is under 18 and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.
- (2) This subsection applies where A—
- (a) is in a position of trust in relation to B by virtue of circumstances within section 21(2), (3), (4) or (5), and
 - (b) is not in such a position of trust by virtue of other circumstances.
- (3) Where in proceedings for an offence under this section it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to whether he reasonably believed it.
- (4) Where in proceedings for an offence under this section—
- (a) it is proved that the defendant was in a position of trust in relation to the other person by virtue of circumstances within section 21(2), (3), (4) or (5), and
 - (b) it is not proved that he was in such a position of trust by virtue of other circumstances, it is to be taken that the defendant knew or could reasonably have been expected to know of the circumstances by virtue of which he was in such a position of trust unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know of those circumstances.
- (5) A person guilty of an offence under this section 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.

Art. 17 —Abuse of position of trust: causing or inciting a child to engage in sexual activity

- (1) A person aged 18 or over (A) commits an offence if—
- (a) he intentionally causes or incites another person (B) to engage in an activity,
 - (b) the activity is sexual,
 - (c) A is in a position of trust in relation to B,
 - (d) where subsection (2) applies, A knows or could reasonably be expected to know of the circumstances by virtue of which he is in a position of trust in relation to B, and
 - (e) either—
 - (i) B is under 18 and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.
- (2) This subsection applies where A (a) is in a position of trust in relation to B by virtue of circumstances within section 21(2), (3), (4) or (5), and (b) is not in such a position of trust by virtue of other circumstances.
- (3) Where in proceedings for an offence under this section it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to whether he reasonably believed it.
- (4) Where in proceedings for an offence under this section—
- (a) it is proved that the defendant was in a position of trust in relation to the other person by virtue of circumstances within section 21(2), (3), (4) or (5), and
 - (b) it is not proved that he was in such a position of trust by virtue of other circumstances, it is to be taken that the defendant knew or could reasonably have been expected to know of the circumstances by virtue of which he was in such a position of trust unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know of those circumstances.
- (5) A person guilty of an offence under this section 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.

Art. 18 – Abuse of position of trust: sexual activity in the presence of a child

- (1) A person aged 18 or over (A) commits an offence if—
 - (a) he intentionally engages in an activity,
 - (b) the activity is sexual,
 - (c) for the purpose of obtaining sexual gratification, he engages in it—
 - (i) when another person (B) is present or is in a place from which A can be observed, and
 - (ii) knowing or believing that B is aware, or intending that B should be aware, that he is engaging in it,
 - (d) A is in a position of trust in relation to B,
 - (e) where subsection (2) applies, A knows or could reasonably be expected to know of the circumstances by virtue of which he is in a position of trust in relation to B, and
 - (f) either—
 - (i) B is under 18 and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.
- (2) This subsection applies where A—
 - (a) is in a position of trust in relation to B by virtue of circumstances within section 21(2), (3), (4) or (5), and
 - (b) is not in such a position of trust by virtue of other circumstances.
- (3) Where in proceedings for an offence under this section it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to whether he reasonably believed it.
- (4) Where in proceedings for an offence under this section—
 - (a) it is proved that the defendant was in a position of trust in relation to the other person by virtue of circumstances within section 21(2), (3), (4) or (5), and
 - (b) it is not proved that he was in such a position of trust by virtue of other circumstances, it is to be taken that the defendant knew or could reasonably have been expected to know of the circumstances by virtue of which he was in such a position of trust unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know of those circumstances.
- (5) A person guilty of an offence under this section 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.

Art. 19 – Abuse of position of trust: causing a child to watch a sexual act

- (1) A person aged 18 or over (A) commits an offence if—
 - (a) for the purpose of obtaining sexual gratification, he intentionally causes another person (B) to watch a third person engaging in an activity, or to look at an image of any person engaging in an activity,
 - (b) the activity is sexual,
 - (c) A is in a position of trust in relation to B,
 - (d) where subsection (2) applies, A knows or could reasonably be expected to know of the circumstances by virtue of which he is in a position of trust in relation to B, and
 - (e) either—
 - (i) B is under 18 and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.

Art. 23 – Sections 16 to 19 [exceptions for spouses and civil partners]

- (1) Conduct by a person (A) which would otherwise be an offence under any of sections 16 to 19 against another person (B) is not an offence under that section if at the time –
 - (a) B is 16 or over, and
 - (b) A and B are lawfully married [or civil partners of each other].
- (2) In proceedings for such an offence it is for the defendant to prove that A and B were at the time lawfully married or civil partners of each other

Art. 24 – Sections 16 to 19 – sexual relationships which pre-date position of trust

- (1) Conduct by a person (A) which would otherwise be an offence under any of sections 16 to 19 against another person (B) is not an offence under that section if, immediately before the position of trust arose, a sexual relationship existed between A and B.
- (2) Subsection (1) does not apply if at that time sexual intercourse between A and B would have been unlawful.
- (3) In proceedings for an offence under any of sections 16 to 19 it is for the defendant to prove that such a relationship existed at that time.

Art. 25 – Sexual activity with a child family member

- (1) A person (A) commits an offence if—
 - (a) he intentionally touches another person (B),
 - (b) the touching is sexual,
 - (c) the relation of A to B is within section 27,
 - (d) A knows or could reasonably be expected to know that his relation to B is of a description falling within that section, and
 - (e) either—
 - (i) B is under 18 and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.
- (2) Where in proceedings for an offence under this section it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to whether he reasonably believed it.
- (3) Where in proceedings for an offence under this section it is proved that the relation of the defendant to the other person was of a description falling within section 27, it is to be taken that the defendant knew or could reasonably have been expected to know that his relation to the other person was of that description unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know that it was.
- (4) A person guilty of an offence under this section, if aged 18 or over at the time of the offence, is liable—
 - (a) where subsection (6) applies, on conviction on indictment to imprisonment for a term not exceeding 14 years;
 - (b) in any other case—
 - (i) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding 14 years.
- (5) Unless subsection (4) applies, a person guilty of an offence under this section 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.
- (6) This subsection applies where the touching involved—
 - (a) penetration of B's anus or vagina with a part of A's body or anything else,
 - (b) penetration of B's mouth with A's penis,
 - (c) penetration of A's anus or vagina with a part of B's body, or

- (d) penetration of A's mouth with B's penis.

Art. 26 – Inciting a child family member to engage in sexual activity

- (1) A person (A) commits an offence if—
 - (a) he intentionally incites another person (B) to touch, or allow himself to be touched by, A,
 - (b) the touching is sexual,
 - (c) the relation of A to B is within section 27,
 - (d) A knows or could reasonably be expected to know that his relation to B is of a description falling within that section, and
 - (e) either—
 - (i) B is under 18 and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.
- (2) Where in proceedings for an offence under this section it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to whether he reasonably believed it.
- (3) Where in proceedings for an offence under this section it is proved that the relation of the defendant to the other person was of a description falling within section 27, it is to be taken that the defendant knew or could reasonably have been expected to know that his relation to the other person was of that description unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know that it was.
- (4) A person guilty of an offence under this section, if he was aged 18 or over at the time of the offence, is liable—
 - (a) where subsection (6) applies, on conviction on indictment to imprisonment for a term not exceeding 14 years;
 - (b) in any other case—
 - (i) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding 14 years.
- (5) Unless subsection (4) applies, a person guilty of an offence under this section 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.
- (6) This subsection applies where the touching to which the incitement related involved—
 - (a) penetration of B's anus or vagina with a part of A's body or anything else,
 - (b) penetration of B's mouth with A's penis,
 - (c) penetration of A's anus or vagina with a part of B's body, or
 - (d) penetration of A's mouth with B's penis.

Art. 47— Paying for sexual services of a child

- (1) A person (A) commits an offence if—
 - (a) he intentionally obtains for himself the sexual services of another person (B),
 - (b) before obtaining those services, he has made or promised payment for those services to B or a third person, or knows that another person has made or promised such a payment, and
 - (c) either—
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.
- (2) In this section, “payment” means any financial advantage, including the discharge of an obligation to pay or the provision of goods or services (including sexual services) gratuitously or at a discount.
- (3) A person guilty of an offence under this section against a person under 13, where subsection (6) applies, is liable on conviction on indictment to imprisonment for life.

- (4) Unless subsection (3) applies, a person guilty of an offence under this section against a person under 16 is liable—
 - (a) where subsection (6) applies, on conviction on indictment, to imprisonment for a term not exceeding 14 years;
 - (b) in any other case—
 - (i) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding 14 years.
- (5) Unless subsection (3) or (4) applies, a person guilty of an offence under this section 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 7 years.
- (6) This subsection applies where the offence involved—
 - (a) penetration of B’s anus or vagina with a part of A’s body or anything else,
 - (b) penetration of B’s mouth with A’s penis,
 - (c) penetration of A’s anus or vagina with a part of B’s body or by B with anything else, or
 - (d) penetration of A’s mouth with B’s penis.
- (7) In the application of this section to Northern Ireland, subsection (4) has effect with the substitution of “17” for “16”.

Art. 48 – Causing or inciting sexual exploitation of a child

- (1) A person (A) commits an offence if—
 - (a) he intentionally causes or incites another person (B) [to be sexually exploited] in any part of the world, and
 - (b) either—
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.
- (2) A person guilty of an offence under this section 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 14 years.

Art. 49 – Controlling a child in relation to sexual exploitation

- (1) A person (A) commits an offence if—
 - (a) he intentionally controls any of the activities of another person (B) relating to B’s [sexual exploitation] in any part of the world, and
 - (b) either—
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.
- (2) A person guilty of an offence under this section 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 14 years.

Art. 50 – Arranging or facilitating sexual exploitation of a child

- (1) A person (A) commits an offence if—
 - (a) he intentionally arranges or facilitates the [sexual exploitation] in any part of the world of another person (B), and
 - (b) either—
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.

- (2) A person guilty of an offence under this section 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 14 years.

Art. 51 – Sections 48 to 50: interpretation

- (2) For the purposes of sections 48 to 50, a person (B) is sexually exploited if—
- (a) on at least one occasion and whether or not compelled to do so, B offers or provides sexual services to another person in return for payment or a promise of payment to B or a third person, or
 - (b) an indecent image of B is recorded [or streamed or otherwise transmitted]; and “sexual exploitation” is to be interpreted accordingly.
- (3) In subsection (2), “payment” means any financial advantage, including the discharge of an obligation to pay or the provision of goods or services (including sexual services) gratuitously or at a discount.

Art. 57 – Trafficking into the UK for sexual exploitation

- (1) A person commits an offence if he intentionally arranges or facilitates the arrival in the United Kingdom of another person (B) and either—
- (a) he intends to do anything to or in respect of B, after B’s arrival but in any part of the world, which if done will involve the commission of a relevant offence, or
 - (b) he believes that another person is likely to do something to or in respect of B, after B’s arrival but in any part of the world, which if done will involve the commission of a relevant offence.
- (2) A person guilty of an offence under this section 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 14 years.

Art. 58 – Trafficking within the UK for sexual exploitation

- (1) A person commits an offence if he intentionally arranges or facilitates travel within the United Kingdom by another person (B) and either—
- (a) he intends to do anything to or in respect of B, during or after the journey and in any part of the world, which if done will involve the commission of a relevant offence, or
 - (b) he believes that another person is likely to do something to or in respect of B, during or after the journey and in any part of the world, which if done will involve the commission of a relevant offence.
- (2) A person guilty of an offence under this section 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 14 years.

Art. 59 – Trafficking out of the UK for sexual exploitation

- (1) A person commits an offence if he intentionally arranges or facilitates the departure from the United Kingdom of another person (B) and either—
- (a) he intends to do anything to or in respect of B, after B’s departure but in any part of the world, which if done will involve the commission of a relevant offence, or
 - (b) he believes that another person is likely to do something to or in respect of B, after B’s departure but in any part of the world, which if done will involve the commission of a relevant offence.
- (2) A person guilty of an offence under this section 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 14 years.

[Criminal Justice and Courts Act 2015](#)

Art. 33 – Disclosing private sexual photographs and films with intent to cause distress

- (1) It is an offence for a person to disclose a private sexual photograph or film if the disclosure is made—
 - (a) without the consent of an individual who appears in the photograph or film, and
 - (b) with the intention of causing that individual distress.
- (2) But it is not an offence under this section for the person to disclose the photograph or film to the individual mentioned in subsection (1)(a) and (b).
- (3) It is a defence for a person charged with an offence under this section to prove that he or she reasonably believed that the disclosure was necessary for the purposes of preventing, detecting or investigating crime.
- (4) It is a defence for a person charged with an offence under this section to show that—
 - (a) the disclosure was made in the course of, or with a view to, the publication of journalistic material, and
 - (b) he or she reasonably believed that, in the particular circumstances, the publication of the journalistic material was, or would be, in the public interest.
- (5) It is a defence for a person charged with an offence under this section to show that—
 - (a) he or she reasonably believed that the photograph or film had previously been disclosed for reward, whether by the individual mentioned in subsection (1)(a) and (b) or another person, and
 - (b) he or she had no reason to believe that the previous disclosure for reward was made without the consent of the individual mentioned in subsection (1)(a) and (b).
- (6) A person is taken to have shown the matters mentioned in subsection (4) or (5) if—
 - (a) sufficient evidence of the matters is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (7) For the purposes of subsections (1) to (5)—
 - (a) “consent” to a disclosure includes general consent covering the disclosure, as well as consent to the particular disclosure, and
 - (b) “publication” of journalistic material means disclosure to the public at large or to a section of the public.
- (8) A person charged with an offence under this section is not to be taken to have disclosed a photograph or film with the intention of causing distress merely because that was a natural and probable consequence of the disclosure.
- (9) A person guilty of an offence under this section is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both), and
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both).

Art. 36 – Meeting a Child following sexual grooming etc.

- (1) In section 15(1)(a) of the Sexual Offences Act 2003 (meeting a child following sexual grooming etc.), for “on at least two occasions” substitute “on one or more occasions.”
- (2) In a case in which person A met or communicated with person B only once before the event mentioned in section 15(1)(a)(i) to (iii) of the Sexual Offences Act 2003, an offence under that section is committed only if the meeting or communication took place after this section comes into force.

[Criminal Justice & Immigration Act 2008](#)

Art. 63 – Possession of extreme pornographic images

- (1) It is an offence for a person to be in possession of an extreme pornographic image.
- (2) An “extreme pornographic image” is an image which is both—
 - (a) pornographic, and
 - (b) an extreme image.
- (3) An image is “pornographic” if it is of such a nature that it must reasonably be assumed to have been produced solely or principally for the purpose of sexual arousal.
- (4) Where (as found in the person's possession) an image forms part of a series of images, the question whether the image is of such a nature as is mentioned in subsection (3) is to be determined by reference to—
 - (a) the image itself, and
 - (b) (if the series of images is such as to be capable of providing a context for the image) the context in which it occurs in the series of images.
- (5) So, for example, where—
 - (a) an image forms an integral part of a narrative constituted by a series of images, and
 - (b) having regard to those images as a whole, they are not of such a nature that they must reasonably be assumed to have been produced solely or principally for the purpose of sexual arousal, the image may, by virtue of being part of that narrative, be found not to be pornographic, even though it might have been found to be pornographic if taken by itself.
- (5A) In relation to possession of an image in England and Wales, an “extreme image” is an image which—
 - (a) falls within subsection (7) or (7A), and
 - (b) is grossly offensive, disgusting or otherwise of an obscene character.
- (6) In relation to possession of an image in Northern Ireland, an “extreme image” is an image which—
 - (a) falls within subsection (7) or (7A), and
 - (b) is grossly offensive, disgusting or otherwise of an obscene character.
- (7) An image falls within this subsection if it portrays, in an explicit and realistic way, any of the following—
 - (a) an act which threatens a person's life,
 - (b) an act which results, or is likely to result, in serious injury to a person's anus, breasts or genitals,
 - (c) an act which involves sexual interference with a human corpse, or
 - (d) a person performing an act of intercourse or oral sex with an animal (whether dead or alive), and a reasonable person looking at the image would think that any such person or animal was real.
- (7A) An image falls within this subsection if it portrays, in an explicit and realistic way, either of the following—
 - (a) an act which involves the non-consensual penetration of a person's vagina, anus or mouth by another with the other person's penis, or
 - (b) an act which involves the non-consensual sexual penetration of a person's vagina or anus by another with a part of the other person's body or anything else, and a reasonable person looking at the image would think that the persons were real.

[Serious Crimes Act 2015](#)

Art. 69 – Possession of paedophile manual

- (1) It is an offence to be in possession of any item that contains advice or guidance about abusing children sexually.
- (2) It is a defence for a person (D) charged with an offence under this section—
 - (a) to prove that D had a legitimate reason for being in possession of the item;

- (b) to prove that—
 - (i) D had not read, viewed or (as appropriate) listened to the item, and
 - (ii) D did not know, and had no reason to suspect, that it contained advice or guidance about abusing children sexually; or
- (c) to prove that—
 - (i) the item was sent to D without any request made by D or on D's behalf, and
 - (ii) D did not keep it for an unreasonable time.
- (3) A person guilty of an offence under this section is liable—
 - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
 - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;
 - (c) on conviction on indictment, to imprisonment for a term not exceeding 3 years or to a fine, or to both.

[Modern Slavery Act 2015](#)

Art. 2 – Human Trafficking

- (1) A person commits an offence if the person arranges or facilitates the travel of another person (“V”) with a view to V being exploited.
- (2) It is irrelevant whether V consents to the travel (whether V is an adult or a child).
- (3) A person may in particular arrange or facilitate V's travel by recruiting V, transporting or transferring V, harbouring or receiving V, or transferring or exchanging control over V.
- (4) A person arranges or facilitates V's travel with a view to V being exploited only if—
 - (a) the person intends to exploit V (in any part of the world) during or after the travel, or
 - (b) the person knows or ought to know that another person is likely to exploit V (in any part of the world) during or after the travel.
- (5) “Travel” means—
 - (a) arriving in, or entering, any country,
 - (b) departing from any country,
 - (c) travelling within any country.
- (6) A person who is a UK national commits an offence under this section regardless of—
 - (a) where the arranging or facilitating takes place, or
 - (b) where the travel takes place.
- (7) A person who is not a UK national commits an offence under this section if—
 - (a) any part of the arranging or facilitating takes place in the United Kingdom, or
 - (b) the travel consists of arrival in or entry into, departure from, or travel within, the United Kingdom.

▪ **Female Genital Mutilation**

[Prohibition of Female Circumcision Act 1985](#)

Art. 1 – Prohibition of female circumcision

- (1) Subject to section 2 below, it shall be an offence for any person—
 - (a) to excise, infibulate or otherwise mutilate the whole or any part of the labia majora or labia minora or clitoris of another person; or
 - (b) to aid, abet, counsel or procure the performance by another person of any of those acts on that other person's own body.
- (2) A person guilty of an offence under this section shall be liable—
 - (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years or to both; or

- (b) on summary conviction, to a fine not exceeding the statutory maximum . . . or to imprisonment for a term not exceeding six months, or to both.

Female Genital Mutilation Act 2003

Art. 1 – Offence of female genital mutilation

- (1) A person is guilty of an offence if he excises, infibulates or otherwise mutilates the whole or any part of a girl's labia majora, labia minora or clitoris.
- (2) But no offence is committed by an approved person who performs—
 - (a) a surgical operation on a girl which is necessary for her physical or mental health, or
 - (b) a surgical operation on a girl who is in any stage of labour, or has just given birth, for purposes connected with the labour or birth.
- (3) The following are approved persons—
 - (a) in relation to an operation falling within subsection (2)(a), a registered medical practitioner,
 - (b) in relation to an operation falling within subsection (2)(b), a registered medical practitioner, a registered midwife or a person undergoing a course of training with a view to becoming such a practitioner or midwife.
- (4) There is also no offence committed by a person who—
 - (a) performs a surgical operation falling within subsection (2)(a) or (b) outside the United Kingdom, and
 - (b) in relation to such an operation exercises functions corresponding to those of an approved person.
- (5) For the purpose of determining whether an operation is necessary for the mental health of a girl it is immaterial whether she or any other person believes that the operation is required as a matter of custom or ritual.

Art. 2 – Offence of assisting a girl to mutilate her own genitalia

A person is guilty of an offence if he aids, abets, counsels or procures a girl to excise, infibulate or otherwise mutilate the whole or any part of her own labia majora, labia minora or clitoris.

Art. 3 – Offence of assisting a non-UK person to mutilate overseas a girl's genitalia

- (1) A person is guilty of an offence if he aids, abets, counsels or procures a person who is not a United Kingdom national or ... United Kingdom resident to do a relevant act of female genital mutilation outside the United Kingdom.
- (2) An act is a relevant act of female genital mutilation if—
 - (a) it is done in relation to a United Kingdom national or ... United Kingdom resident, and
 - (b) it would, if done by such a person, constitute an offence under section 1.
- (3) But no offence is committed if the relevant act of female genital mutilation—
 - (a) is a surgical operation falling within section 1(2)(a) or (b), and
 - (b) is performed by a person who, in relation to such an operation, is an approved person or exercises functions corresponding to those of an approved person.